



PLANNING DEPARTMENT REPORT

Date: May 9, 2025
Report Name: Interim Zoning Controls - Legacy Businesses in Neighborhood Commercial Districts
Case Number: 2025-004097PCA
Board File: 240909
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Statement of Purpose

This report was prepared in response to a resolution (BF 240909), introduced by Supervisor Peskin on September 17, 2024, and enacted into law on November 12, 2024 (enactment number 532-24). The resolution imposed interim zoning controls for an 18-month period to require Conditional Use (CU) authorization prior to replacing a Legacy Business in Neighborhood Commercial Districts and Neighborhood Commercial Transit Districts, and the Chinatown Community Business, Chinatown Visitor Retail, and Chinatown Residential Neighborhood Commercial Districts.

The resolution directs the Planning Department to submit a written report to the Board pursuant to Planning Code, Section 306.7(i). Under Planning Code Section 306.7(i), once interim zoning controls are adopted, the Planning Department must study the proposed zoning change and deliver a public report to the body that imposed the controls every six months. Each report must update the study's status, present any findings or recommendations, and give an expected completion date. These reports are required to be considered in a public hearing duly noticed in accordance with the basic rules of the body that imposed the interim zoning controls.

Background

Resolution No. 532-24 was adopted in response to recent changes in state law that grant planning waivers, streamline approval processes, and mandate rezoning. These changes are anticipated to increase redevelopment pressure on structures within commercial corridors, potentially threatening the economic sustainability of neighborhood-serving businesses—especially Legacy Businesses, which hold cultural and historic significance.

Affected Projects

As of this report, no CU applications have been submitted under these interim controls to remove a Legacy Business. The last CU application involving a Legacy Business was considered by the Planning Commission

on September 19, 2024, under existing permanent controls in the Mission Street NCT District. That project proposed to establish a new tenant, “Kiitos,” in a ground-floor commercial space formerly occupied by the Legacy Business “Uptown.” The Commission approved the CU on a 4–3 vote, with Commissioners Williams, Imperial, and Moore dissenting.

Environmental Review

This Report was determined not to be a project per State CEQA Guidelines, Sections 15378 and 15060(c)(2), because it does not result in a physical change to the environment.

Report Conclusion

Because no CU applications have been processed under these interim controls, it is difficult to evaluate their practical impact. However, the Planning Department generally does not support requiring CU authorization based on the identity of a business operator.

Legacy Business status is not a land use designation; it is based on longevity and historic significance of the operator, rather than the use of the space itself. Traditional zoning regulates land use types—such as retail, residential, or industrial—not the identities of those conducting the activities. Introducing operator-specific criteria undermines the objectivity and predictability of zoning, which is designed to address physical, spatial impacts—like traffic, noise, and building scale—not subjective cultural or social considerations.

While the cultural importance of Legacy Businesses is acknowledged, regulating them through land use entitlements may not effectively support preservation goals. Instead, it may create uncertainty for prospective tenants and buyers unfamiliar with a location’s Legacy Business history.

Requiring CU authorization to remove a business is also problematic because the City cannot compel a property owner to continue leasing space to a particular tenant. In other instances where the City has required CU authorization for the removal of a use—such as gas stations or grocery stores—the outcome has often been prolonged vacancies, resulting in either empty lots or unoccupied commercial buildings. These vacancies can undermine neighborhood vitality and lead to a loss of tax revenue, compounding the negative economic impact on the community.

The interim controls were enacted partly in response to state-mandated rezoning requirements tied to accommodating over 80,000 new housing units. Much of this rezoning will occur along commercial corridors, potentially displacing existing businesses. The Planning Department is actively exploring programs and policies to support business retention and relocation as part of the broader rezoning effort.

Given that those policies are still in development, the Department recommends postponing any decision to make these interim controls permanent until after such proposals are implemented and evaluated.

Required Board Action

The Board may approve or disapprove this report.