File No. 100434 Committee Item No. 2
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Land Use and Economic Development **Date** August 2, 2010

Board of Supervisors Meeting **Date** _____

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☒	☐	BOS Environmental Review Letter to the Planning Dept, Dated April 09, 2010
☒	☐	Small Business Commission Conditional Use Approval Letter, dated May 12, 2010
☒	☐	SF Planning Dept Castro NCD Code Sections 715.1, 715.42 & 715.43 Ordinance Approval letter
☒	☐	Planning Commission Resolution No. 18107
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☒	☐	Restaurant Uses Permitted by Zoning District Map, Dated June 7, 2010
☐	☐	
☐	☐	

Completed by: LaTonia Stokes **Date** July 30, 2010
Completed by: _____ **Date** _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

[Castro Street Neighborhood Commercial District – Conditional Use Requirements for Restaurants and Self-Service Specialty Food Establishments]

Ordinance amending the San Francisco Planning Code by amending Section 715.1 and Sections 715.42, 715.43, 715.44, and 715.69A of the Zoning Control Table to allow new full-service and small self-service restaurants with a conditional use authorization, to permit self-service specialty food establishments as of right, and to prohibit all large fast food establishments; adopting findings, including environmental findings; amending Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

NOTE: Additions are *single-underline italics Times New Roman*; deletions are ~~*strike-through italics Times New Roman*~~. Board amendment additions are double-underlined; Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings. The Board of Supervisors hereby finds that:

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 100434 and is incorporated herein by reference.

(b) These Planning Code amendments will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 18107. The Board incorporates those reasons herein by reference. A copy of Planning Commission Resolution No. 18107 is on file with the Clerk of the Board of Supervisors in File No. 100434.

(c) These Planning Code amendments are consistent with the General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set forth in Planning Commission Resolution No. 18107, and the Board incorporates those reasons herein by reference.

The San Francisco Planning Code is hereby amended by Section 715.1, to read as follows:

SEC. 715.1. CASTRO STREET NEIGHBORHOOD COMMERCIAL DISTRICT.

The Castro Street District is situated in Eureka Valley, close to the geographic center of San Francisco between the Mission District, Twin Peaks, and Upper Market Street. The physical form of the district is a crossing at Castro and 18th Streets, the arms of which contain many small, but intensely active commercial businesses. The multi-purpose commercial district provides both convenience goods to its immediate neighborhood as well as comparison shopping goods and services on a specialized basis to a wider trade area. Commercial businesses are active both in the daytime and late into the evening and include a number of gay-oriented bars and restaurants, as well as several specialty clothing and gift stores. The district also supports a number of offices in converted residential buildings.

The Castro Street District controls are designed to maintain existing small-scale development and promote a balanced mix of uses. Building standards permit small-scale buildings and uses and protect rear yards above the ground story and at residential levels. In new buildings, most commercial uses are permitted at the ground and second stories. Special controls are necessary to preserve the existing equilibrium of neighborhood-serving convenience and specialty commercial uses. In order to maintain convenience stores and protect adjacent residential livability, controls ~~*prohibit*~~ *authorize some* additional eating and drinking establishments *with a conditional use, permit self-service specialty food establishments,* and permit with certain limitations new late-night uses, adult and other entertainment, and financial

service uses. The continuous retail frontage is maintained by prohibiting most automobile and drive-up uses.

Housing development in new buildings is encouraged above the second story. Existing housing units are protected by limitations on demolitions and upper-story conversions.

SEC.715. CASTRO STREET NEIGHBORHOOD COMMERCIAL DISTRICT

ZONING CONTROL TABLE

			Castro Street
No.	Zoning Category	§ References	Controls
BUILDING STANDARDS			
715.10	Height and Bulk Limit	§§ 102.12, 105, 106, 250—252, 260, 270, 271	40-X, 65B See Zoning Map
715.11	Lot Size [Per Development]	§§ 790.56, 121.1	P up to 4,999 sq. ft.; C 5,000 sq. ft & above § 121.1
715.12	Rear Yard	§§ 130, 134, 136	Required at the second story and above and at all residential levels § 134(a)(e)
715.13	Street Frontage		Required § 145.1
715.14	Awning	§ 790.20	P § 136.1(a)
715.15	Canopy	§ 790.26	P § 136.1(b)
715.16	Marquee	§ 790.58	P § 136.1(c)
715.17	Street Trees		Required § 143

COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES			
715.20	Floor Area Ratio	§§ 102.9, 102.11, 123	3.0 to 1 § 124(a) (b)
715.21	Use Size *[Non-Residential]*	§ 790.130	P to 1,999 sq. ft.; C# 2,000 sq. ft. to 3,999 sq. ft.; NP 4,000 sq. ft. & above § 121.2
715.22	Off-Street Parking, Commercial/Institutional	§§ 150, 153—157, 159—160, 204.5	Generally, none required if occupied floor area is less than 5,000 sq. ft. §§ 151, 161(g)
715.23	Off-Street Freight Loading	§§ 150, 153—155, 204.5	Generally, none required if gross floor area is less than 10,000 sq. ft. §§ 152, 161(b)
715.24	Outdoor Activity Area	§ 790.70	P if located in front; C if located elsewhere § 145.2(a)
715.25	Drive-Up Facility	§ 790.30	
715.26	Walk-Up Facility	§ 790.140	P if recessed 3 ft.; C if not recessed § 145.2(b)
715.27	Hours of Operation	§ 790.48	P 6 a.m.—2 a.m.; C 2 a.m.—6 a.m.
715.30	General Advertising Sign	§§ 262, 602—604, 608, 609	
715.31	Business Sign	§§ 262, 602—604, 608, 609	P # § 607.1(f)2
715.32	Other Signs	§§ 262, 602—604, 608, 609	P # § 607.1(c) (d) (g)

No.	Zoning Category	§ References	Castro Street Controls by Story		
		§ 790.118	1st	2nd	3rd+
715.38	Residential Conversion	§ 790.84	P	C	
715.39	Residential Demolition	§ 790.86	P	C	C
Retail Sales and Services					
715.40	Other Retail Sales and Services *[Not Listed Below]*	§ 790.102	P	P	
715.41	Bar	§ 790.22			
715.42	Full-Service Restaurant	§ 790.92	C		
715.43	Large Fast Food Restaurant	§ 790.90	~~C #~~		
715.44	Small Self-Service Restaurant	§ 790.91	C		
715.45	Liquor Store	§ 790.55	C		
715.46	Movie Theater	§ 790.64	P		
715.47	Adult Entertainment	§ 790.36	C		

715.48	Other Entertainment	§ 790.38	C #		
715.49	Financial Service	§ 790.110	C	C	
715.50	Limited Financial Service	§ 790.112	C		
715.51	Medical Service	§ 790.114	P	P	C
715.52	Personal Service	§ 790.116	P	P	C
715.53	Business or Professional Service	§ 790.108	P	P	C
715.54	Massage Establishment	§ 790.60, § 1900 Health Code	C	C	
715.55	Tourist Hotel	§ 790.46	C	C	C
715.56	Automobile Parking	§§ 790.8, 156, 160	C	C	C
715.57	Automotive Gas Station	§ 790.14			
715.58	Automotive Service Station	§ 790.17			
715.59	Automotive Repair	§ 790.15			

715.60	Automotive Wash	§ 790.18			
715.61	Automobile Sale or Rental	§ 790.12			
715.62	Animal Hospital	§ 790.6	C		
715.63	Ambulance Service	§ 790.2			
715.64	Mortuary	§ 790.62			
715.65	Trade Shop	§ 790.124	P	C	
715.66	Storage	§ 790.117			
715.67	Video Store	§ 790.135	C	C	
715.68	Fringe Financial Service	§ 790.111			
715.69	Tobacco Paraphernalia Establishments	§ 790.123	C		
715.69A	Self-Service Specialty Food	§ 790.93	P		
715.69B	Amusement Game Arcade (Mechanical Amusement Devices)	§ 790.04			
Institutions and Non-Retail Sales and Services					
715.70	Administrative Service	§ 790.106			

715.80	Hospital or Medical Center	§ 790.44			
715.81	Other Institutions, Large	§ 790.50	P	C	C
715.82	Other Institutions, Small	§ 790.51	P	P	P
715.83	Public Use	§ 790.80	C	C	C
715.84	Medical Cannabis Dispensary	§ 790.141	P		
RESIDENTIAL STANDARDS AND USES					
715.90	Residential Use	§ 790.88	P	P	P
715.91	Residential Density, Dwelling Units	§§ 207, 207.1, 790.88(a)	Generally, 1 unit per 600 sq. ft. lot area § 207.4		
715.92	Residential Density, Group Housing	§§ 207.1, 790.88(b)	Generally, 1 bedroom per 210 sq. ft. lot area § 208		
715.93	Usable Open Space *[Per Residential Unit]*	§§ 135, 136	Generally, either 80 sq. ft. if private, or 100 sq. ft. if common § 135(d)		
715.94	Off-Street Parking, Residential	§§ 150, 153—157, 159—160, 204.5	Generally, 1 space for each dwelling unit §§ 151, 161(a) (g)		
715.95	Community Residential Parking	§ 790.10	C	C	C

SPECIFIC PROVISIONS FOR CASTRO STREET NEIGHBORHOOD COMMERCIAL DISTRICT

Article 7 Code Section	Other Code Section	Zoning Controls
§ 715.31 § 715.32	§ 608.10	UPPER MARKET STREET SPECIAL SIGN DISTRICT
		Boundaries: Applicable only for the portions of the Castro Street NCD as mapped on Sectional Map SSD Controls: Special restrictions and limitations for signs
~~§ 715.43~~		~~Boundaries: Applicable for the Castro Street NCD~~
		~~Controls: A large fast food restaurant may be permitted as a conditional use if in addition to the criteria set forth in § 303, the Commission finds that:~~
		~~(1) The large fast food restaurant will be located in an existing building that:~~
		~~(a) Is situated within the Castro Street NCD and adjacent to the Upper Market Street NCD, and~~
		~~(b) Straddles the intersection of Castro and Market Streets, where heavy pedestrian traffic already exists for the many retail businesses in the area, and the addition of a large fast food restaurant would not cause additional burdens to the street;~~
		~~(2) The large fast food restaurant will be located in a building jointly occupied by a nonprofit community group providing medical, cultural, social, or other community services to the Castro Street NCD;~~
		~~(3) The fast food restaurant will contribute substantially to the financial ability of the nonprofit community group's ability to locate and operate in that building by paying the nonprofit's rent and maintenance costs for the building for at least seven years and by making a one-time cash contribution of $120,000 to an AIDS-related community group;~~
		~~(4) That portion of the building occupied by the community use shall be at least twice the floor area occupied by the large fast food restaurant; and~~
		~~(5) No conditional use granted pursuant to this Section may exceed a period of 15 years unless a new conditional use application is filed and granted by the City Planning Commission or Board of Supervisors on appeal.~~

§ 715.48		Boundaries: Applicable for the Castro Street NCD. Controls: Existing bars in the Castro Street Neighborhood Commercial District will be allowed to apply for and receive a place of entertainment permit from the Entertainment Commission without obtaining conditional use authorization from the Planning Commission if they can demonstrate to the satisfaction of the Entertainment Commission that they have been in regular operation as an entertainment use prior to January 1, 2004; provided, however, that a conditional use is required (1) if an application for a conditional use for the entertainment use was filed with the Planning Department prior to the date this ordinance was introduced or (2) if a conditional use was denied within 12 months prior to the effective date of this ordinance.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: Judith A. Boyajian
JUDITH A. BOYAJIAN
Deputy City Attorney

LEGISLATIVE DIGEST

[Castro Street Neighborhood Commercial District – Conditional Use for New Full-Service, and Small Self-Service Restaurants; Self-Service Specialty Food Establishments Are Permitted; No Large Fast Food Restaurants Are Permitted.]

Ordinance amending the San Francisco Planning Code by amending Section 715.1 and Sections 715.42, 715.43, 715.44, and 715.69A of the Zoning Control Table to allow new full-service and small self-service restaurants with a conditional use authorization, to permit self-service specialty food establishments as of right, and to prohibit all large fast food establishments; adopting findings, including environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

Existing Law

Planning Code Section 715.1 establishes the Castro Street Neighborhood Commercial District. The Section 715 Zoning Control Table sets forth the building standards and uses that are allowed in the Castro Street NCD. New full-service restaurants, small self-service restaurants, and self-service specialty food establishments are not permitted; a large fast-food establishment is authorized under limited circumstances.

Amendments to Current Law

The proposed legislation would allow new full-service and small self-service restaurants with a conditional use authorization, would permit self-service specialty food establishments as of right, and would prohibit all large fast-food establishments.

Background Information

The restrictions on restaurants and specialty food establishments were put in place more than 20 years ago, before the City enacted the controls on formula retail establishments that are now in the Planning Code. Since formula retail controls are now in place to protect the neighborhood, new food options that are appropriate for the Castro Street NCD could be approved with a conditional use.

BOARD of SUPERVISORS

City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

April 9, 2010

File No. 100434

Bill Wycko
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Mr. Wycko:

On April 6, 2010, Supervisor Dufty introduced the following proposed legislation:

File No. 100434

Ordinance amending the San Francisco Planning Code by amending Section 715.1 and Sections 715.42, 715.43, 715.44, and 715.69A of the Zoning Control Table to allow new full-service and small self-service restaurants with a conditional use authorization, to permit self-service specialty food establishments as of right, and to prohibit all large fast food establishments; adopting findings, including environmental findings; amending Section 302 findings, and findings of consistency with the General Plan and Priority Policies of Planning Code Section 101.1.

The legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board

Alisa Somera

By: Alisa Somera, Committee Clerk
Land Use & Economic Development Committee

Attachment

cc: Nannie Turrell, Major Environmental Analysis
Brett Bollinger, Major Environmental Analysis

Not a project per CEQA Guidelines Sections 15060(c)(3) and 15378.
Nannie R. Turrell
April 15, 2010

SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS

CITY AND COUNTY OF SAN FRANCISCO
GAVIN NEWSOM, MAYOR

May 12, 2010

Ms. Angela Calvillo, Clerk of the Board
Board of Supervisors
City Hall room 244
1 Carlton B. Goodlett Place
San Francisco, CA 94102-4694

RE: File No. 100434 [Castro Street Neighborhood Commercial District – Conditional Use Requirements for Restaurants and Self-Service Specialty Food Establishments]

Ordinance amending the San Francisco Planning Code by amending Section 715.1 and Sections 715.42, 715.43, 715.44, and 715.69A of the Zoning Control Table to allow new full-service and small self-service restaurants with a conditional use authorization, to permit self-service specialty food establishments as of right, and to prohibit all large fast food establishments; adopting findings, including environmental findings; amending Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

Small Business Commission Recommendation: **Approval**

Dear Ms. Calvillo:

On May 10, 2010, the Small Business Commission heard and recommended approval to the Board of Supervisors for File No. 100434.

Sincerely,

Regina Dick-Endrizzi
Director, Office of Small Business

cc. Supervisor Dufty
Starr Terrell
Alisa Somera, Clerk of the Land Use and Economic Development Committee

SAN FRANCISCO
PLANNING DEPARTMENT

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June 21, 2010

Ms. Angela Calvillo, Clerk
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: **Transmittal of Planning Department Case Number 2010.0273T:**
Castro Street Neighborhood Commercial District: Eating Uses
Board File Number 10-0434
Planning Commission Recommendation: *Approval*

Dear Ms. Calvillo,

On June 17th, the San Francisco Planning Commission (hereinafter "Commission") conducted duly noticed public hearings at a regularly scheduled meeting to consider the proposed Ordinance.

The proposed Ordinance would amend the Castro NCD Code Sections 715.1 (Zoning Control Table), 715.42 (full-service restaurants), 715.43 (large fast food restaurant), 715.44 (small self-service restaurants), and 715.69A (specialty food, self-service) to allow new full-service restaurants and small self-service restaurants with a Conditional Use Authorization; permit self-service specialty food establishments as-of-right, and to prohibit new large fast food restaurants in the Castro NCD.

The proposed zoning changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2).

At the June 17th hearing, the Commission voted to recommend approval of the proposed Ordinance.

Please find attached documents relating to the Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

John Rahaim
Director of Planning

cc: Supervisor Dufty

Attachments (one copy of the following):
Planning Commission Resolution No. 18107
Planning Commission Executive Summary for Case No. 2009.1066T

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Planning Commission Resolution No. 18107

HEARING DATE: JUNE 17, 2010

Project Name:	**Amendments relating to the Castro NCD: Restaurant and Eating Uses**
Case Number:	2010.0273T [Board File No. 10-0434]
Initiated by:	Supervisor Dufty / Introduced April 6, 2010
Staff Contact:	Tara Sullivan, Legislative Affairs tara.sullivan@sfgov.org, 415-558-6257
Reviewed by:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation:	**Recommend Approval**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE CASTRO NEIGHBORHOOD COMMERCIAL DISTRICT PLANNING CODE SECTIONS 715.1 (ZONING CONTROL TABLE), 715.42 (FULL-SERVICE RESTAURANTS), 715.43 (LARGE FAST FOOD RESTAURANTS), 715.44 (SMALL SELF-SERVICE RESTAURANTS), AND 715.69A (SPECIALTY FOOD, SELF-SERVICE) TO ALLOW NEW FULL-SERVICE RESTAURANTS AND SMALL SELF-SERVICE RESTAURANTS WITH A CONDITIONAL USE AUTHORIZATION, PERMIT SELF-SERVICE SPECIALTY FOOD ESTABLISHMENTS AS-OF-RIGHT, AND REMOVE LARGE FAST FOOD RESTAURANTS FROM THE CASTRO NCD.

PREAMBLE

Whereas, on April 6, 2010, Supervisor Dufty introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 10-0434 which would amend the Castro NCD Code Sections 715.1 (Zoning Control Table), 715.42 (full-service restaurants), 715.43 (large fast food restaurant), 715.44 (small self-service restaurants), and 715.69A (specialty food, self-service) to allow new full-service restaurants and small self-service restaurants with a Conditional Use Authorization; permit self-service specialty food establishments as-of-right, and to prohibit new large fast food restaurants in the Castro NCD; and

Whereas, on June 17, 2010, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed zoning changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

Whereas, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties; and

Whereas, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the Commission has reviewed the proposed Ordinance; and

MOVED, that the Commission hereby recommends that the Board of Supervisors recommends ***approval of the proposed Ordinance*** and adopts the attached Draft Resolution to that effect.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Castro NCD Controls have not been substantially revised since their adoption in 1987;

2. The Castro NCD prohibits new restaurants and bar uses of any type;

3. The one exception is for large fast food restaurants, which is permitted only in one particular lot at the corner of Castro and Market Street;

4. Under Section 179(a) of the Planning Code, those restaurants and bar uses which lawfully existed on the effective date of Ordinance No. 69-87, enacting the Castro NCD in 1987, are nonconforming and permitted to remain in use;

5. Any nonconforming use in the Castro NCD is considered to be 'abandoned' pursuant to Section 178(d) after 18 months rather than three years, as with the majority of other NCDs;

6. A Self-Service Specialty Food establishment is a new use definition that was enacted in December 2008. New self-service specialty food establishments are also prohibited in the Castro NCD;

7. Over the past several years, the Commission has received requests to look at particular NCDs and the controls for eating and drinking uses. The intent of the prohibition on eating and drinking uses was to slowly decrease the number of these uses over time; however, the Department found that in particular NCDs, this prohibition often created a stagnant restaurant scene, with the few remaining restaurants not catering to the needs of the community. While the number and quality of restaurants decreased, the role of food, particular restaurants, in San Francisco grew;

8. In addition, there has been a shift in recent years more towards food and drink facilities as being integral components of a thriving neighborhood. The result of the prohibition of new restaurants has resulted in an accumulation of demand for these types of establishments;

9. The Commission believes that opening up the full-service restaurant and small self-service restaurant uses to a Conditional Use Authorization will allow the Commission to analyze each application on a case-by-case basis;

10. Allowing specialty food, self-service uses as-of-right will encourage these neighborhood-serving uses to locate in the NCD;

11. The removal of the control for one large fast food restaurant will not have a negative impact on the NCD for these uses are generally not permitted and are not desirable for the Castro NCD;

12. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

    I. COMMERCE & INDUSTRY ELEMENT

    THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN SETS FORTH OBJECTIVES AND POLICIES THAT ADDRESS THE BROAD RANGE OF ECONOMIC ACTIVITIES, FACILITIES, AND SUPPPORT SYSTEMS THAT CONSTITUE SAN FRANCISCO'S EMPLOYMENT AND SERVICE BASE.

    GOALS

    THE THREE GOALS OF THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN RELATE TO CONTINUED ECONOMIC VITALITY, SOCIAL EQUITY, AND ENVIRONMENTAL QUALITY.

    OBJECTIVE 6

    MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

    POLICY 6.2

    Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society.

    POLICY 6.3

    Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

    POLICY 6.10

    Promote neighborhood commercial revitalization, including community-based and other economic development efforts where feasible.

The character of the Castro NCD has changed over the past 20 years. Permitting new full-service restaurants and small self-service restaurant uses through the Conditional Use Authorization process, will help to bring these important uses back to the NCD, while allowing community involvement in the approval process.

The proposed Ordinance seeks to remedy the existing conditions while also accommodating the demand for full-service restaurants, small self-service restaurants, and specialty food, self-service establishment uses for residents in the Castro NCD. The proposed Ordinance promotes small business enterprises by fostering the growth of full-service restaurants, small self-service restaurants, and specialty food, self-service establishments in the Castro NCD.

The proposed Ordinance promotes the mixed commercial-residential character in the Castro NCD by allowing a new full-service restaurants and small self-service restaurants on a case-by-case basis, and by allowing specialty food, self-service establishments' as-of-right, all of which will serve the residents in the neighborhood and contribute to the existing mix of businesses in the Castro NCD.

13. The proposed replacement project is consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

    A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

    The proposed Ordinance will encourage neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses in the Castro NCD by allowing new eating and drinking uses through the Conditional Use Authorization process and as-of-right.

    B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

    The proposed legislation contains requires the Planning Commission to use the conditional use criteria when evaluating each proposed full-service restaurant and small self-service restaurant. The conditional use process will allow for the continued presence and economic viability of existing neighborhood establishments while not negatively affecting existing residential development, housing or neighborhood character. Further, any specialty food, self-service establishment will require a 312 neighborhood notice which will enable the community to have input in the placement of these uses.

    C) The City's supply of affordable housing will be preserved and enhanced:

    The proposed Ordinance will have no adverse effect on the City's supply of affordable housing.

    D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.

F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments. Any new construction or alteration associated with a use would be executed in compliance with all applicable construction and safety measures.

G) That landmark and historic buildings will be preserved:

Landmarks and historic buildings would be unaffected by the proposed amendments. Should a proposed use be located within a landmark or historic building, such site would be evaluated under typical Planning Code provisions and comprehensive Planning Department policies.

H) Parks and open space and their access to sunlight and vistas will be protected from development:

The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed amendments. It is not anticipated that permits would be such that sunlight access, to public or private property, would be adversely impacted.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on June 17, 2010.

Linda Avery
Commission Secretary

AYES: Miguel, Olague, Moore, Sugaya, Lee, Antonini

NAYS:

ABSENT: Borden

ADOPTED: June 17, 2010

SAN FRANCISCO
PLANNING DEPARTMENT

Executive Summary
Planning Code Text Change
HEARING DATE: JUNE 17, 2010

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Project Name:	**Amendments relating to the Castro NCD: Restaurant and Eating Uses**
Case Number:	2010.0273T [Board File No. 10-0434]
Initiated by:	Supervisor Dufty / Introduced April 6, 2010
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Recommendation:	**Recommend Approval**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Castro NCD Code Sections 715.1 (Zoning Control Table), 7158.42 (full-service restaurants), 715.43 (large fast food restaurant), 715.44 (small self-service restaurants), and 715.69A (specialty food, self-service) to allow new full-service restaurants and small self-service restaurants with a Conditional Use Authorization; permit self-service specialty food establishments as-of-right, and to prohibit new large fast food restaurants in the Castro NCD.

The Way It Is Now:

The Castro NCD prohibits new restaurants and bar uses of any type.[1] The one exception is for large fast food restaurants, which is permitted only in one particular lot at the corner of Castro and Market Street.[2]

Under Section 179(a) of the Planning Code, those restaurants and bar uses which lawfully existed on the effective date of Ordinance No. 69-87, enacting the Castro NCD in 1987, are nonconforming and permitted to remain in use.

Any nonconforming use is considered to be 'abandoned' pursuant to Section 178(d) after 18 months rather than three years, as with the majority of other NCDs.[3]

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[1] San Francisco Planning Code Sections 715.41 (Bar), 715.42 (Full-Service Restaurant), 715.44 (Small Self-Service Restaurant), and 715.69A (specialty food, self-service) → all are currently not permitted in the Castro NCD.

[2] *See* 715.43 – Controls for Large Fast Food Restaurants in the Castro NCD.

[3] Section 178(d): **Abandonment.** A permitted conditional use which is discontinued for a period of three years, or otherwise abandoned, shall not be restored, except upon approval of a new conditional use application pursuant to the provisions of Article 3 of this Code. For purposes of this Subsection, the period of nonuse for a permitted conditional use to be deemed discontinued in the North Beach, Castro Street Neighborhood Commercial Districts, and the Jackson Square Special Use District shall be eighteen

The Way It Would Be:

The proposed ordinance would allow a proposed full-service restaurant and a small self-service restaurant to apply for a Conditional Use Authorization in the Castro NCD. There would be no numerical cap or a sunset clause; rather it would permit these uses to be approved by the Planning Commission on a case-by-case basis.

The Code would permit as-of-right a specialty food, self-service establishment, and would remove the control that allows one large fast food restaurant in the NCD.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department recommends that the Commission recommend *approval* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

The citywide Neighborhood Commercial Controls were enacted in 1987 in response to land use issues identified by neighborhood groups, planners, and elected officials. Along Castro Street and elsewhere in the City, restaurants and bars were identified as volatile uses which could multiply and upset the commercial equilibrium by forcing out critical neighborhood services. This concern led to prohibitions such as those in the Castro Street NCD, which nearly 20 years later continue disallow new restaurants and bars or the reestablishment of restaurant and bar uses which had converted for a period of time to another use.

The table below compares the number of eating and drinking uses from 1987 to 2010.

	1987	2010
Take Out Establishments	5	1
Self-Service Restaurants	7	8
Full-Service Restaurants	25	21
Bar	13	13
Specialty Grocery/Supermarket	7	4
Liquor Store	3	2
Vacancies	6	6

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(18) months, except that in the North Beach Neighborhood Commercial District, the period of non use for a full service restaurant use, as defined in Section 790.91, to be deemed discontinued shall be three years.

Over the past several years, the Department has received requests to look at particular NCDs and the controls for eating and drinking uses. The intent of the prohibition on eating and drinking uses was to slowly decrease the number of these uses over time; however, the Department found that in particular NCDs, this prohibition often created a stagnant restaurant scene, with the few remaining restaurants not catering to the needs of the community. While the number and quality of restaurants decreased, the role of food, particular restaurants, in San Francisco grew. The result of the prohibition of new restaurants has resulted in an accumulation of demand for these types of establishments.

Starting with Noe-24th Street NCD in 2005, the Department began to recommend the re-introduction of eating and drinking controls in particular NCDs. Since 2005, there have been 7 Ordinances that have dealt with this issue.

The Department believes that opening up the full-service restaurant and small self-service restaurant uses to a Conditional Use Authorization in the Castro NCD will allow the Commission to analyze each application on a case-by-case basis. When the number of restaurants exceeds the needs of the community, the Commission can deny the application. Under the proposed legislation each application will be judged on the merits of its application, the needs of the community, and the criteria in the Planning Code.

In addition, the proposed Ordinance will allow self-service specialty food uses as-of-right. This use was recently placed into the Planning Code, and consists of neighborhood-services uses where specialty foods are often made on the premises and sold for take-away and open during regular business hours. Uses such as bakeries and confectionaries are typical examples of this use. Under Section 312, this use will require a 30-day neighborhood notification, which will enable the community to have input about the proposed establishment.

Lastly, the control for large fast-food restaurant will be removed. This was placed in the Code for one specific establishment, as is obvious from the language of the control. Large fast-food restaurants are generally not permitted (see Attachment C). Where these types of establishments are permitted, they are regulated through the formula retail controls. Because the control in the Castro NCD was crafted specifically for one parcel, and that this parcel has since had its large fast-food use abandoned (originally Noah's bagels; it is currently a Sprint store), the Department would like to remove this provision.

In sum, the Department supports the proposed Ordinance to permit new full-service restaurants and small self-service restaurants with a Conditional Use Authorization, and to allow specialty foods, self-service establishments as-of-right, and to remove the control for large fast food restaurants in the Castro NCD.

ENVIRONMENTAL REVIEW

The proposal to amend Planning Code Sections 715.1 (Zoning Control Table), 715.42 (full-service restaurants), 715.43 (large fast food restaurants), 715.44 (small self-service restaurants), and 715.69A (specialty food, self-service) in the Castro NCD would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

PUBLIC COMMENT

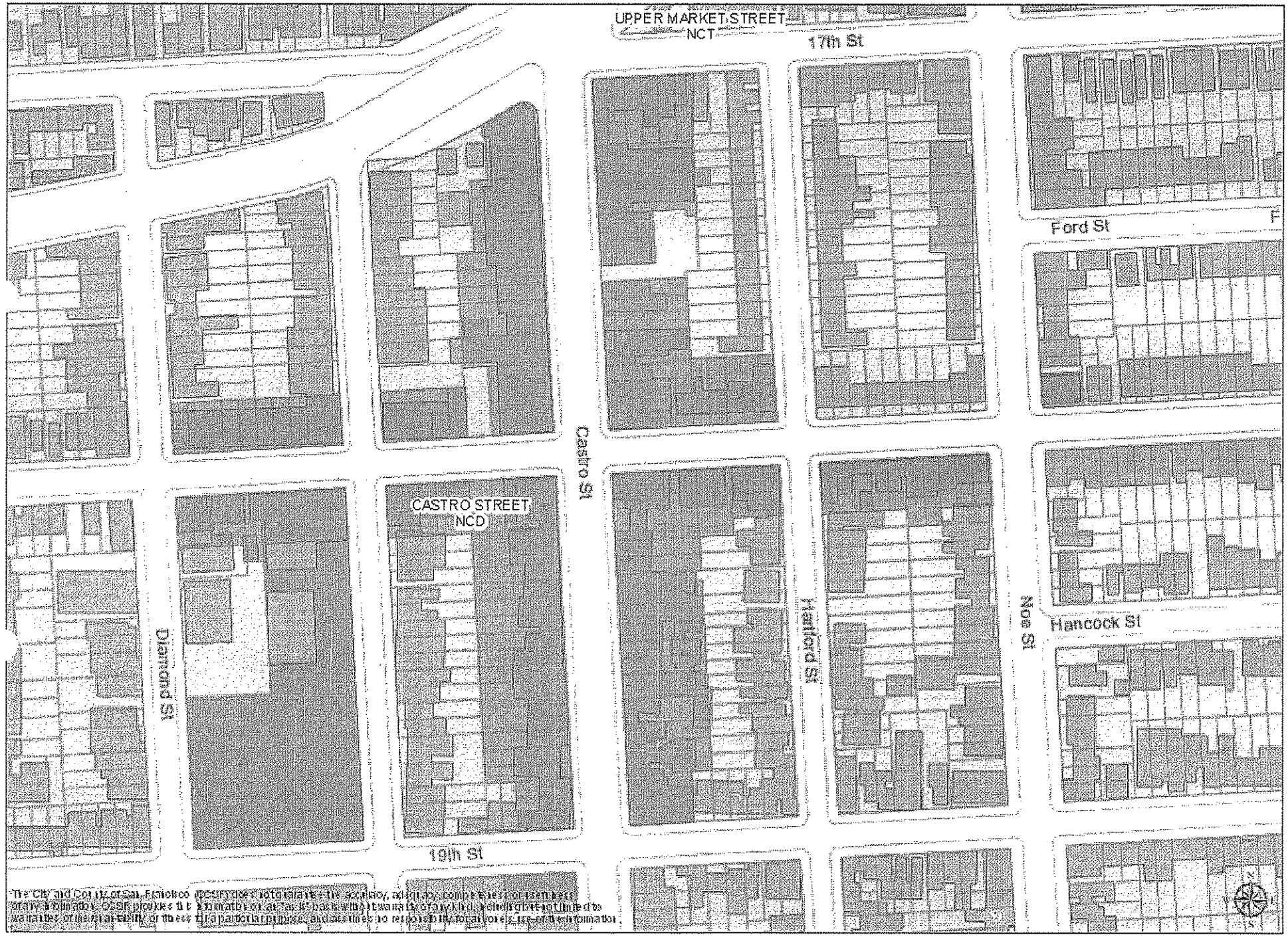
As of the date of this report, the Planning Department has not received any comments in with regard to the proposed Ordinance.

RECOMMENDATION:	**Recommendation of Approval**

Attachments:

Exhibit A:	Draft Planning Commission Resolution
Exhibit B:	Board of Supervisors File No. 10-0434
Exhibit C:	Restaurant Uses Permitted by Zoning District, June 2010

Castro NCD 2010



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Printed: 7 June, 2010