



Executive Summary

Planning Code Text Amendment

HEARING DATE: October 14, 2021

90-Day Deadline: October 19, 2021

Project Name: Repealing Article 12 Regarding Oil and Gas Facilities
Case Number: 2021-007368PCA [Board File No. 210807]
Initiated by: Supervisor Chan / Introduced July 13, 2021
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Recommendation: Approval with Modifications

Planning Code Amendment

Ordinance amending the Planning Code to repeal Article 12, which contains regulations governing land use activities associated with oil and gas exploration, development, and processing.

The Way It Is Now:

Article 12 of the Planning Code regulates the land use activities, structures, equipment and/or facilities associated with oil and gas exploration, development, and processing. It overrides all other controls in the Planning Code that regulate these uses.

The Way It Would Be:

With the removal of Article 12, regulation of oil and gas exploration, development, and processing would revert to the controls found in Article 2 of the Planning Code.

Background

On November 4, 1986, voters enacted Appendix M of the San Francisco Charter, which adopted a moratorium on the use, development or construction of crude oil and gas processing and support facilities in San Francisco. Appendix M provides that during the moratorium period, the City Planning Commission shall study the need for permanent and comprehensive controls and shall analyze the social, economic, and physical impact of the use, development and construction of crude oil and gas processing and support facilities.

Article 12 was adopted in response to Appendix M in 1990. It created two overlay zoning district categories, M-2(OGS) and M-2(OGP), which could be mapped onto existing M-2 (Heavy Industrial) districts. Oil and gas facilities are allowed only within those two overlay districts, and only with Conditional Use approval. Since Article 12's adoption, no overlay zones have ever been created.

Removing this Article will put the controls for oil and gas facilities back under Article 2 of the Code, which includes PDR and M zoning districts, both of which allow oil and gas facilities to different degrees. Heavy Manufacturing 2 and 3 are allowed in M-2 and PDR-2 Districts, and Heavy Manufacturing 2 is allowed in PDR-1-G Districts. Either with a CU or principally permitted depending on the district and use. Both Heavy Manufacturing 2 and 3 call out production or refining of petroleum products as use covered under those definitions.

Issues and Considerations

Gowing Irrelevance of Article 12

San Francisco has two classes of industrial districts, M (Industrial) and PDR (Production Distribution and Repair). M districts are an older zoning district that was around well before Article 12 was added to the Code. PDR is a relatively new zoning district created in the early 2000s. The PDR district rezoning effort sought to reimagine the City's industrial lands to respond to our changing needs and economy. While PDR Districts are like M districts in that they are intended for industrial uses, they differ from M districts in that they prohibit housing and office uses. The amount of retail a property can have in a PDR District is also significantly limited.

The initial rezoning replaced a significant amount of the city's M zoning with PDR, but it did not eliminate all M districts entirely. Properties outside the initial study area were left untouched, as was most of the Port's property; however, the City recently passed an ordinance to eliminate most M zoning. Currently there are only some M zoned parcels left in the Bayview¹ and on Port property. Since the overlay zoning promulgated in Article 12 only applies to M-2 parcels, the more land that is converted from M to PDR, the less relevant Article 12 becomes. Further, the remaining M zoning district will likely all be under the Port's jurisdiction, which does not necessarily have to abide by the zoning controls in the Planning Code.

Climate Change

Removing Article 12 will not reduce San Francisco's current or future carbon emissions. Given land costs and the onerous process to allow petroleum refineries in San Francisco, it is extremely unlikely that a petrochemical company would locate their operations in San Francisco². That does not mean that removing Article 12 and amending the code to prohibit these uses in San Francisco doesn't have symbolic importance. It does reaffirm the City's commitment to the environment and reducing our reliance on fossil fuels.

San Francisco has made progress in reducing its carbon footprint over the last 30 years. Since 1990 to 2019, San Francisco's carbon footprint was reduced by 41%, while the population increased by 22% and the GDP increased by 199%. Most of the reduction came from reducing the carbon emissions from buildings, which went down 51%

¹ Prior to COVID, these M Parcels were going to be rezoned as part of the Cultural District work in that area, but the effort was put on hold due to COVID.

² Per the original Article 12 ordinance, 306-90, "An onshore oil and gas supply base can require up to 35 acres of land and an oil and gas processing facility can require up to 140 acres of land for typical operations."

since 1990.³ Since the City recently banned natural gas in new construction (which typically accounts for 80% of the carbon emissions in a building) that number is likely to continue to decrease. Where we haven't been as successful is in reducing our carbon footprint from transportation, a sector mostly fueled by oil and gas. Since 1990 we have only been able to reduce carbon emission from transportation by 19%⁴. To reduce this further, the City will have to find ways to disincentivize private automobile use, and encourage active forms of transportation and public transportation.

Environmental Hazards of Petroleum Refineries⁵

Refineries are generally considered a major source of pollutants in areas where they are located and are regulated by several environmental laws related to air, land, and water.

Air pollution hazards: Petroleum refineries are a major source of hazardous and toxic air pollutants such as BTEX compounds (benzene, toluene, ethylbenzene, and xylene). They are also a major source of criteria air pollutants: particulate matter (PM), nitrogen oxides (NOx), carbon monoxide (CO), hydrogen sulfide (H₂S), and sulfur dioxide (SO₂). Refineries also release less toxic hydrocarbons such as natural gas (methane) and other light volatile fuels and oils. Some of the chemicals released are known or suspected cancer-causing agents, responsible for developmental and reproductive problems. They may also aggravate certain respiratory conditions such as childhood asthma. Along with the possible health effects from exposure to these chemicals, these chemicals may cause worry and fear among residents of surrounding communities. Air emissions can come from a number of sources within a petroleum refinery including equipment leaks (from valves or other devices); high-temperature combustion processes in the actual burning of fuels for electricity generation; the heating of steam and process fluids; and the transfer of products. Many thousands of pounds of these pollutants are typically emitted into the environment over the course of a year through normal emissions, fugitive releases, accidental releases, or plant upsets. The combination of volatile hydrocarbons and oxides of nitrogen also contribute to ozone formation, one of the most important air pollution problems in the United States.

Water pollution hazards: Refineries are also potential major contributors to ground water and surface water contamination. Some refineries use deep-injection wells to dispose of wastewater generated inside the plants, and some of these wastes end up in aquifers and groundwater. These wastes are then regulated under the Safe Drinking Water Act (SDWA). Wastewater in refineries may be highly contaminated given the number of sources it can encounter during the refinery process (such as equipment leaks and spills and the desalting of crude oil). This contaminated water may be process wastewaters from desalting, water from cooling towers, stormwater, distillation, or cracking. It may contain oil residuals and many other hazardous wastes. This water is recycled through many stages during the refining process and goes through several treatment processes, including a wastewater treatment plant, before being released into surface waters. The wastes discharged into surface waters are subject to state discharge regulations and are regulated under the Clean Water Act (CWA). These discharge guidelines limit the amounts of sulfides, ammonia, suspended solids and other compounds that may be present in the wastewater. Although these guidelines are in place, sometimes significant contamination from past discharges may remain in surface water bodies.

Soil pollution hazards: Contamination of soils from the refining processes is generally a less significant problem when compared to contamination of air and water. Past production practices may have led to spills on the

³ <https://sfenvironment.org/carbonfootprint>

⁴ *ibid*

⁵ Information in this section was obtain from:

<https://cfpub.epa.gov/ncer/abstracts/index.cfm/fuseaction/display.files/fileID/14522>

refinery property that now need to be cleaned up. Natural bacteria that may use the petroleum products as food are often effective at cleaning up petroleum spills and leaks compared to many other pollutants. Many residuals are produced during the refining processes, and some of them are recycled through other stages in the process. Other residuals are collected and disposed of in landfills, or they may be recovered by other facilities. Soil contamination including some hazardous wastes, spent catalysts or coke dust, tank bottoms, and sludges from the treatment processes can occur from leaks as well as accidents or spills on or off site during the transport process.

General Plan Compliance

The proposed ordinance is consistent with the Environmental Protection Element in that it encourages the development of nonpolluting industry, encourage the use of renewable energy sources, and promotes the use and development of shoreline areas consistent with the General Plan and the best interest of San Francisco.

Racial and Social Equity Analysis

Communities of color and the poor suffer the most from the pollution caused by the oil and gas industry. About 56 percent of the nine million Americans who live in neighborhoods within three kilometers of large commercial hazardous waste facilities are people of color, according to a landmark, 2007 environmental justice report by the United Church of Christ. In California, it's 81 percent. Poverty rates in these neighborhoods are 1.5 times higher than elsewhere.⁶

In the Bay Area we can see the impacts that the oil refineries have had on the community of Richmond. The oil refinery in Richmond is one of the largest in the United States and processes nearly 250,000 barrels of crude oil each day. People in north and central Richmond are exposed to a greater array of contaminants, including benzene, mercury and other hazardous air pollutants that have been linked to cancer, reproductive problems, and neurological effects. Decades of toxic emissions from industry- as well diesel particles from truck rail lines running next door to neighborhoods – impacts residents' health. The people of Richmond, particularly African Americans, are at significantly higher risk of dying from heart disease and strokes and more likely to go to hospitals for asthma than other county residents.⁷

In San Francisco our industrial land is primarily located in the Bayview Hunters Point (BVHP), a low-income community of color located in southeast San Francisco. The residents and environment of BVHP are disproportionately impacted by pollution sources, including toxic contamination at the Hunters Point Naval Shipyard Superfund site and dozens of other contaminated sites along the waterfront and throughout the community. They are also sandwiched between two freeways, which spew a constant stream of toxic emissions into the air. Were any oil and gas facilities to locate within San Francisco they would most likely be in the BVHP, devastating this already impacted community. Removing Article 12 and affirming that oil and gas facilities are not permitted in San Francisco would help advance racial and social equity in San Francisco, or at the very least help prevent further environmental racism.

Implementation

The Department has determined that this ordinance will not impact our current implementation procedures.

⁶ <https://www.scientificamerican.com/article/pollution-poverty-people-color-living-industry/>

⁷ *ibid*

Recommendation

The Department recommends that the Commission approve with modifications the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

1. Amend the definition of Heavy Manufacturing 2 and 3 to exclude from the definition the production or refining of petroleum products associated with oil and gas exploration.

Manufacturing 2, Heavy. An Industrial Use having the potential of creating substantial noise, smoke, dust, vibration, and/or other environmental impacts or pollution, and including, but not limited to:

(a) Production or refining of petroleum products excluding land use activities, structures, equipment and/or facilities associated with oil and gas exploration.

* * * *

Manufacturing 3, Heavy. An Industrial Use having the potential of creating substantial noise, smoke, dust, vibration, and/or other environmental impacts or pollution, and including, but not limited to:

* * * *

(c) Manufacture, refining, distillation, or treatment of any of the following: abrasives, acid (noncorrosive), alcohol, ammonia, asbestos, asphalt, bleaching powder, candles (from tallow), celluloid, chlorine, coal, coke, creosote, dextrine, disinfectant, dye, enamel, gas carbon or lampblack, gas (acetylene or other inflammable), glucose, insecticide, lacquer, linoleum, matches, oilcloth, oil paint, paper (or pulp), petroleum products (excluding land use activities, structures, equipment and/or facilities associated with oil and gas exploration), perfume, plastics, poison, potash, printing ink, refuse mash or refuse grain, rubber (including balata or gutta-percha or crude or scrap rubber), shellac, shoe or stove polish, soap, starch, tar, turpentine, or varnish.

Basis for Recommendation

The Department supports the proposed ordinance because it will remove an outdated section of the Planning Code, it is supported by the Environmental Protection Element of the General Plan, it will help further the City's commitment to racial and social equity, and it will reaffirm the City's commitment to ending the use of fossil fuels; however, without this section, land use activities, structures, equipment or facilities associated with oil and gas exploration would theoretically still be permitted in San Francisco's most vulnerable communities. To address this the Planning Department is proposing the following recommended modifications.

Recommendation 1: Amend the definition of Heavy Manufacturing 2 and 3 to exclude from the definition the production or refining of petroleum products associated with oil and gas exploration.

Staff recommends modifying the definition of these two uses because without this amendment, production or refining of petroleum products will still be permitted to varying degrees in M-1, M-2, PDR-2 and PDR-1-G zoning districts. These districts are in or adjacent to vulnerable communities that have suffered from significant

environmental pollution. Ensuring that these toxic uses are not permitted near these communities is essential to protecting their health and wellbeing.

Required Commission Action

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

Environmental Review

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Public Comment

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

Attachments:

- Exhibit A:** Draft Planning Commission Resolution
- Exhibit B:** Resolution Recommending Adoption of Article 12, Ordinance 306-90
- Exhibit C:** Board of Supervisors File No. 210807