

BOARD of SUPERVISORS



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

MEMORANDUM

TO: Todd Rufo, Director, Office of Economic and Workforce Development
John Rahaim, Director, Planning Department
Mohammed Nuru, Director, Public Works
Ed Reiskin, Executive Director, Municipal Transportation Agency

FROM:  Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

DATE: August 11, 2016

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Yee on August 2, 2016:

File No. 160894

Urgency Ordinance approving an interim zoning moratorium to prohibit first story Business or Professional Service uses in the West Portal Avenue Neighborhood Commercial District for 45 days, in accordance with California Government Code, Section 65858; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section, 101.1.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: alisa.somera@sfgov.org.

c: Ken Rich, Office of Economic and Workforce Development
Lisa Pagan, Office of Economic and Workforce Development
Scott Sanchez, Director, Planning Department
Sarah Jones, Director, Planning Department
AnMarie Rodgers, Director, Planning Department
Aaron Starr, Director, Planning Department
Joy Navarrete, Director, Planning Department
Jeanie Poling, Director, Planning Department

Frank Lee, Public Works

Janet Martinsen, Municipal Transportation Agency

Kate Breen, Municipal Transportation Agency

Dillon Auyoung, Municipal Transportation Agency

1 [Zoning - Interim Moratorium on First Story Business or Professional Service Uses in West
2 Portal Avenue Neighborhood Commercial District]

3 **Urgency Ordinance approving an interim zoning moratorium to prohibit first story**
4 **Business or Professional Service uses in the West Portal Avenue Neighborhood**
5 **Commercial District for 45 days, in accordance with California Government Code,**
6 **Section 65858; affirming the Planning Department’s determination under the California**
7 **Environmental Quality Act; and making findings of consistency with the General Plan,**
8 **and the eight priority policies of Planning Code, Section, 101.1.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

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

17 Section 1. Findings.

18 (a) The West Portal Avenue Neighborhood Commercial District (“West Portal Avenue
19 NCD”) is among the neighborhoods included in and supported through the City’s Invest in
20 Neighborhoods initiative. Invest in Neighborhoods is a collaborative effort of the Mayor’s
21 Office, the Office of Economic and Workforce Development (“OEWD”), and the Planning
22 Department. The initiative provides focused, customized assistance to meet the specific
23 needs of San Francisco’s neighborhood commercial corridors. Invest in Neighborhoods aims
24 to strengthen and revitalize neighborhood commercial districts around the City by marshalling
25 and deploying resources from across multiple City departments and nonprofit partners. These
include economic development services such as loan programs, facade improvement grants,

1 and technical assistance for small businesses, as well as other City services – from the
2 Planning Department, Department of Public Works, Municipal Transportation Agency, and
3 other departments – that help small businesses thrive, enhance quality of life, improve
4 physical conditions, and empower community groups to lead neighborhood revitalization
5 efforts. Invest in Neighborhoods recognizes that each neighborhood commercial district has
6 its own unique needs, opportunities, and challenges, and the initiative aims to deploy the
7 specific services and resources that are most needed in each district.

8 (b) As part of the Invest in Neighborhoods Initiative, the City assessed the
9 neighborhood and commercial conditions in the West Portal commercial district, including the
10 health of the commercial district along with the West Portal commercial district’s current
11 strengths, opportunities, and challenges. Subsequently, Invest in Neighborhoods prepared a
12 report titled “West Portal Neighborhood Profile” that provides a snapshot of these conditions in
13 West Portal as of February 2013. The assessment was aimed at informing the City’s
14 decisions regarding strategic investments in the neighborhood, and providing a resource for
15 neighborhood stakeholders, including neighborhood merchants and business owners.

16 (c) The success of a neighborhood commercial district depends in part on the
17 composition of businesses. The Invest in Neighborhoods assessment of the West Portal
18 commercial district found that business and professional service-oriented establishments
19 make up over 60% of the businesses in the West Portal neighborhood.

20 (d) The Invest in Neighborhoods initiative complements the West Portal
21 neighborhood’s ongoing engagement in sustained and focused efforts to revitalize the West
22 Portal Avenue NCD by attracting certain neighborhood-serving businesses. One of the
23 primary goals of neighborhood stakeholders is to increase ground floor retail so as to increase
24 pedestrian traffic and attract customers to West Portal Avenue.

1 (e) For the past several years, the West Portal neighborhood has been interested in
2 developing a Community Benefit District to help revitalize the West Portal Avenue NCD with
3 ground floor retail businesses, including anchor businesses.

4 (f) The interim zoning moratorium provided for in this ordinance is intended to address
5 the concerns that a saturation of business and professional services, financial services, and
6 stock brokerage businesses has neither facilitated nor furthered the development of ground
7 floor retail businesses within the West Portal Avenue NCD. The intent of this interim zoning
8 moratorium is to limit and avoid the over-saturation of such business and professional
9 services, financial services, and stock brokerage businesses in the West Portal Avenue NCD
10 while the City considers Planning Code amendments that would facilitate the development
11 and preservation of ground floor retail businesses.

12 (g) Presently, the applicable Planning Code provisions and Zoning Controls prohibit
13 any new Financial Services uses and prohibit stock brokerages where there are more than
14 seven Financial Services uses and/or stock brokerages in the West Portal Avenue NCD.

15 (h) The Office of Supervisor Norman Yee, the Planning Department, OEWD,
16 neighborhood merchants, and local community members are engaged in broader discussions
17 about amending and updating the Planning Code and Zoning Controls to facilitate
18 development of a diversity of businesses and a vibrant commercial corridor along West Portal
19 Avenue.

20 (i) The Board of Supervisors has considered the impact on the public health, safety,
21 peace, and general welfare if the interim zoning moratorium provided for in this ordinance
22 were not imposed.

23 (j) The Board of Supervisors has determined that the public interest and welfare will be
24 best served by imposing the interim zoning moratorium at this time in order to ensure that the
25 legislative amendments that may be ultimately adopted are not undermined during the

1 planning and legislative process preceding adoption of permanent controls, which process
2 shall be conducted within a reasonable time.

3 (k) Planning Code Section 101.1 Findings.

4 This interim zoning moratorium ordinance advances and is consistent with Priority
5 Policies 1 and 2 of Planning Code Section 101.1 in that the ordinance attempts to facilitate
6 preserving existing neighborhood-serving retail uses, enhancing future opportunities for
7 resident employment in and ownership of such businesses, and conserving and protecting
8 neighborhood character in order to preserve the cultural and economic diversity of the
9 neighborhood. With respect to Priority Policies 3, 4, 5, 6, 7, and 8, the Board of Supervisors
10 finds that the interim zoning moratorium does not, at this time, have an effect upon and will
11 not conflict with these policies.

12 (l) Environmental Findings.

13 The Planning Department has determined that the actions contemplated in this
14 ordinance comply with the California Environmental Quality Act (California Public Resources
15 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
16 Supervisors in File No. ___ and is incorporated herein by reference. The Board of
17 Supervisors affirms this determination.

18
19 Section 2. The following interim zoning moratorium is hereby adopted as an urgency
20 ordinance:

21 (a) Neither the Planning Department nor the Planning Commission shall issue an
22 approval or authorization for any Business or Professional Service uses, as defined in
23 Planning Code Section 790.108, seeking to operate at the first story in the West Portal
24 Avenue NCD, as established in Planning Code Section 729.

1 (b) This interim zoning moratorium shall remain in effect for 45 days unless extended
2 in accordance with California General Government Code Section 65858 or permanent
3 controls are adopted to address the overconcentration of such Business and Professional
4 Service uses in the West Portal Avenue NCD.

5
6 Section 3. Within 25 days of the enactment of this ordinance, the Planning Department
7 shall submit to the Clerk of the Board of Supervisors a written report describing the measures
8 taken to alleviate the conditions that led to the adoption of the ordinance. Upon receipt of the
9 report, the Clerk shall calendar a motion for the full Board of Supervisors to consider and
10 approve said report. Said hearing and action taken thereon shall occur no later than 35 days
11 after this ordinance is effective.

12
13 Section 4. Effective Date. This urgency ordinance shall become effective immediately
14 upon enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns
15 the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the
16 Board of Supervisors overrides the Mayor's veto of the ordinance by a 4/5ths vote.

17
18 APPROVED AS TO FORM:
19 DENNIS J. HERRERA, City Attorney

20 By:


21 CHRISTOPHER T. TOM
22 Deputy City Attorney

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