

BOARD of SUPERVISORS



City Hall
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MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: March 3, 2020

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 200214

Ordinance amending the Planning Code to expedite the Conditional Use authorization review and approval process and reduce the application fee for certain uses of commercial space; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101; and adopting findings of public necessity, convenience, and general welfare under Planning Code, Section 302.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Dominica Donovan, Senior Policy Analyst/Commission Secretary

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

_____ **No Comment**

_____ **Recommendation Attached**

Chairperson, Small Business Commission

1 [Planning Code - Conditional Use Review and Approval Process - Priority Processing and
2 Reduced Application Fee for Certain Uses of Commercial Space]

3 **Ordinance amending the Planning Code to expedite the Conditional Use authorization**
4 **review and approval process and reduce the application fee for certain uses of**
5 **commercial space; affirming the Planning Department's determination under the**
6 **California Environmental Quality Act; making findings of consistency with the General**
7 **Plan, and the eight priority policies of Planning Code, Section 101; and adopting**
8 **findings of public necessity, convenience, and general welfare under Planning Code,**
9 **Section 302.**

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

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

18 Section 1. Findings.

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

24 (b) On _____, the Planning Commission, in Resolution No. _____,
25 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
with the City's General Plan and eight priority policies of Planning Code Section 101.1. The

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
2 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
4 ordinance will serve the public necessity, convenience, and general welfare for the reasons
5 set forth in Planning Commission Resolution No. _____.

6
7 Section 2. Article 3 of the Planning Code is hereby amended by adding Section 303.2,
8 to read as follows:

9 **SEC. 303.2. PRIORITY PROCESSING FOR CERTAIN USES IN COMMERCIAL SPACE:**

10 **EXPEDITED CONDITIONAL USE REVIEW AND APPROVAL PROCESS AND REDUCED**

11 **APPLICATION FEE.**

12 (a) **Findings.**

13 (1) In April 2013, the Planning Commission adopted the Small Business Priority
14 Processing Pilot Program. The stated goal of the pilot program was to accelerate the review of certain
15 small business applications without compromising the review times of other applications.

16 (2) Building on the success of the pilot program, Planning Department staff in
17 consultation with staff from the Office of Small Business proposed expanding the program to additional
18 types of applications. The expanded program was adopted by the Planning Commission in February
19 2015 and renamed the Community Business Priority Processing Program. As expressed in the
20 Commission's adoption Resolution No. 19323, the intent was to support the business community –
21 especially small and mid-sized businesses – and to increase efficiencies in the way the Commission and
22 Department handle related applications.

23 (3) By enacting this Section 303.2, the Board of Supervisors underscores the
24 importance of small and mid-sized businesses to the economic vitality of San Francisco's
25 neighborhoods and to the City as a whole, its residents, and visitors. The intent of this Section 303.2 is

1 to expedite the review and hearing process for these vital small and mid-sized businesses without
2 compromising public notice and input or the review times of other applications, and to build upon the
3 success of the Community Business Priority Process Program by expanding the scope of eligible
4 projects and ensuring that all eligible projects are considered accordingly.

5 (b) **Priority Processing for Certain Uses.** Applications for Conditional Use authorization
6 that comply with the requirements of subsection (c) are eligible for priority processing and a prorated
7 application fee. Eligibility for priority processing shall not require any application separate from a
8 completed application for Conditional Use authorization. Unless modified by this Section 303.2, the
9 provisions of Section 303 shall apply.

10 (c) **Eligibility for Priority Processing.** An application for a Conditional Use authorization
11 qualifies for priority processing (“eligible application”) pursuant to this Section 303.2 if it complies
12 with all of the following requirements:

13 (1) It pertains exclusively to Non-Residential Uses;

14 (2) It is limited to changes of use, tenant improvements, or other interior or
15 storefront work;

16 (3) It does not involve the removal of any Dwelling Units;

17 (4) It does not involve a Formula Retail use;

18 (5) It does not propose or require the consolidation of multiple storefronts;

19 (6) It does not seek to provide off-street parking in a quantity beyond that allowed as
20 of right;

21 (7) It does not seek to establish, expand, or intensify activities during hours of
22 operation beyond those permitted as of right;

23 (8) It does not seek to sell alcoholic beverages for either on-site or off-premises
24 consumption, excepting beer and/or wine sold in conjunction with the operation of a Bona Fide Eating
25 Place; and

1 (9) It does not seek to establish or expand any of the following uses:

2 (A) Adult Entertainment.

3 (B) Bar.

4 (C) Drive-up Facility.

5 (D) Fringe Financial Service.

6 (E) Medical Cannabis Dispensary.

7 (F) Nighttime Entertainment.

8 (G) Non-Retail Sales and Service that is closed to the general public.

9 (H) Tobacco Paraphernalia Establishment.

10 (I) Wireless Communication Facility.

11 If the application qualifies for priority processing, the Department shall notify the applicant of the date
12 of acceptance of the complete application and of the applicant's eligibility for priority processing. The
13 application fee shall be prorated pursuant to subsection (f).

14 (d) **Expedited Commission Hearing.** An eligible application shall be scheduled for a public
15 hearing on the Planning Commission's consent calendar within 90 days from the date that the
16 application has been deemed complete, unless the hearing date is extended pursuant to subsection (e).
17 An application is deemed complete when the application and filing fee have been accepted by the
18 Department. The Planning Commission shall develop rules and regulations to ensure that eligible
19 applications are heard and determined within 90 days without compromising the review times of other
20 applications.

21 (e) **Extension of Commission Hearing Date.** The Planning Commission may at any time
22 adopt a one-time extension of not more than 60 days of the hearing date for an eligible application
23 beyond 90 days if:

24 (1) the Planning Director or the Director's designee requests in writing that the item
25 be removed from the Commission's consent calendar; or

1 (2) any member of the Planning Commission requests that the item be removed from
2 the Commission's consent calendar; or

3 (3) any neighborhood organization maintained on a list by the Planning Department
4 pursuant to subsection 311(d)(4) submits within 60 days of the submission of a complete Conditional
5 Use authorization application, or at any point prior to the Planning Commission's scheduled hearing,
6 a letter of opposition or written request that the item be removed from the Commission's consent
7 calendar.

8 (f) ***Reduced Application Fee; Fee Refund.*** The fee for an application that meets the
9 priority processing requirements of subsection (c) shall be 50% of the otherwise applicable fee
10 established by Section 350 of this Code. If the Planning Commission does not hold a hearing on a
11 Conditional Use application that is eligible for priority processing within 90 days of the date the
12 application is deemed complete, or within the additional time allotted if the Commission continues the
13 matter pursuant to subsection (e), the applicant shall be entitled to a full refund of the application fee.

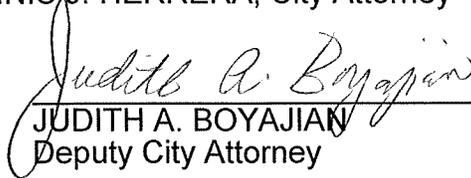
14 (g) ***Report to the Board of Supervisors.*** One year from the effective date of this Section
15 303.2 and for three years thereafter on an annual basis, the Planning Department shall submit to the
16 Board of Supervisors a report showing the number and percentage of eligible applications that are
17 considered within 90 days of the date the Department has deemed the application complete and the
18 reason or reasons why eligible applications were not heard within 90 days, if any.

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20 Section 3. Effective Date. This ordinance shall become effective 30 days after
21 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
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ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance

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

By: 
JUDITH A. BOYAJIAN
Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - Conditional Use Review and Approval Process - Priority Processing and Reduced Application Fee for Certain Uses of Commercial Space]

Ordinance amending the Planning Code to expedite the Conditional Use authorization review and approval process and reduce the application fee for certain uses of commercial space; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101; and adopting findings of public necessity, convenience, and general welfare under Planning Code, Section 302.

Existing Law

Planning Code Section 303 establishes procedures for the Planning Commission's review and determination of applications for Conditional Use authorization.

Amendments to Current Law

This ordinance adds a new section that expedites the Conditional Use authorization review and approval process for certain uses of commercial space. Applications that comply with the eligibility requirements are entitled to a Planning Commission hearing within 90 days of the application's submittal, unless that time is extended by the Commission, and a reduced application fee.

In order to be qualify for priority processing and a reduced fee, an application must: 1) pertain exclusively to non-residential uses, 2) be limited to interior or store-front work, 3) not involve a Formula Retail use or the removal of any dwelling units, 4) not propose or require the consolidation of multiple storefronts, 5) not seek additional off-street parking, or the expansion or intensification of hours of use, beyond those permitted as of right, 6) not seek to sell alcoholic beverages except for beer and/or wine sold in conjunction with a Bona Fide Eating Place, and 7) not seek to establish or expand an adult entertainment use, bar, drive-up facility, fringe financial service, medical cannabis dispensary, nighttime entertainment, non-retail sales and service closed to the public, a tobacco paraphernalia establishment, or a wireless communication facility.

Background Information

In April, 2013, the Planning Commission adopted the Small Business Priority Processing Pilot Program, the stated goal of which was to accelerate the review of certain small business applications without compromising the review times of other applications. Building on the success of the pilot program, Planning Department staff in consultation with staff from the Office of Small Business proposed expanding the program to additional types of applications.

In February, 2017, the Planning Commission adopted the expanded program, which was renamed the Community Business Priority Processing Program. This ordinance builds upon the success of the Community Business Priority Process Program by expanding the scope of eligible projects and ensuring that all eligible projects are considered. The intent of this ordinance is to expedite the review and hearing process for vital small and mid-sized businesses without compromising public notice and input or the review times of other applications, and its enactment underscores the importance of small and mid-sized businesses to the economic vitality of San Francisco's neighborhoods and to the City as a whole, its residents and visitors.

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