

FILE NO. 040365

ORDINANCE NO.

1 [Ordinance amending Planning Code Section 312 to remove notice and review procedures for
2 changes of use, add notice and review procedures for changes of use to a formula retail use,
3 to require that changes of use to bars, liquor stores, walkup facilities, other large institutions,
4 other small institutions, restaurants, massage establishments, outdoor activities, or adult or
5 other entertainment uses be subject to the notification and review procedures of Section 312,
6 receive review for compliance with Neighborhood Commercial Design Guidelines and on-site
7 noticing for 15 days, and to require that the Planning Department update and make available
8 its list of neighborhood organizations with interests in specific properties or areas, and to
9 provide that if a neighborhood organization required to receive project notification is not sent
10 notice the proposed project must be re-noticed.]

7 **Ordinance amending Planning Code Section 312 to delete the requirement that**
8 **changes of use per the use categories of Article 7, and changes in use to a retail coffee**
9 **stores, as defined in Planning Code Section 790.102(n), or to a pharmaceutical and**
10 **personal toiletries uses, as defined in Planning Code Section 790.102(c), or the addition**
11 **of a prescription drug service where none previously existed within 3 years of an**
12 **application for an addition, be subject to the notification and review procedures of**
13 **Section 312; to add the requirement that changes of use to a formula retail use be**
14 **subject to the notification and review procedures of Section 312; to add the**
15 **requirement that building permit applications for a change of use to a bar, liquor store,**
16 **walkup facility, other large institutions, other small institutions, full-service restaurant,**
17 **large fast food restaurant, small self-service restaurant, massage establishment,**
18 **outdoor activity, or adult or other entertainment use be subject to the notification and**
19 **review procedures of Section 312, receive review for compliance with Neighborhood**
20 **Commercial Design Guidelines and have a notice posted on-site for a 15 calendar day**
21 **period during which the permit will be held pending any request for discretionary**
22 **review before the Planning Commission; to add the requirement that the Planning**
23 **Department make available and update every six months its list of neighborhood**
24 **organizations with interests in specific properties or areas; to provide that where a**
25

1 **neighborhood organization that is required to receive project notification is not sent**
2 **such notice the proposed project must be re-noticed;** and to make findings of
3 **consistency with the priority policies of Planning Code Section 101.1 and the General**
4 **Plan.**

5 Note: Additions are *single-underline italics Times New Roman*;
6 deletions are *strikethrough italics Times New Roman*.
7 Board amendment additions are double underlined.
8 Board amendment deletions are ~~strikethrough normal~~.

8 Be it ordained by the People of the City and County of San Francisco:
9 Section 1. Findings. The Board of Supervisors of the City and County of San Francisco
10 hereby finds and determines that:

11 (a) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this
12 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in
13 Planning Commission Resolution No. _____ recommending approval of this Planning Code
14 Amendment, and incorporates such reasons by this reference thereto. A copy of said
15 resolution is on file with the Clerk of the Board of Supervisors in File No. _____.

16 (b) Pursuant to Planning Code Section 101.1, this Board of Supervisors finds that this
17 ordinance is consistent with the Priority Policies of Section 101.1(b) of the Planning Code and,
18 when effective, with the General Plan as proposed to be amended and hereby adopts the
19 findings of the Planning Commission, as set forth in Planning Commission Resolution No.
20 _____, and incorporates said findings by this reference thereto.

21 Section 2. The San Francisco Planning Code is hereby amended by amending Section
22 312, to read as follows:

23 Sec. 312. Neighborhood Commercial Permit Review Procedures For All NC Districts.

24 (a) Purpose. The purpose of this Section is to establish procedures for reviewing
25 building permit applications for lots in NC Districts in order to determine compatibility of the

1 proposal with the neighborhood and for providing notice to property owners, occupants and
2 residents neighboring the site of the proposed project and to interested neighborhood
3 organizations, so that concerns about a project may be identified and resolved during the
4 review of the permit.

5 (b) Applicability. Except as indicated herein, all building permit applications for
6 demolition, new construction, changes in use to a formula retail use as defined in section 703.3 of
7 this Code or alterations which expand the exterior dimensions of a building, ~~or changes of use per~~
8 the use categories of Article 7 or changes in use under Article 7 to a retail coffee store, as defined in
9 Planning Code Section 790.102(n), to a pharmaceutical and personal toiletries use, as defined in
10 Planning Code Section 790.102(c), or the addition of a prescription drug service where none
11 previously existed within 3 years of the application for the addition, shall be subject to the
12 notification and review procedures required by subsection 312(d). Subsection 312(fe) regarding
13 demolition permits and approval of replacement structures shall apply to all NC Districts. For
14 the purposes of this Section, addition to a building of the features listed in Section 136(c)(1)
15 through 136(c)(24) and 136(c)(26) shall not be subject to notification under this Section.

16 (c) Changes of Use. All building permit applications for a change of use to a bar, as
17 defined in section 790.22, a liquor store, as defined in section 790.55, a walkup facility, as defined in
18 section 790.140, other large institutions, as defined in section 790.50, other small institutions,
19 as defined in section 790.51, a full-service restaurant, as defined in section 790.92, a large fast food
20 restaurant, as defined in section 790.90, a small self-service restaurant, as defined in section 790.91, a
21 massage establishment, as defined in section 790.60, an outdoor activity, as defined in section 790.70,
22 or an adult or other entertainment use, as defined in sections 790.36 and 790.38, shall be subject to the
23 provisions of subsection 312(d)(4) regarding building permit application review for compliance
24 with Neighborhood Commercial Design Guidelines. The Planning Department shall cause a
25 notice to be posted on the site in accordance with the provisions of section 312(d)(2) of this

1 ~~section when such a change of use building permit is sought. Permit applications subject to~~
2 ~~subsection 312(c) shall be held for a period of 15 calendar days from the date the notice is~~
3 ~~posted. Requests for discretionary review of permits must be received by the Planning~~
4 ~~Department by 5:00 p.m. on the 15th day of the notice posting and shall be processed~~
5 ~~accordance with the provisions of subsection 312(e) regarding requests for Planning~~
6 ~~Commission review.~~

7 (*de*) Building Permit Application Review for Compliance and Notification. Upon
8 acceptance of any application subject to this Section, the Planning Department shall review
9 the proposed project for compliance with the Planning Code and any applicable design
10 guidelines approved by the Planning Commission. Applications determined not to be in
11 compliance with the standards of Articles 1.2, 1.5, 2 and 2.5 of the Planning Code, including
12 design guidelines for specific areas adopted by the Planning Commission, or with any
13 applicable conditions of previous approvals regarding the project, shall be held until either the
14 application is determined to be in compliance, is disapproved or a recommendation for
15 cancellation is sent to the Department of Building Inspection.

16 (1) Neighborhood Commercial Design Guidelines. The construction of new
17 buildings and alteration of existing buildings in NC Districts shall be consistent with the design
18 policies and guidelines of the General Plan as adopted and periodically amended for specific
19 areas or conditions by the Planning Commission. The Director of Planning may require
20 modifications to the exterior of a proposed new building or proposed alteration of an existing
21 building in order to bring it into conformity with the General Plan. These modifications may
22 include, but are not limited to, changes in siting, building envelope, scale texture and detailing,
23 openings, and landscaping.

24 (2) Notification. Upon determination that an application is in compliance with the
25 development standards of the Planning Code, the Planning Department shall cause a notice

1 to be posted on the site pursuant to rules established by the Zoning Administrator and shall
2 cause a written notice describing the proposed project to be sent in the manner described
3 below. This notice shall be in addition to any notices required by the Building Code and shall
4 have a format and content determined by the Zoning Administrator. It shall include a
5 description of the proposal compared to any existing improvements on the site with
6 dimensions of the basic features, elevations and site plan of the proposed project including
7 the position of any adjacent buildings, exterior dimensions and finishes, a graphic reference
8 scale, existing and proposed uses and commercial or institutional business name, if known.
9 The notice shall describe the project review process and shall set forth the mailing date of the
10 notice and the expiration date of the notification period.

11 Written notice shall be mailed to the notification group which shall include the project
12 sponsor, relevant neighborhood organizations as described in Subparagraph 312(~~de~~)(2)(C)
13 below, all individuals having made a written request for notification for a specific parcel or
14 parcels pursuant to Planning Code Section 351 and all owners and, to the extent practical,
15 occupants, of properties in the notification area.

16 (A) The notification area shall be all properties within 150 feet of the subject lot in
17 the same Assessor's Block and on the block face across from the subject lot. When the
18 subject lot is a corner lot, the notification area shall further include all property on both block
19 faces across from the subject lot, and the corner property diagonally across the street.

20 (B) The latest City-wide Assessor's roll for names and addresses of owners shall be
21 used for said notice.

22 (C) The Planning Department shall maintain a list, updated every six months with
23 current contact information, available for public review, and kept at the Planning Department's
24 Planning Information Counter, and reception desk, as well as the Department of Building Inspection's
25 Building Permit Counter, of neighborhood organizations which have indicated an interest in

1 specific properties or areas. The organizations having indicated an interest in the subject lot
2 or its area shall be included in the notification group for the proposed project. Notice to these
3 groups shall be verified by a declaration of mailing signed under penalty of perjury. In the
4 event that such an organization is not included in the notification group for a proposed project
5 as required under this subsection, the proposed project must be re-noticed.

6 (3) Notification Period. All building permit applications shall be held for a period of
7 30 calendar days from the date of the mailed notice to allow review by residents, occupants,
8 owners of neighboring properties and by neighborhood groups.

9 (4) Elimination of Duplicate Notice. The notice provisions of this Section may be
10 waived by the Zoning Administrator for building permit applications for projects that have
11 been, or before approval will be, the subject of a duly noticed public hearing before the
12 Planning Commission or Zoning Administrator, provided that the nature of work for which the
13 building permit application is required is both substantially included in the hearing notice and
14 is the subject of the hearing.

15 (~~ed~~) Requests for Planning Commission Review. A request for the Planning
16 Commission to exercise its discretionary review powers over a specific building permit
17 application shall be considered by the Planning Commission if received by the Planning
18 Department no later than 5:00 p.m. of the last day of the notification period as described
19 under Subsection (~~de~~)(3) above, subject to guidelines adopted by the Planning Commission.

20 The project sponsor of a building permit application may request discretionary review
21 by the Planning Commission to resolve conflicts between the Director of Planning and the
22 project sponsor concerning requested modifications to comply with relevant design guidelines
23 of the General Plan.

24 (1) Scheduling of Hearing. The Zoning Administrator shall set a time for hearing
25 requests for discretionary review by the Planning Commission within a reasonable period.

1 (2) Notice. Mailed notice of the discretionary review hearing by the Planning
2 Commission shall be given not less than 10 days prior to the date of the hearing to the
3 notification group as described in Paragraph 312(~~de~~)(2) above. Posted notice of the hearing
4 shall be made as provided under Planning Code Section 306.8.

5 (~~fe~~) Demolition of Dwellings, Approval of Replacement Structure Required. Unless
6 the building is determined to pose a serious and imminent hazard as defined in the Building
7 Code an application authorizing demolition in any NC District of an historic or architecturally
8 important building or of a dwelling shall not be approved and issued until the City has granted
9 final approval of a building permit for construction of the replacement building. A building
10 permit is finally approved if the Board of Appeals has taken final action for approval on an
11 appeal of the issuance or denial of the permit or if the permit has been issued and the time for
12 filing an appeal with the Board has lapsed with no appeal filed.

13 (1) The demolition of any building whether or not historically and architecturally
14 important may be approved administratively where the Director of the Department of Building
15 Inspection or the Chief of the Bureau of Fire Prevention and Public Safety determines, after
16 consultation with the Zoning Administrator, that an imminent safety hazard exists, and the
17 Director of the Department of Building Inspection determines that demolition or extensive
18 alteration of the structure is the only feasible means to secure the public safety.

19 Section 3. The Planning Department concluded environmental review of this ordinance
20 pursuant to the California Environmental Quality Act. Documentation of that review is on file
21 with the Clerk of the Board of Supervisors in File No. _____.

22
23
24 APPROVED AS TO FORM:
25 DENNIS J. HERRERA, City Attorney

By:

Sarah Ellen Owsowitz
Deputy City Attorney

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25