

File No. 190355 Committee Item No. 7
 Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS
 AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation Committee Date July 8, 2019

Board of Supervisors Meeting _____ Date _____

Cmte Board

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | CEQA Determination 041519 |
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Completed by: Erica Major Date July 3, 2019
 Completed by: Erica Major Date _____

1 [Planning Code - Authorizing Interim Activities at Development Sites]

2
3 **Ordinance amending the Planning Code to enable the use of development project sites**
4 **during the project approval and entitlement process by authorizing the Planning**
5 **Department to authorize certain interim activities at development project sites as**
6 **Temporary Uses for up to 36 months, subject to extension at the discretion of the**
7 **Planning Director in increments for up to a maximum possible total of 36 additional**
8 **months; adopting the Planning Department's determination under the California**
9 **Environmental Quality Act; making findings of consistency with the General Plan, and**
10 **the eight priority policies of Planning Code, Section 101.1; and making findings of**
11 **public convenience, necessity, and welfare under Planning Code, Section 302.**

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

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

20 Section 1. Environmental and Land Use Findings.

21 (a) The Planning Department has determined that the actions contemplated in this
22 ordinance comply with the California Environmental Quality Act (California Public Resources
23 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
24 Supervisors in File No. 190355 and is incorporated herein by reference. The Board adopts
25 these findings as its own.

1 (b) On April 25, 2019, the Planning Commission, in Resolution No. 20434, adopted
2 findings that the actions contemplated in this ordinance are consistent, on balance, with the
3 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
4 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
5 Board of Supervisors in File No. 190355, and is incorporated herein by reference.

6 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
7 amendments will serve the public necessity, convenience, and welfare for the reasons set
8 forth in Planning Commission Resolution No. 20434, and the Board of Supervisors
9 incorporates such reasons herein by reference.

10
11 Section 2. Findings and Purpose.

12 During the process of seeking development approvals and entitlements for land or
13 buildings, such land or buildings may become underutilized, vacant, and economically
14 unproductive for prolonged time periods. Occupying and activating such land or buildings with
15 temporary activities, and creating an active and vital street frontage, would help generate
16 economic activity, create jobs, deter crime and nuisance activities, and enhance the vitality of
17 the public realm near or within such land or buildings. The authorization of temporary uses for
18 such land or buildings will also help ensure the proper upkeep and maintenance of such land
19 and buildings, while encouraging property owners to provide invaluable and scarce space for
20 arts activities, light industrial uses, retail or institutional uses, and other land uses.

21
22 Section 3. Article 2 of the Planning Code is hereby amended by revising Section 205
23 and adding Section 205.5, to read as follows:
24
25

1 **SEC. 205. TEMPORARY USES, GENERAL.**

2 (a) The temporary uses listed in Sections 205.1 through 205.45, where not otherwise
3 permitted in the district, may be authorized as provided ~~therein~~ and in this Section 205, up to the
4 time limits indicated. Further time for such uses may be authorized only by action upon a new
5 application, subject to all the requirements for the original application, unless otherwise
6 indicated in Sections 205.1 through 205.45.

7 (b) Action upon such uses may be authorized by the ~~Zoning Administrator~~ Planning
8 Director without a public hearing.

9 (c) Wherever a use exists at the effective date of this Code or of an amendment
10 thereto under which such use is classified as a temporary use, or wherever a use is being
11 conducted under a temporary use authorization given prior to such a date, such use may be
12 continued for the maximum term specified therefore, calculated from said effective date or
13 date of authorization. No such use shall continue thereafter unless a temporary use
14 authorization ~~shall have~~ has been sought and obtained under a new application. Continuance
15 of a temporary use beyond the date of expiration of the period authorized therefore, or failure
16 to remove a structure for such temporary use within 10 days thereafter, shall constitute a
17 violation of this Code.

18 (d) The time periods referenced in Sections 205.1 through 205.3 and Section 205.5 are
19 consecutive hours or consecutive calendar days; they are not the total number of hours or
20 days that the use is in operation. Therefore, a 24-hour authorization that begins at 6:00 a.m.
21 expires at 6:00 a.m. the following day, even if the use was in operation only eight hours of that
22 24-hour period. Similarly, a 60-day authorization expires after 60 calendar days even though
23 the use may only have been open for business three days per week during that 60-day period.
24 Hours or days of unused authorization cannot be stored or credited.

1 (e) Any temporary uses authorized pursuant to this Section 205 and Sections 205.1 through
2 205.5 shall not be required to comply with any Planning Code requirements that are not expressly
3 applicable to such temporary uses under this Section 205 and Sections 205.1 through 205.5, provided,
4 however, any temporary uses authorized pursuant to this Section 205 and Sections 205.1 through 205.5
5 shall be subject to all applicable initiative ordinances approved by the voters of the City and County of
6 San Francisco.

7 (f) The decision of the Planning Director to authorize or deny authorization of any temporary
8 use pursuant to this Section 205 and Sections 205.1 through 205.5 may be appealed to the Board of
9 Appeals within 15 days after the date of the decision by filing a written notice of appeal with that body.

10
11 **SEC. 205.5. TEMPORARY USES: INTERIM ACTIVITIES ON DEVELOPMENT SITES.**

12 (a) Upon the satisfaction of the requirements in this Section 205.5, an Interim Activity on an
13 Eligible Development Site located in an Eligible Area may be authorized as a temporary use for an
14 initial period not to exceed 36 months (“Initial Period”).

15 (b) Definitions. For purposes of this Section 205.5, the following definitions shall apply:

16 “Development Project” has the meaning set forth in the definition of Eligible Development Site.

17 “Eligible Area” means the Commercial (C), Residential-Commercial (RC), Downtown
18 Residential (DTR), and Neighborhood Commercial Transit (NCT) Districts, and, within the area
19 bounded by Market Street, 13th Street/Duboce Avenue, Division Street, and King Street, in Mixed Use
20 and Neighborhood Commercial (NC) Districts.

21 “Eligible Development Site” means a legal lot on which: (1) an application has been submitted
22 either to permit demolition of an existing structure, or to permit alterations sufficiently extensive to be
23 considered, in the judgment of the Planning Director, tantamount to demolition for the purposes of this
24 Section 205.5; (2) applications and the associated fees have been submitted to obtain all required land
25 use and permit entitlements for an associated development project that, if approved and completed,

1 would result in greater residential density than the residential density existing as of the time both the
2 land use and permit entitlement applications were submitted to the City ("Development Project"); and
3 (3) applications and the associated fees have been submitted to evaluate compliance of the
4 Development Project with the California Environmental Quality Act (California Public Resources
5 Code Sections 21000 et seq.) pursuant to Administrative Code Section 31.22.

6 "Interim Activity" means any Entertainment, Arts and Recreation Use; any Arts Activities Use;
7 any Entertainment, General Use; any Social Service or Philanthropic Facility Use; any Homeless
8 Shelter Use; any Agriculture/Beverage Processing I, Light Manufacturing, or Metal Working Use
9 permitted either Conditionally or Principally within a PDR-1-D District; any Retail or Institutional
10 Use regardless of Use size; any Use Principally or Conditionally permitted in the subject zoning
11 district; and/or any Office Use, so long as such Office space is less than 5,000 gross square feet and an
12 equal or greater square footage of space is established within a building on the same Eligible
13 Development Site and dedicated for Arts Activities Use and/or Light Manufacturing Use. In addition,
14 in order for Office Use to constitute an Interim Activity, such Arts Activities Use and/or Light
15 Manufacturing Use occupancies or activities must commence on the Eligible Development Site prior to
16 or simultaneously with the Office Use occupancies or activities, and the Arts Activities Use and/or
17 Light Manufacturing Use occupancies or activities must continue for the full duration of the Office Use
18 occupancies or activities.

19 (c) Application. The property owner or the property owner's authorized agent ("Applicant")
20 shall submit an application for temporary use to the Planning Department, on a form prepared by the
21 Planning Department. The application shall be accompanied by the applicable fees pursuant to
22 Planning Code Section 350 and shall include an affidavit signed by the Applicant and, as applicable,
23 each tenant occupying any portion of the Eligible Development Site for the Interim Activity, or each
24 tenant's authorized agent, acknowledging that the use of the Eligible Development Site for the Interim
25 Activity is temporary and subject to the time limits set forth in this Section 205.5 and acknowledging

1 that the Applicant has to pay any outstanding fees, invoices, or penalties owed to City agencies, and is
2 in compliance with all requirements of the Municipal Code, including any requirements to file Updates
3 to Institutional Master Plans and abate any Code or Building Code violations. The Applicant shall not
4 be required to pay additional fees set forth in Article 4 of the Planning Code as a prerequisite to
5 obtaining temporary use authorization pursuant to this Section 205.5.

6 (d) New, Additional, or Modified Temporary Uses. New, additional, or modified temporary
7 uses that were not previously approved by the Planning Director shall be reviewed through the filing of
8 a new application and submittal of a new application fee.

9 (e) New Tenants. Additional or different tenants (each a "New Tenant") may commence
10 occupancy within and use of the Eligible Development Site in question without additional applications
11 or fees, provided that each New Tenant submits a completed affidavit to the Department attesting to the
12 truthfulness and correctness of the previously submitted application and declaring that the New Tenant
13 will not discontinue, add to, or modify the approved Interim Activity.

14 (f) No Conversion, Change, Discontinuance, or Abandonment of Use. The approval or
15 commencement of an Interim Activity as a temporary use as authorized under this Section 205.5 shall
16 not be considered a conversion, discontinuance, abandonment, or change of use for purposes of this
17 Code, notwithstanding Sections 182 and 183 of this Code. Any property for which the Interim Activity
18 is authorized shall retain its authorized land use(s). Such authorized land uses, including any
19 nonconforming uses, shall become operative upon the expiration, termination, or abandonment of such
20 temporary use authorization.

21 (g) Fenestration, Transparency, and Visibility Requirements. Construction proposed in
22 connection with the Interim Activity shall not cause noncompliance or exacerbate existing
23 noncompliance with respect to fenestration, transparency, or any other visibility requirement of Section
24 145.1 of this Code. Further, no film, adhesive, blinds, or other treatment may be applied to any
25 existing fenestration.

1 (h) Information To Be Available To Public. The Department shall make available to the public
2 in the Planning Department's main office and on its website a list of all applications approved under
3 this Section 205.5, along with applicable time frames and any additional information the Planning
4 Department deems useful for or relevant to the continued and successful activation of those spaces in
5 the Eligible Area.

6 (i) Extension of Initial Period. Upon the Planning Director's determination that permits for
7 the Development Project are being and have been diligently pursued, and that the Interim Activity has
8 been consistent with public convenience, necessity, or the general welfare of the City, the Planning
9 Director is authorized to permit the Interim Activity to exceed the Initial Period for an additional
10 period not to exceed 12 months. The Planning Director is authorized to extend the Initial Period up to
11 three times (the first time being the extension referenced in the previous sentence) such that each
12 extension of the Initial Period may be up to 12 months, each extension shall require a separate
13 determination of the Planning Director according to this Section 205.5(i), and the authorization of the
14 Interim Activity may not exceed a total duration of 72 months.

15 (j) Other Temporary Uses. Authorization of an Interim Activity pursuant to this Section 205.5
16 shall not preclude the authorization of any other temporary uses recognized in Sections 205.1 through
17 205.4.

18
19 Section 4. Effective Date. This ordinance shall become effective 30 days after
20 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
21 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
22 of Supervisors overrides the Mayor's veto of the ordinance.

23
24 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
25 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,

1 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
2 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
3 additions, and Board amendment deletions in accordance with the "Note" that appears under
4 the official title of the ordinance.

5
6 APPROVED AS TO FORM:
7 DENNIS J. HERRERA, City Attorney

8 By:



9 CHRISTOPHER T. TOM
Deputy City Attorney

10 n:\legana\as2019\1900067\01344534.docx

LEGISLATIVE DIGEST

[Planning Code - Authorizing Interim Activities at Development Sites]

Ordinance amending the Planning Code to enable the use of development project sites during the project approval and entitlement process by authorizing the Planning Department to authorize certain interim activities at development project sites as Temporary Uses for up to 36 months, subject to extension at the discretion of the Planning Director in increments for up to a maximum possible total of 36 additional months; adopting 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 101.1; and making findings of public convenience, necessity, and welfare under Planning Code, Section 302.

Existing Law

Currently, the Planning Code allows the Zoning Administrator to authorize certain temporary uses for time periods ranging from up to sixty days, for uses such as open air sale of agriculturally produced seasonal decorations (e.g., Christmas trees and Halloween pumpkins), to up to two years, for uses such as temporary structures and uses incidental to the construction of a group of buildings on the same or adjacent premises. In addition, the Zoning Administrator may authorize certain temporary uses for a period not to exceed twenty-four hours per event, once a month, and for up to twelve events per year per premises for uses such as performances, exhibitions, dances, or festivals that require City permits. The Zoning Administrator may also authorize certain intermittent outdoor activities including mobile food facilities, farmers markets, and open-air craft markets.

Amendments to Current Law

This legislation would make substantive changes to the authorization of temporary uses under the Planning Code, as described below.

First, temporary uses would be authorized by the Planning Director rather than the Zoning Administrator. The Planning Director's decision to authorize or deny authorization of any temporary use would be appealable to the Board of Appeals.

Second, certain development sites could be eligible for the authorization of a new category of temporary uses ("Interim Activities") for up to thirty-six months (the "Initial Period"), after the project developer has submitted all applications and fees for the required land use and permit entitlements and for the completion of environmental review. Planning Director may extend the Initial Period in increments for up to a maximum possible total of thirty-six additional months. Interim Activities would include the following uses, as defined in the Planning Code and subject to restrictions in the legislation: Entertainment, Arts and Recreation Use; Arts

Activities Use; Entertainment, General Use; Social Service or Philanthropic Facility Use; Homeless Shelter Use; Agriculture/Beverage Processing 1, Light Manufacturing, or Metal Working Uses permitted either Conditionally or Principally within a PDR-1-D District; Retail or Institutional Use; Use Principally or Conditionally permitted in the subject zoning district; and certain Office Use, provided that the Office space would be less than 5,000 gross square feet and an equal or greater square footage of space would be established within a building on the same development site and dedicated for Arts Activities Use and/or Light Manufacturing Use. For Office Use to constitute an Interim Activity, such Arts Activities Use and/or Light manufacturing Use occupancies or activities would be required to commence onsite prior to or simultaneously with the Office Use occupancies or activities, and the Arts Activities Use and/or Light Manufacturing Use occupancies or activities would be required to continue for the full duration of the Office Use occupancies or activities.

To be eligible for the authorization of an Interim Activity, a development site would need to be located in the Commercial (C), Residential-Commercial (RC), Downtown Residential (DTR), or Neighborhood Commercial Transit (NCT) Districts, or, within the area bounded by Market Street, 13th Street/Duboce Avenue, Division Street, and King Street, in Mixed Use and Neighborhood Commercial (NC) Districts. In addition, the development site would need to be a legal lot on which: (1) an application has been submitted either to permit demolition of an existing structure, or to permit alterations tantamount to demolition; (2) applications and the associated fees have been submitted to obtain all required land use and permit entitlements for an associated development project that, if approved and completed, would result in greater residential density than the residential density existing as of the time both the land use and permit entitlement applications were submitted to the City; and (3) applications and the associated fees have been submitted to evaluate compliance of the proposed development project with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) pursuant to Administrative Code Section 31.22.

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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 10, 2019

File No. 190355

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On April 2, 2019, Mayor Breed introduced the following legislation:

File No. 190355

Ordinance amending the Planning Code to enable the use of development project sites during the project approval and entitlement process by authorizing the Planning Department to authorize certain interim activities at development project sites as Temporary Uses for up to 36 months, subject to extension at the discretion of the Planning Director in increments for up to a maximum possible total of 36 additional months; adopting 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 101.1; and making findings of public convenience, necessity, and welfare under Planning Code, Section 302.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

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

Attachment

c: Joy Navarrete, Environmental Planning
Laura Lynch, Environmental Planning

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a physical change in the environment. Each temporary use would require a permit and separate environmental review.

joy navarrete

Digitally signed by joy navarrete
DN: dc=org, dc=sfgov, dc=cityplanning,
ou=CityPlanning, ou=Environmental Planning,
cn=joy navarrete, email=joy.navarrete@sfgov.org
Date: 2019.04.15 08:45:15 -0700



SAN FRANCISCO PLANNING DEPARTMENT

May 2, 2019

Ms. Angela Calvillo, Clerk
Honorable Mayor Breed
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 2018-011653PCA:
Temporary Uses on Development Sites
Board File No. 190355
Planning Commission Recommendation: *Approval with Modification***

Dear Ms. Calvillo and Mayor Breed:

On April 25, 2019 the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Mayor Breed that would amend the Planning Code to enable the use of development project sites during the project approval and entitlement process by authorizing the Planning Department to authorize certain interim activities at development project sites as Temporary Uses for up to 36 months, subject to extension at the discretion of the Planning Director in increments for up to a maximum possible total of 36 additional months.. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modifications were as follows:

- Amend the requirement to increase residential density to instead require an increase in residential density only if there is existing residential.
- Clarify language in Section 205.5 "Interim Activity": Section 205.5 should be amended to clarify that the "Retail" use must also fall under the "Retail Sales and Services" category.

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.

Mayor Breed, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

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

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron D. Starr". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Aaron D. Starr
Manager of Legislative Affairs

cc:

Christopher Tom, Deputy City Attorney
Sophia Kittler, Aide to Mayor Breed
Erica Major, Office of the Clerk of the Board

Attachments:

Planning Commission Resolution
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 20434

HEARING DATE APRIL 25, 2019

Project Name: Temporary Uses on Development Sites
Case Number: 2018-011653PCA [Board File No. 190355]
Initiated by: Mayor Breed / Introduced April 2, 2019
Staff Contact: Audrey Butkus, Legislative Affairs
Audrey.Butkus@sfgov.org, 415-575-9129
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

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RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD ENABLE THE USE OF DEVELOPMENT PROJECT SITES DURING THE PROJECT APPROVAL AND ENTITLEMENT PROCESS BY AUTHORIZING THE PLANNING DEPARTMENT TO AUTHORIZE CERTAIN INTERIM ACTIVITIES AT DEVELOPMENT PROJECT SITES AS TEMPORARY USES FOR UP TO 36 MONTHS, SUBJECT TO EXTENSION AT THE DISCRETION OF THE PLANNING DIRECTOR IN INCREMENTS FOR UP TO A MAXIMUM POSSIBLE TOTAL OF 36 ADDITIONAL MONTHS; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on April 2, 2019, Mayor Breed introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 190355, which would enable the use of development project sites during the project approval and entitlement process by authorizing the Planning Department to authorize certain interim activities at development project sites as Temporary Uses for up to 36 months, subject to extension at the discretion of the Planning Director in increments for up to a maximum possible total of 36 additional months;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on April 25, 2019 and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c); and

WHEREAS, the Planning 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 Department staff and other interested parties; and

WHEREAS, 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 Planning Commission has reviewed the proposed Ordinance; and
WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance.

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 Commission supports the overall goals of this Ordinance because during the process of redevelopment, the sites often become underutilized, vacant, and economically unproductive for long periods of time.
2. Activating these spaces during their interim periods of development will not only keep the street active but may also provide affordable spaces for businesses that are just starting out, or whose use type cannot pay higher commercial rents.
3. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

DESIGN ELEMENT

OBJECTIVE 1

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.3

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

Buildings, which collectively contribute to the characteristic pattern of the city, are the greatest variable because they are most easily altered by man. The proposed Ordinance will assist in moderating the city pattern by filling vacant spaces, reducing negative streetscape effects development projects can create during their interim period between tenant move-out and demolition of the structure.

Policy 1.6

Make centers of activity more prominent through design of street features and by other means.

Shopping streets and other centers for activity and congregation of people should stand out in an attractive manner in their districts. The proposed Ordinance will facilitate the establishment of uses on a temporary basis that activate streetscapes in vacant buildings during development projects.

OBJECTIVE 4

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

San Francisco draws much of its strength and vitality from the quality of its neighborhoods. Many of these neighborhoods offer a pleasant environment to residents of the city, while others have experienced physical decline. The proposed Ordinance will assist in reducing storefront vacancies that occur during the redevelopment of sites which will serve to activate spaces, increasing their safety and comfort for pedestrians.

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

Policy 2.3

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

OBJECTIVE 4

IMPROVE THE VIABILITY OF EXISTING INDUSTRY IN THE CITY AND THE ATTRACTIVENESS OF THE CITY AS A LOCATION FOR NEW INDUSTRY.

Policy 4.2

Promote and attract those economic activities with potential benefit to the City.

The proposed Ordinance will assist in reducing storefront vacancies that occur during the redevelopment of sites while also providing lower-cost rental spaces for new and emerging businesses.

4. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:
 1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

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

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

5. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on April 25, 2019.



Jonas P. Ionin
Commission Secretary

AYES: Hillis, Johnson, Koppel, Melgar, Richards

NOES: Moore

ABSENT: None

ADOPTED: April 25, 2019



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment HEARING DATE: APRIL 25, 2019 90-DAY DEADLINE: JULY 9, 2019

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Project Name: Temporary Uses on Development Sites
Case Number: 2018-011653PCA [Board File No. 190355]
Initiated by: Mayor Breed / Introduced April 2, 2019
Staff Contact: Audrey Butkus, Legislative Affairs
Audrey.Butkus@sfgov.org, 415-575-9129
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Approval with Modifications**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to enable the use of development project sites during the project approval and entitlement process by authorizing the Planning Department to authorize certain interim activities at development project sites as Temporary Uses for up to 36 months, subject to extension at the discretion of the Planning Director in increments for up to a maximum possible total of 36 additional months.

The Way It Is Now:

1. Temporary Use authorizations under Section 205 are under the authority of the Zoning Administrator. Temporary Use permits are appealable to the Board of Appeals.
2. Planning Code Section 205 describes the various Temporary Use authorizations that may be granted. There are four types of Temporary Use authorizations:
 - Section 205.1: Sixty-Day Limit
 - Section 205.2: One- or Two- Year Limit
 - Section 205.3: Twenty-four Hour Limit
 - Section 205.4: Intermittent Activities

The Way It Would Be:

1. Temporary Use Authorizations under Section 205 would be under the authority of the Planning Director. Temporary Use permits would continue to be appealable to the Board of Appeals.
2. Section 205 would be amended to add a new type of Temporary Use authorization under Section 205.5: Intermittent Activities on Development Sites. This Temporary Use Authorization would be granted for an initial period no longer than 36 months, with the ability to be extended by the Director up to 3 separate times, for periods of no more than 12 months per extension. To be eligible the site must:

- a. Be located in a Commercial (C), Residential Commercial (RC), Downtown Residential (DTR), or Neighborhood Commercial Transit (NCT) District; or Neighborhood Commercial (NC) and Mixed Use (MU) Districts within the area bounded by Market, 13th/Duboce, Division, and King (aka SoMa).
- b. Have submitted an application to permit either a demolition or tantamount to demolition of an existing structure;
- c. Entitlement applications and fees must have been submitted for all associated development project permits, and if approved and completed, would result in greater residential density than the residential density that existed on the site at the time both the land use and entitlement permit applications were submitted;
- d. All applications and fees required for CEQA review must have been submitted.

The uses allowed under the "Interim Activity for Development Sites" would be as follows: any Entertainment, Arts and Recreation Use; any Arts Activities Use; any Entertainment, General Use; any Social Service or Philanthropic Facility Use; any Homeless Shelter Use; any Agriculture/Beverage Processing 1, Light Manufacturing, or Metal Working Use permitted either Conditionally or Principally within a PDR-1-D District; any Retail or Institutional Use regardless of Use size; any Use Principally or Conditionally permitted in the subject zoning district; and/or any Office Use*, so long as such Office space is less than 5,000 gross square feet and an equal or greater square footage of space is established within a building on the same Eligible Development Site and dedicated for Arts Activities Use and/or Light Manufacturing Use.

**In order for Office Use to constitute an Interim Activity, such Arts Activities Use and/or Light Manufacturing Use occupancies or activities must commence on the Eligible Development Site prior to or simultaneously with the Office Use occupancies or activities, and the Arts Activities Use and/or Light Manufacturing Use occupancies or activities must continue for the full duration of the Office Use occupancies or activities.*

BACKGROUND

The process to develop and redevelop land slated for demolition can take prolonged periods of time. A multitude of factors can cause delays including: permitting, changes in building costs, appeals, and economic shifts. The city has noticed many of these development projects sitting vacant for months or years, during which the streetscape surrounding the building becomes less inviting and a target for vandalism.



Fig. 1: Map highlighting zoning districts where the proposed TUA would be allowed.

ISSUES AND CONSIDERATIONS

“Every pedestrian needs a safe place to walk. In urban settings, this means safety from automobiles and safety from crime.” -*Better Market Street Study*

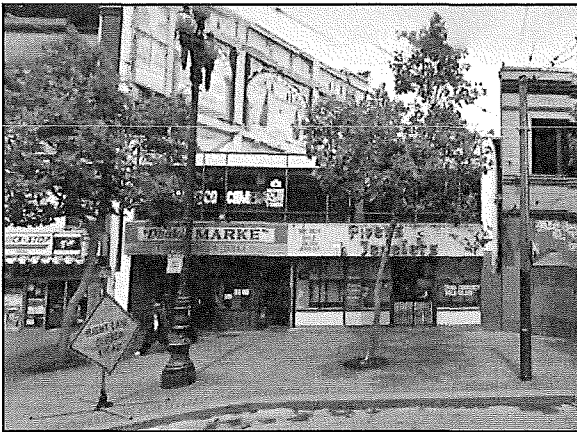
Active Streets

Safe, active streets are paramount to the success of the city’s businesses and public spaces. The 2009 Better Market Street study found that “Ground floor façades are an extremely important factor in the quality of the pedestrian environment. The design of ground floor façades significantly impacts the way pedestrians interact with Market Street’s buildings and public spaces. At the more active building frontages, there are more people entering and exiting buildings, accessing services and purchasing goods.” This same study

found that the section of Market Street which was experiencing storefront vacancies in higher concentrations had less stationary pedestrian activity, even though the streetscape abuts public open space meant for stationary pedestrian use. Additionally, the survey found that one of the main detractors in the Mid-Market area (and throughout the study area) was the number of closed storefronts.

Projects slated for redevelopment are particularly vulnerable to lie vacant, boarded up, and unused for prolonged periods of time. Often, these redevelopment projects occupy a large amount of street frontage, making an even greater impact on the health of the corridor when they are vacant.

Fig. 2: 1066 Market St. is approved for demolition and construction of a 14-story building to house 330 residential units, and ground-floor commercial.



1066 Market St. in 2009.



1066 Market Street in 2017. The site has been vacant since 2014.

Challenges in Temporarily Filling Redevelopment Sites

The current process for a building that is slated for redevelopment to establish a temporary use is rife with obstacles. The first major hurdle can be filing the building permit to change the use. Depending on the proposed use and zoning district, this use permit may require Neighborhood Notification, or a Conditional Use authorization. By the time the permit is granted, the building may be scheduled for demolition. The second hurdle is whether the proposed temporary use is allowed in the zoning district. There may be uses the Department feels are appropriate for a space on a temporary basis, (and are far more desirable than a vacant storefront), but would not be allowed as a permanent use, and therefore would not be allowed under a traditional change of use permit. Lastly, many use types come with impact fees. Often, these fees can be a hinderance for developers looking to establish a new use only temporarily.

The proposed Temporary Use for Intermittent Activities on Development Sites permit has been carefully crafted to only allow uses the Department and the legislative sponsors find appropriate to allow in the designated zoning districts, on a temporary basis. The proposed TUA is additionally designed to remove the hurdles for the businesses to establish, like the prolonged permit review time and impact fees. Lastly, the proposed Ordinance recognizes that even though a project may be approved, market dynamics and building costs can cause additional delays on the project breaking ground. The ability for the Director to

grant up to three, one-year extensions of the TUA ensures the temporary uses may continue to activate the street in case of delays, while also ensuring the Department feels those uses are still appropriate on a yearly basis after the initial approval period has expired.

Rental Spaces for Emerging Businesses and the Arts

The proposed Ordinance would allow certain specific land uses to operate on a temporary basis within eligible development sites. The land uses listed are primarily those industries which often struggle to find affordable spaces to lease. The temporary nature of the rental, in addition to the physical condition of the building, make development sites an ideal location for affordable rental spaces for many Light Industrial and Arts Activities uses. These spaces may also prove ideal for small businesses that are just beginning to establish themselves and need a space with a short-term lease wherein they have the freedom to expand to a larger space when needed. The Ordinance also controls for these development spaces being overrun by Office uses. It sets a cap of no more than 5,000 square feet for Office uses while requiring the same amount of space be dedicated to Arts Activities or Light Industrial Uses. Both uses must also operate simultaneously.

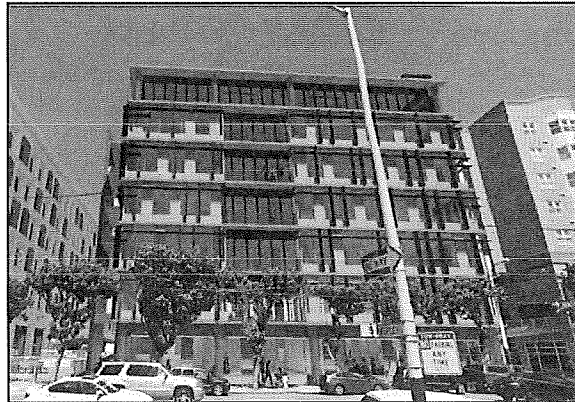
Provision to Require Housing

The proposed Ordinance includes a provision which requires sites to provide a greater density of housing in their projects than what currently exists on-site. For example, a project with four existing residential units would need to propose at least five residential units in their project to be eligible for the Intermittent Activities on Development Sites TUA. Though this provision may help to increase housing from the existing to proposed project site, it also serves to exclude many project sites where housing is not being proposed. Many development sites across the city are not proposing housing and may not be appropriate for housing. By requiring sites to provide an increased density of housing, this provision effectively excludes many sites such as proposed hotels or offices. Temporary activation of these spaces would serve as a benefit to the city.

Fig. 3: 345 4th Street was approved in 2018 for the demolition of an existing two-story retail building and construction of an 85-foot tall, seven-story commercial office building with 6 stories of office use and ground floor retail space. The lot is zoned CMUO - Central Soma-Mixed Use Office, however it would not be eligible for the Intermittent Activities on Development Sites TUA permit as currently proposed, as the project would not be "increasing the residential density" on the site.



345 4th Street in January 2018.



345 4th Street as proposed in the approved project application.

General Plan Compliance

Policy 1.3 of the Design Element states: “that buildings, when seen together, produce a total effect that characterizes the city and its districts.”. Policy 1.6 states: “Shopping streets and other centers for activity and congregation of people should stand out in an attractive manner in their districts.”. San Francisco draws much of its strength and vitality from the quality of its neighborhoods and streets. Measures must be taken to stabilize and improve the health and safety of the local environment, the psychological feeling of neighborhood, the opportunities for recreation and other fulfilling activities, and the small-scale visual qualities that make the city a comfortable and often exciting place in which to live.

Additionally, the Commerce and Industry Element Objective 1 and Objective 4 focus on ensuring that San Francisco ensures the enhancement of the total city’s living and working environment by improving the viability of existing industries and the attractiveness of the city as a location for new industry. The proposed Ordinance will assist in reducing storefront vacancies that occur during the redevelopment of sites while also providing lower-cost rental spaces for new and emerging businesses.

Implementation

The Department has determined that this Ordinance will impact our current implementation procedures; however, the proposed changes can be implemented without increasing permit costs or review time.

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 requirement to increase residential density to instead require an increase in residential density *only* if there is existing residential.
2. Clarify language in Section 205.5 “Interim Activity”:
 - a. Retail *Sales and Service* or Industrial Use. . .

BASIS FOR RECOMMENDATION

The Department supports the overall goals of this Ordinance because during the process of redevelopment, the sites often become underutilized, vacant, and economically unproductive for long periods of time. Activating these spaces during their interim periods of development will not only keep the street active but may also provide affordable spaces for businesses that are just starting out, or whose use type cannot pay higher commercial rents.

Recommendation 1: Amend the requirement to increase residential density to instead require an increase in residential density only if there is existing residential. Staff recommends this amendment because instead of the provision serving as an incentive to build housing, it may only exclude many sites from being eligible for this TUA, even though the city supports the proposed project, and the temporary activation of the space would be a benefit to the city. To be eligible for the TUA, the projects must already have been approved by the city. If the city has determined a project to be desirable even though it does not create housing, requiring the project to provide one unit of housing to be eligible for the TUA does not make sense.

Recommendation 2: Clarify that the “Retail” use must be under the “Retail Sales and Service” use chart. The eligible uses allowed under the proposed TUA include “any Retail or Institutional Use regardless of Use size”. The Department believes the reference to “Retail” was meant to be a reference to uses that fall under the “Retail Sales and Services” category of the Planning Code. There are, however many other uses that are considered “Retail” even though they do not fall under the “Retail Sales and Services” category such as: Automobile Service Station, Automotive Repair, Gas Station, and Parking Garage. These uses would not serve the purpose of activating the streetscape in the same manor as the other uses and/or providing affordable rental spaces to industries that cannot traditionally pay a higher rent. Section 205.5 should therefore be amended to clarify that the “Retail” use must also fall under the “Retail Sales and Services” category.

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: Board of Supervisors File No. 190355



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution

HEARING DATE APRIL 25, 2019

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

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Project Name: Temporary Uses on Development Sites
Case Number: 2018-011653PCA [Board File No. 190355]
Initiated by: Mayor Breed / Introduced April 2, 2019
Staff Contact: **Audrey Butkus**, Legislative Affairs
Audrey.Butkus@sfgov.org, 415-575-9129
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD ENABLE THE USE OF DEVELOPMENT PROJECT SITES DURING THE PROJECT APPROVAL AND ENTITLEMENT PROCESS BY AUTHORIZING THE PLANNING DEPARTMENT TO AUTHORIZE CERTAIN INTERIM ACTIVITIES AT DEVELOPMENT PROJECT SITES AS TEMPORARY USES FOR UP TO 36 MONTHS, SUBJECT TO EXTENSION AT THE DISCRETION OF THE PLANNING DIRECTOR IN INCREMENTS FOR UP TO A MAXIMUM POSSIBLE TOTAL OF 36 ADDITIONAL MONTHS; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on April 2, 2019, Mayor Breed introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 190355, which would enable the use of development project sites during the project approval and entitlement process by authorizing the Planning Department to authorize certain interim activities at development project sites as Temporary Uses for up to 36 months, subject to extension at the discretion of the Planning Director in increments for up to a maximum possible total of 36 additional months;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on April 25, 2019 and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c); and

WHEREAS, the Planning 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 Department staff and other interested parties; and

WHEREAS, 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 Planning Commission has reviewed the proposed Ordinance; and
WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance.

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 Commission supports the overall goals of this Ordinance because during the process of redevelopment, the sites often become underutilized, vacant, and economically unproductive for long periods of time.
2. Activating these spaces during their interim periods of development will not only keep the street active but may also provide affordable spaces for businesses that are just starting out, or whose use type cannot pay higher commercial rents.
3. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

DESIGN ELEMENT

OBJECTIVE 1

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.3

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

Buildings, which collectively contribute to the characteristic pattern of the city, are the greatest variable because they are most easily altered by man. The proposed Ordinance will assist in moderating the city pattern by filling vacant spaces, reducing negative streetscape effects development projects can create during their interim period between tenant move-out and demolition of the structure.

Policy 1.6

Make centers of activity more prominent through design of street features and by other means.

Shopping streets and other centers for activity and congregation of people should stand out in an attractive manner in their districts. The proposed Ordinance will facilitate the establishment of uses on a temporary basis that activate streetscapes in vacant buildings during development projects.

OBJECTIVE 4

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

San Francisco draws much of its strength and vitality from the quality of its neighborhoods. Many of these neighborhoods offer a pleasant environment to residents of the city, while others have experienced physical decline. The proposed Ordinance will assist in reducing storefront vacancies that occur during the redevelopment of sites which will serve to activate spaces, increasing their safety and comfort for pedestrians.

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

Policy 2.3

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

OBJECTIVE 4

IMPROVE THE VIABILITY OF EXISTING INDUSTRY IN THE CITY AND THE ATTRACTIVENESS OF THE CITY AS A LOCATION FOR NEW INDUSTRY.

Policy 4.2

Promote and attract those economic activities with potential benefit to the City.

The proposed Ordinance will assist in reducing storefront vacancies that occur during the redevelopment of sites while also providing lower-cost rental spaces for new and emerging businesses.

4. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

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

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from

development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

5. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on April 25, 2019.

Jonas P. Ionin
Commission Secretary

AYES:

NOES: None

ABSENT: None

ADOPTED: April 25, 2019

1 [Planning Code - Authorizing Interim Activities at Development Sites]

2
3 **Ordinance amending the Planning Code to enable the use of development project sites**
4 **during the project approval and entitlement process by authorizing the Planning**
5 **Department to authorize certain interim activities at development project sites as**
6 **Temporary Uses for up to 36 months, subject to extension at the discretion of the**
7 **Planning Director in increments for up to a maximum possible total of 36 additional**
8 **months; adopting the Planning Department's determination under the California**
9 **Environmental Quality Act; making findings of consistency with the General Plan, and**
10 **the eight priority policies of Planning Code, Section 101.1; and making findings of**
11 **public convenience, necessity, and welfare under Planning Code, Section 302.**

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

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

20 Section 1. Environmental and Land Use Findings.

21 (a) The Planning Department has determined that the actions contemplated in this
22 ordinance comply with the California Environmental Quality Act (California Public Resources
23 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
24 Supervisors in File No. 190355 and is incorporated herein by reference. The Board adopts
25 these findings as its own.

1 (b) On _____, the Planning Commission, in Resolution No. _____,
2 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
3 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
4 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
5 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

6 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
7 amendments will serve the public necessity, convenience, and welfare for the reasons set
8 forth in Planning Commission Resolution No. _____, and the Board of Supervisors
9 incorporates such reasons herein by reference.

10
11 Section 2. Findings and Purpose.

12 During the process of seeking development approvals and entitlements for land or
13 buildings, such land or buildings may become underutilized, vacant, and economically
14 unproductive for prolonged time periods. Occupying and activating such land or buildings with
15 temporary activities, and creating an active and vital street frontage, would help generate
16 economic activity, create jobs, deter crime and nuisance activities, and enhance the vitality of
17 the public realm near or within such land or buildings. The authorization of temporary uses for
18 such land or buildings will also help ensure the proper upkeep and maintenance of such land
19 and buildings, while encouraging property owners to provide invaluable and scarce space for
20 arts activities, light industrial uses, retail or institutional uses, and other land uses.

21
22 Section 3. Article 2 of the Planning Code is hereby amended by revising Section 205
23 and adding Section 205.5, to read as follows:

1 **SEC. 205. TEMPORARY USES, GENERAL.**

2 (a) The temporary uses listed in Sections 205.1 through 205.45, where not otherwise
3 permitted in the district, may be authorized as provided therein and in this Section 205, up to the
4 time limits indicated. Further time for such uses may be authorized only by action upon a new
5 application, subject to all the requirements for the original application, unless otherwise
6 indicated in Sections 205.1 through 205.45.

7 (b) Action upon such uses may be authorized by the ~~Zoning Administrator~~Planning
8 Director without a public hearing.

9 (c) Wherever a use exists at the effective date of this Code or of an amendment
10 thereto under which such use is classified as a temporary use, or wherever a use is being
11 conducted under a temporary use authorization given prior to such a date, such use may be
12 continued for the maximum term specified therefore, calculated from said effective date or
13 date of authorization. No such use shall continue thereafter unless a temporary use
14 authorization ~~shall have~~ has been sought and obtained under a new application. Continuance
15 of a temporary use beyond the date of expiration of the period authorized therefore, or failure
16 to remove a structure for such temporary use within 10 days thereafter, shall constitute a
17 violation of this Code.

18 (d) The time periods referenced in Sections 205.1 through 205.3 and Section 205.5 are
19 consecutive hours or consecutive calendar days; they are not the total number of hours or
20 days that the use is in operation. Therefore, a 24-hour authorization that begins at 6:00 a.m.
21 expires at 6:00 a.m. the following day, even if the use was in operation only eight hours of that
22 24-hour period. Similarly, a 60-day authorization expires after 60 calendar days even though
23 the use may only have been open for business three days per week during that 60-day period.
24 Hours or days of unused authorization cannot be stored or credited.

1 (e) Any temporary uses authorized pursuant to this Section 205 and Sections 205.1 through
2 205.5 shall not be required to comply with any Planning Code requirements that are not expressly
3 applicable to such temporary uses under this Section 205 and Sections 205.1 through 205.5, provided,
4 however, any temporary uses authorized pursuant to this Section 205 and Sections 205.1 through 205.5
5 shall be subject to all applicable initiative ordinances approved by the voters of the City and County of
6 San Francisco.

7 (f) The decision of the Planning Director to authorize or deny authorization of any temporary
8 use pursuant to this Section 205 and Sections 205.1 through 205.5 may be appealed to the Board of
9 Appeals within 15 days after the date of the decision by filing a written notice of appeal with that body.

10
11 **SEC. 205.5. TEMPORARY USES: INTERIM ACTIVITIES ON DEVELOPMENT SITES.**

12 (a) Upon the satisfaction of the requirements in this Section 205.5, an Interim Activity on an
13 Eligible Development Site located in an Eligible Area may be authorized as a temporary use for an
14 initial period not to exceed 36 months (“Initial Period”).

15 (b) Definitions. For purposes of this Section 205.5, the following definitions shall apply:

16 “Development Project” has the meaning set forth in the definition of Eligible Development Site.

17 “Eligible Area” means the Commercial (C), Residential-Commercial (RC), Downtown
18 Residential (DTR), and Neighborhood Commercial Transit (NCT) Districts, and, within the area
19 bounded by Market Street, 13th Street/Duboce Avenue, Division Street, and King Street, in Mixed Use
20 and Neighborhood Commercial (NC) Districts.

21 “Eligible Development Site” means a legal lot on which: (1) an application has been submitted
22 either to permit demolition of an existing structure, or to permit alterations sufficiently extensive to be
23 considered, in the judgment of the Planning Director, tantamount to demolition for the purposes of this
24 Section 205.5; (2) applications and the associated fees have been submitted to obtain all required land
25 use and permit entitlements for an associated development project that, if approved and completed,

1 would result in greater residential density than the residential density existing as of the time both the
2 land use and permit entitlement applications were submitted to the City (“Development Project”); and
3 (3) applications and the associated fees have been submitted to evaluate compliance of the
4 Development Project with the California Environmental Quality Act (California Public Resources
5 Code Sections 21000 et seq.) pursuant to Administrative Code Section 31.22.

6 “Interim Activity” means any Entertainment, Arts and Recreation Use; any Arts Activities Use;
7 any Entertainment, General Use; any Social Service or Philanthropic Facility Use; any Homeless
8 Shelter Use; any Agriculture/Beverage Processing 1, Light Manufacturing, or Metal Working Use
9 permitted either Conditionally or Principally within a PDR-1-D District; any Retail or Institutional
10 Use regardless of Use size; any Use Principally or Conditionally permitted in the subject zoning
11 district; and/or any Office Use, so long as such Office space is less than 5,000 gross square feet and an
12 equal or greater square footage of space is established within a building on the same Eligible
13 Development Site and dedicated for Arts Activities Use and/or Light Manufacturing Use. In addition,
14 in order for Office Use to constitute an Interim Activity, such Arts Activities Use and/or Light
15 Manufacturing Use occupancies or activities must commence on the Eligible Development Site prior to
16 or simultaneously with the Office Use occupancies or activities, and the Arts Activities Use and/or
17 Light Manufacturing Use occupancies or activities must continue for the full duration of the Office Use
18 occupancies or activities.

19 (c) Application. The property owner or the property owner’s authorized agent (“Applicant”)
20 shall submit an application for temporary use to the Planning Department, on a form prepared by the
21 Planning Department. The application shall be accompanied by the applicable fees pursuant to
22 Planning Code Section 350 and shall include an affidavit signed by the Applicant and, as applicable,
23 each tenant occupying any portion of the Eligible Development Site for the Interim Activity, or each
24 tenant’s authorized agent, acknowledging that the use of the Eligible Development Site for the Interim
25 Activity is temporary and subject to the time limits set forth in this Section 205.5 and acknowledging

1 that the Applicant has to pay any outstanding fees, invoices, or penalties owed to City agencies, and is
2 in compliance with all requirements of the Municipal Code, including any requirements to file Updates
3 to Institutional Master Plans and abate any Code or Building Code violations. The Applicant shall not
4 be required to pay additional fees set forth in Article 4 of the Planning Code as a prerequisite to
5 obtaining temporary use authorization pursuant to this Section 205.5.

6 (d) New, Additional, or Modified Temporary Uses. New, additional, or modified temporary
7 uses that were not previously approved by the Planning Director shall be reviewed through the filing of
8 a new application and submittal of a new application fee.

9 (e) New Tenants. Additional or different tenants (each a "New Tenant") may commence
10 occupancy within and use of the Eligible Development Site in question without additional applications
11 or fees, provided that each New Tenant submits a completed affidavit to the Department attesting to the
12 truthfulness and correctness of the previously submitted application and declaring that the New Tenant
13 will not discontinue, add to, or modify the approved Interim Activity.

14 (f) No Conversion, Change, Discontinuance, or Abandonment of Use. The approval or
15 commencement of an Interim Activity as a temporary use as authorized under this Section 205.5 shall
16 not be considered a conversion, discontinuance, abandonment, or change of use for purposes of this
17 Code, notwithstanding Sections 182 and 183 of this Code. Any property for which the Interim Activity
18 is authorized shall retain its authorized land use(s). Such authorized land uses, including any
19 nonconforming uses, shall become operative upon the expiration, termination, or abandonment of such
20 temporary use authorization.

21 (g) Fenestration, Transparency, and Visibility Requirements. Construction proposed in
22 connection with the Interim Activity shall not cause noncompliance or exacerbate existing
23 noncompliance with respect to fenestration, transparency, or any other visibility requirement of Section
24 145.1 of this Code. Further, no film, adhesive, blinds, or other treatment may be applied to any
25 existing fenestration.

1 (h) Information To Be Available To Public. The Department shall make available to the public
2 in the Planning Department's main office and on its website a list of all applications approved under
3 this Section 205.5, along with applicable time frames and any additional information the Planning
4 Department deems useful for or relevant to the continued and successful activation of those spaces in
5 the Eligible Area.

6 (i) Extension of Initial Period. Upon the Planning Director's determination that permits for
7 the Development Project are being and have been diligently pursued, and that the Interim Activity has
8 been consistent with public convenience, necessity, or the general welfare of the City, the Planning
9 Director is authorized to permit the Interim Activity to exceed the Initial Period for an additional
10 period not to exceed 12 months. The Planning Director is authorized to extend the Initial Period up to
11 three times (the first time being the extension referenced in the previous sentence) such that each
12 extension of the Initial Period may be up to 12 months, each extension shall require a separate
13 determination of the Planning Director according to this Section 205.5(i), and the authorization of the
14 Interim Activity may not exceed a total duration of 72 months.

15 (j) Other Temporary Uses. Authorization of an Interim Activity pursuant to this Section 205.5
16 shall not preclude the authorization of any other temporary uses recognized in Sections 205.1 through
17 205.4.

18
19 Section 4. Effective Date. This ordinance shall become effective 30 days after
20 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
21 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
22 of Supervisors overrides the Mayor's veto of the ordinance.

23
24 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
25 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,

1 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
2 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
3 additions, and Board amendment deletions in accordance with the "Note" that appears under
4 the official title of the ordinance.

5
6 APPROVED AS TO FORM:
7 DENNIS J. HERRERA, City Attorney

8 By: _____
9 CHRISTOPHER T. TOM
Deputy City Attorney

10 n:\legana\as2019\1900067\01344534.docx

190355

To: Kittler, Sophia (MYR); BOS Legislation, (BOS)
Subject: RE: SPUR supports Temporary Uses on Development Sites

From: Kristy Wang <kwang@spur.org>
Sent: Thursday, April 25, 2019 11:07 AM
To: Melgar, Myrna (CPC) <myrna.melgar@sfgov.org>; Rich Hillis <richhillissf@gmail.com>; Johnson, Milicent (CPC) <milicent.johnson@sfgov.org>; Richards, Dennis (CPC) <dennis.richards@sfgov.org>; Moore, Kathrin (CPC) <kathrin.moore@sfgov.org>; Koppel, Joel (CPC) <joel.koppel@sfgov.org>
Cc: Karunaratne, Kanishka (MYR) <kanishka.cheng@sfgov.org>; Butkus, Audrey (CPC) <audrey.butkus@sfgov.org>; Starr, Aaron (CPC) <aaron.starr@sfgov.org>; CPC-Commissions Secretary <commissions.secretary@sfgov.org>
Subject: SPUR supports Temporary Uses on Development Sites

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Planning Commissioners,

Thank you for the opportunity to weigh in on 2018-011653PCA [Board File No. 190355], Mayor Breed's ordinance to make temporary uses on development sites easier implement.

We have seen a few wonderful and transformative temporary uses on development sites that have helped to keep our streets and public realm active and attractive. And there are many more sites that are slated for future development but which may be on hold or delayed for permitting, market or other reasons. This ordinance would create a streamlined path for approving temporary uses on development sites under certain conditions. This is a best practice that the city should make easier to implement.

SPUR urges you to approve this ordinance with the Planning Department's proposed modifications in order to help keep our streets and sidewalks safe and full of life.

Best,
Kristy Wang

Kristy Wang, LEED AP
Community Planning Policy Director
SPUR • Ideas + Action for a Better City
(415) 644-4884
(415) 425-8460 m
kwang@spur.org

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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: Julie Rosenberg, Executive Director, Board of Appeals
Maggie Weiland, Executive Director, Entertainment Commission
Tom DeCaigny, Director of Cultural Affairs, Arts Commission
Susan Pontious, Director of Public Art Program, Arts Commission
Phil Ginsburg, General Manager, Recreation and Parks Department
Jeff Kositsky, Director, Department of Homelessness and Supportive Housing

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

DATE: April 10, 2019

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Mayor Breed on April 2, 2019:

File No. 190355

Ordinance amending the Planning Code to enable the use of development project sites during the project approval and entitlement process by authorizing the Planning Department to authorize certain interim activities at development project sites as Temporary Uses for up to 36 months, subject to extension at the discretion of the Planning Director in increments for up to a maximum possible total of 36 additional months; adopting 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 101.1; and making findings of public convenience, necessity, and welfare under Planning Code, Section 302.

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: erica.major@sfgov.org.

c: Gary Cantara, Board of Appeals
Crystal Stewart, Entertainment Commission
Sarah Madland, Recreation and Parks Department
Abigail Stewart-Kahn, Department of Homelessness and Supportive Housing

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

April 10, 2019

Planning Commission
Attn: Jonas Ionin
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Commissioners:

On April 2, 2019, Mayor Breed introduced the following legislation:

File No. 190355

Ordinance amending the Planning Code to enable the use of development project sites during the project approval and entitlement process by authorizing the Planning Department to authorize certain interim activities at development project sites as Temporary Uses for up to 36 months, subject to extension at the discretion of the Planning Director in increments for up to a maximum possible total of 36 additional months; adopting 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 101.1; and making findings of public convenience, necessity, and welfare under Planning Code, Section 302.

The proposed ordinance is being transmitted pursuant to Planning Code, Section 302(b), for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

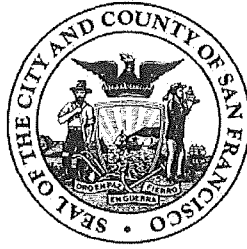
Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

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

c: John Rahaim, Director
Scott Sanchez, Acting Deputy Zoning Administrator
Corey Teague, Zoning Administrator
Lisa Gibson, Environmental Review Officer
Devyani Jain, Deputy Environmental Review Officer
AnMarie Rodgers, Director of Citywide Planning
Dan Sider, Director of Executive Programs
Aaron Starr, Manager of Legislative Affairs
Joy Navarrete, Environmental Planning
Laura Lynch, Environmental Planning

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 10, 2019

File No. 190355

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On April 2, 2019, Mayor Breed introduced the following legislation:

File No. 190355

Ordinance amending the Planning Code to enable the use of development project sites during the project approval and entitlement process by authorizing the Planning Department to authorize certain interim activities at development project sites as Temporary Uses for up to 36 months, subject to extension at the discretion of the Planning Director in increments for up to a maximum possible total of 36 additional months; adopting 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 101.1; and making findings of public convenience, necessity, and welfare under Planning Code, Section 302.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

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

Attachment

c: Joy Navarrete, Environmental Planning
Laura Lynch, Environmental Planning

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO LAND USE AND TRANSPORTATION COMMITTEE

NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: Monday, July 8, 2019

Time: 1:30 p.m.

Location: Legislative Chamber, Room 250, located at City Hall
1 Dr. Carlton B. Goodlett Place, San Francisco, CA

Subjects: **File No. 190355.** Ordinance amending the Planning Code to enable the use of development project sites during the project approval and entitlement process by authorizing the Planning Department to authorize certain interim activities at development project sites as Temporary Uses for up to 36 months, subject to extension at the discretion of the Planning Director in increments for up to a maximum possible total of 36 additional months; adopting 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 101.1; and making findings of public convenience, necessity, and welfare under Planning Code, Section 302.

If this legislation passes, a project developer submitting an application for an "Interim Activities" land use and permit entitlement, and for the completion of environmental review, as defined in the proposed new Planning Code, Section 205.5, shall be required to pay the existing applicable fees, pursuant to Planning Code, Section 350, including any outstanding fees, invoices, or penalties owed to City agencies. Any new, additional or modified temporary uses that were not part of the previously approved "Interim Activities" land use and permit entitlement shall be considered a new application and subject to additional application fees, pursuant to the existing applicable fees contained in Planning Code, Section 350.

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on these matters may submit written comments to the City prior to the time the hearing begins. These comments will be made part of the official public record in these matters, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to these matters are available in the Office of the Clerk of the Board. Agenda information relating to these matters will be available for public review on Friday, July 5, 2019.


A Angela Calvillo, Clerk of the Board

OFFICE OF THE MAYOR
SAN FRANCISCO



LONDON N. BREED
MAYOR

Sk

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Sophia Kittler
RE: Planning Code - Authorizing Interim Activities at Development Sites
DATE: April 2, 2019

Ordinance amending the Planning Code to enable the use of development project sites during the project approval and entitlement process by authorizing the Planning Department to authorize certain interim activities at development project sites as Temporary Uses for up to 36 months, subject to extension at the discretion of the Planning Director in increments for up to a maximum possible total of 36 additional months; adopting the Planning Department's determination under the California Environmental Quality Act; making findings of public convenience, necessity, and welfare under Planning Code, Section 302; and making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.

Please note that Supervisor Haney is a co-sponsor of this legislation.

Should you have any questions, please contact Sophia Kittler at 415-554-6153.

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sk