

File No. 150465

Committee Item No. 5
Board Item No. 9

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use & Transportation

Date July 27, 2015

Board of Supervisors Meeting

Date Sept. 8, 2015

Cmte Board

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
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Completed by: Andrea Ausberry Date July 24, 2015

Completed by: _____ Date _____

1 [Planning Code - Accessory Use Entertainment in Specified Western South of Market
2 Districts]

3 **Ordinance amending the Planning Code to allow accessory use entertainment (with**
4 **limited live performance permits) in the Western South of Market Mixed Use General**
5 **and Regional Commercial Districts; affirming the Planning Department's determination**
6 **under the California Environmental Quality Act; and making findings of consistency**
7 **with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

8
9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

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

17 Section 1. Findings.

18 (a) The Planning Department has determined that the actions contemplated in this
19 ordinance comply with the California Environmental Quality Act (California Public Resources
20 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
21 Supervisors in File No. 150465 and is incorporated herein by reference. The Board affirms
22 this determination.

23 (b) On July 16, 2015, the Planning Commission, in Resolution No. 19417, adopted
24 findings that the actions contemplated in this ordinance are consistent, on balance, with the
25 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
Board of Supervisors in File No. 150465, and is incorporated herein by reference.

1 Section 2. The Planning Code is hereby amended by revising Sections 703.2 and
2 803.3, to read as follows:

3 **SEC. 703.2. USES PERMITTED IN NEIGHBORHOOD COMMERCIAL DISTRICTS.**

4 A use is the specific purpose for which a property or building is used, occupied,
5 maintained, or leased. Whether or not a use is permitted in a specific district is set forth or
6 summarized and cross-referenced in Article 7 of this Code for each district class.

7 * * * *

8 (b) **Use Limitations.** The uses permitted in Neighborhood Commercial Districts are
9 either principal, conditional, accessory, or temporary uses as stated in this Section, and
10 include those uses set forth or summarized and cross-referenced in the zoning control
11 categories as listed in this Code for each district class.

12 (1) **Permitted Uses.** All permitted uses shall be conducted within an enclosed
13 building in Neighborhood Commercial Districts, unless otherwise specifically allowed in this
14 Code. Exceptions from this requirement are: uses which, when located outside of a building,
15 qualify as an outdoor activity area, as defined in Section 790.70 of this Code; accessory off-
16 street parking and loading and other uses listed below which function primarily as open-air
17 uses, or which may be appropriate if located on an open lot, outside a building, or within a
18 partially enclosed building, subject to other limitations of this Article 7 and other sections of
19 this Code.

No.	Zoning Control Category
56.	Automobile Parking
57.	Automotive Gas Station
58.	Automotive Service Station
60.	Automotive Wash
61.	Automobile Sale or Rental

81.	Other Institutions, Large (selected)
83.	Public Use (selected)
95.	Community Residential Parking

If there are two or more uses in a structure and none is classified below under Section 703.2(b)(1)(C) of this Code as accessory, then each of these uses will be considered separately as independent principal, conditional or temporary uses.

* * * *

(C) **Accessory Uses.** Except as prohibited in Section 728 and subject to the limitations set forth below and in Sections 204.1 (Accessory Uses for Dwelling Units in R and NC Districts), 204.4 (Dwelling Units Accessory to Other Uses), and 204.5 (Parking and Loading as Accessory Uses) of this Code, a related minor use which is either necessary to the operation or enjoyment of a lawful principal use or conditional use, or is appropriate, incidental and subordinate to any such use, shall be permitted as an accessory use when located on the same lot. Any use which does not qualify as an accessory use shall be classified as a principal or conditional use, unless it qualifies as a temporary use under Sections 205 through 205.4 of this Code.

No use will be considered accessory to a permitted principal or conditional use which involves or requires any of the following:

(i) The use of more than 1/3 of the total floor area occupied by such use and the principal or conditional use to which it is accessory, except in the case of accessory off-street parking and loading and accessory wholesaling, manufacturing or processing of foods, goods, or commodities;

(ii) Any Bar or Restaurant, or any other retail establishment which serves liquor for consumption on-site;

1 (iii) Any Take-Out Food use, as defined in Section 790.122, except
2 for a Take-Out Food use which occupies 1/3 of the total floor area or up to 500 s/f whichever
3 is more restrictive in a general grocery or specialty grocery store. This Take-Out Food use
4 includes the area devoted to food preparation and service and excludes storage and waiting
5 areas;

6 (iv) Any Take-Out Food use, as defined in Section 790.122,
7 except for a Take-Out Food use operating as a minor and incidental use within a Restaurant
8 or Limited-Restaurant use;

9 (v) The wholesaling, manufacturing or processing of foods, goods,
10 or commodities on the premises of an establishment which does not also use or provide for
11 retail sale of such foods, goods or commodities at the same location where such wholesaling,
12 manufacturing or processing takes place.

13 (vi) Any retail liquor sales, as defined in Section 790.55, except for
14 beer, wine, and/or liquor sales for the consumption off the premises with a State of California
15 Alcoholic Beverage Control ("ABC") Board License type 20 (off-sale beer and wine) or type 21
16 (off-sale general) which occupy less than 15% of the gross square footage of the
17 establishment (including all areas devoted to the display and sale of alcoholic beverages) in a
18 general grocery store or specialty grocery store, or Limited-Restaurant use (ABC license type
19 20 only).

20 (vii) Medical Cannabis Dispensaries as defined in 790.141.

21 The foregoing rules shall not prohibit take-out food activity which operates in
22 conjunction with a Limited-Restaurant or a Restaurant. A Limited-Restaurant or a Restaurant,
23 by definition, includes take-out food as an accessory and necessary part of its operation.
24
25

1 (viii) Any other entertainment use, as defined in Section 790.38,
2 except for one that *both (1)* involves a Limited Live Performance Permit as set forth in Police
3 Code Section 1060 et seq. *and (2) is located outside of the RCD.*

4 * * * *

5 **SEC. 803.3. USES PERMITTED IN EASTERN NEIGHBORHOODS MIXED USE**
6 **DISTRICTS AND SOUTH OF MARKET ~~USE~~ MIXED USE DISTRICTS.**

7 (a) **Use Categories.** A use is the specified purpose for which a property or building is
8 used, occupied, maintained, or leased. Whether or not a use is permitted in a specific Eastern
9 Neighborhood Mixed Use District and South of Market Mixed Use District is generally set
10 forth, summarized or cross-referenced in Sections 813 through 818 and 840 through 847 of
11 this Code for each district class.

12 (b) **Use Limitations.** Uses in Eastern Neighborhood Mixed Use Districts and South of
13 Market Mixed Use Districts are either permitted, conditional, accessory, temporary or are not
14 permitted.

15 (1) **Permitted Uses.** If there are two or more uses in a structure, any use not
16 classified below under Section 803.3(b)(1)(C) of this Code as accessory will be considered
17 separately as an independent permitted, conditional, temporary or not permitted use.

18 * * * *

19 (C) **Accessory Uses.** Subject to the limitations set forth below and in
20 Sections 204.1 (Accessory Uses for Dwelling Units in R and NC Districts), 204.2 (Accessory
21 Uses for Uses Other Than Dwellings in R Districts); 204.4 (Dwelling Units Accessory to Other
22 Uses), and 204.5 (Parking and Loading as Accessory Uses) of this Code, an accessory use is
23 a related minor use which is either necessary to the operation or enjoyment of a lawful
24 principal use or conditional use, or is appropriate, incidental and subordinate to any such use,
25 and shall be permitted as an accessory use in an Eastern Neighborhoods Mixed Use District

1 and South of Market Mixed Use District. In order to accommodate a principal use which is
2 carried out by one business in multiple locations within the same general area, such
3 accessory use need not be located in the same structure or lot as its principal use provided
4 that (1) the accessory use is located within 1,000 feet of the principal use; and (2) the multiple
5 locations existed on April 6, 1990 (the effective date of this amendment). Accessory uses to
6 non-office uses (as defined in Section 890.70) may occupy space which is non-contiguous or
7 on a different story as the principal use so long as the accessory use is located in the same
8 building as the principal use and complies with all other restrictions applicable to such
9 accessory uses. Any use which does not qualify as an accessory use shall be classified as a
10 principal use.

11 No use will be considered accessory to a principal use which involves or requires any
12 of the following:

13 (i) The use of more than one-third of the total occupied floor area
14 which is occupied by both the accessory use and principal use to which it is accessory,
15 combined, except in the case of accessory off-street parking or loading which shall be subject
16 to the provisions of Sections 151, 156 and 157 of this Code;

17 (ii) A hotel, motel, inn, hostel, adult entertainment, massage
18 establishment, large fast food restaurant, or movie theater use in a RED, RED-MX, SPD,
19 RSD, SLR, SLI, SSO, DTR, MUG, WMUG, MUR, MUO, WMUO, SALI or UMU District;

20 (iii) Any take-out food use, except for a take-out food use which
21 occupies 100 square feet or less (including the area devoted to food preparation and service
22 and excluding storage and waiting areas) in a restaurant, bar, catering establishment, bakery,
23 retail grocery or specialty food store.

24 (iv) Any sign not conforming to the limitations of Section
25 607.2(f)(3).

1 (v) Medical Cannabis Dispensaries as defined in 890.133.

2 (vi) Any nighttime entertainment use, as defined in Section
3 102.17; provided, however, that a Limited Live Performance Permit as set forth in Police Code
4 Section 1060 et seq. is allowed in any District except for an RED, RED-MX, RSD, SLR, MUR,
5 ~~MUG~~, or MUG District.

6 * * * *

7
8 Section 3. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor's veto of the ordinance.

12
13 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
17 additions, and Board amendment deletions in accordance with the "Note" that appears under
18 the official title of the ordinance.

19
20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22 By:


23 JUDITH A. BOYAJIAN
24 Deputy City Attorney

25 n:\leganas2015\1500616\01006294.doc

LEGISLATIVE DIGEST

[Planning Code - Accessory Use Entertainment in Specified Western South of Market Districts]

Ordinance amending the Planning Code to allow accessory use entertainment (with limited live performance permits) in the Western South of Market Mixed Use General and Regional Commercial Districts; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

Planning Code Section 703.2 specifies the uses permitted in Neighborhood Commercial Districts. Permitted uses are either principal, conditional, accessory, or temporary. An Entertainment use is permitted as an accessory use as long as it both (1) involves a Limited Live Performance Permit and (2) is located outside of a Regional Commercial District. The Regional Commercial District, which is established in Section 744, is located along the 9th Street and 10th Street corridors, generally running from Mission Street to Harrison Street.

Planning Code Section 803.3 specifies the uses permitted in Eastern Neighborhoods Mixed Use Districts and South of Market Mixed Use Districts. Permitted uses are either principal, conditional, accessory, or temporary. A Nighttime Entertainment use with a Limited Live Performance permit is allowed in any District except for an RED, RED-MX, RSD, SLR, MUR, WMUG, or MUG District.

Amendments to Current Law

Planning Code Sections 703.2 and 803.3 are amended to allow Entertainment with a Limited Live Performance Permit as an accessory use in the WMUG and RCD Districts in the Western South of Market area.

Background Information

The Limited Live Performance Permit was introduced in 2011; it is defined and regulated by Section 1060 et seq. of the Police Code. The Limited Live Performance Permit allows activities such as singing, dancing, poetry recitation, fashion or style show, recorded music presented by a live disc jockey, or the playing or use of any instrument to be performed as a secondary activity at a place where food, beverages, or food and beverages are served to patrons or members.

Due to neighborhood concerns, the Limited Live Performance Permit was not originally made available in some South of Market areas. The Entertainment Commission has now had

FILE NO. 150465

experience with the Limited Live Performance Permits for four years, and has reported that there have been only a few complaints none of which has resulted in revocation or suspension of the permit. It would be beneficial to the owners and operators of restaurants, bars, cafes, and event spaces to be able to obtain permits for live performances as an accessory use in some areas South of Market where live performances are currently prohibited. Based on the Entertainment Commission's experience with Limited Live Performance Permits over the past four years, the Commission has advised that it does not believe this would have an adverse impact on the neighborhood.

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SAN FRANCISCO PLANNING DEPARTMENT

July 17, 2015

Ms. Angela Calvillo, Clerk
Honorable Supervisor Jane Kim
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Re: Transmittal of Planning Department Case Number 2015-006759PCA:
Accessory Use Entertainment in Specified Western South of Market Districts
Board File No. 150465
Planning Commission Recommendation: Approval

Dear Ms. Calvillo and Supervisor Kim,

On July 16, 2015, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance that would amend Planning Code Sections 703.2 and 803.3, introduced by Supervisor Kim. At the hearing the Planning Commission recommended approval.

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.

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.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron D. Starr".

Aaron D. Starr
Manager of Legislative Affairs

cc:
Judith A. Boyajian, Deputy City Attorney
Danny Yadegar, Aide to Supervisor Kim
Andrea Ausberry, Office of the Clerk of the Board

Attachments:
Planning Commission Resolution
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution 19417 HEARING DATE JULY 16, 2015

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San Francisco,
CA 94103-2479

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Project Name: Accessory Use Entertainment in Specified WSOMA Districts
Case Number: 2015-006759PCA [Board File No. 150465]
Initiated by: Supervisor Kim / Introduced May 5, 2015
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron Starr, Manager Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTIONS 703.2 AND 803.3 TO ALLOW ACCESSORY USE ENTERTAINMENT WITH LIMITED LIVE PERFORMANCE PERMITS IN THE REGIONAL COMMERCIAL DISTRICT AND WESTERN SOUTH OF MARKET MIXED USE-GENERAL DISTRICT; AND 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 May 5, 2015, Supervisor Kim introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 150465, which would amend Planning Code Sections 703.2 and 803.3 to allow accessory use entertainment with Limited Live Performance (LLP) permits in the Regional Commercial District (RCD) and Western South of Market Mixed Use-General District (WMUG);

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on July 16, 2015; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c)(2) and 15378; 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

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors approve 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. Limited Live Performances are minor, appropriate and subordinate entertainment activities that accompany eating and drinking establishments. They are restricted to 200 square feet in size and generally must conclude by 10PM.
2. Given the operational constraints, Limited Live Performances do not create significant adverse effects upon their surroundings and are compatible in most neighborhoods that allow commercial activities.
3. Limited Live Performances can help small businesses remain economically viable and alluring. They may also serve as a means to feature local artistic talent and provide forums for community gathering.
4. Under Resolution 18395 the Planning Commission recommended that the Board of Supervisors amend the Planning Code to create a Limited Live Performance permit for accessory live performances.
5. Ordinance 172-11 amended the Planning Code to create Limited Live Performance permits. Limited Live Performances (LLP) were permitted as accessory uses in most districts that allow commercial activity. However LLPs were not allowed in many areas of the South of Market Area neighborhood in part because the Western SOMA community planning process had yet to conclude and because the actual effects of LLPs on neighborhoods was unknown.
6. In the four years since their creation, LLPs have spread across the City. They have been well received by many neighborhoods. There have been relatively few complaints about LLPs.
7. Allowing LLPs in districts that allow the mixing of uses, such as the Regional Commercial District and the Western SoMa Mixed Use-General District, can contribute to the business vibrancy and livability of those areas, much like they have in other neighborhoods.
8. **General Plan Compliance.** The proposed amendments to the Planning Code are not addressed in the General Plan; the Commission finds that the proposed Ordinance is not inconsistent with the Objectives and Policies of the General Plan.

COMMERCE AND INDUSTRY ELEMENT OBJECTIVE 6

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.3

Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

Allowing LLPs in the RCD District adds to the mixed use character of that neighborhood commercial district by allowing another use to locate where an existing eating and drinking use exists.

OBJECTIVE 6

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

The Conditional Use authorization process will facilitate neighborhood-serving goods and services to locate in the City's neighborhood commercial districts. It will also provide a public process to help determine appropriate concentrations of particular retail uses, thereby encouraging diversity among the City's neighborhood commercial districts.

WESTERN SOMA AREA PLAN

OBJECTIVE 2.2

PROMOTE APPROPRIATE NEW NEIGHBORHOOD BUSINESS OPPORTUNITIES THAT CREATIVELY RESPOND TO NEIGHBORHOOD, CITYWIDE AND REGIONAL ECONOMIC NEEDS AND TRENDS

Policy 2.2.16

Differentiate large nighttime entertainment uses from smaller and complementary entertainment uses and permit these new less intense uses to the extent they enhance local neighborhood livability and neighborhood business viability

Allowing LLPs in the RCD and WMUG Districts recognizes that LLPs are a less intense use than uses requiring a Place of Entertainment Police Permit. It also recognizes that LLPs can help enhance the livability and business vitality in those Districts.

OBJECTIVE 5.1

REINFORCE THE DIVERSITY OF THE EXISTING BUILT FORM AND THE WAREHOUSE, INDUSTRIAL AND ALLEY CHARACTER

Policy 5.1.1

Promote, preserve and maintain the mixed use character of Western SoMa's small scale commercial and residential uses

Allowing LLPs in the RCD and WMUG Districts promotes, preserves and maintains the mixed use character of Western SOMA because it mingles performance activities with establishments that sell food

and/or beverages. It also respects the small scale of Western SOMA's commercial and residential uses as the LLP is restricted to be no more than a minor and complementary feature to a pre-existing principal use.

OBJECTIVE 8.1

REINFORCE THE IMPORTANCE OF THE ARTS BY PRESERVING AND ENHANCING EXISTING ARTS USES

Policy 8.1.2

Create, expand and protect space for the arts

Policy 8.1.10

Use arts and cultural activities to promote social inclusion and the cultural vitality of Western SoMa

Expanding the areas where LLPs are allowed to include the RCD and WMUG helps create spaces for artistic and cultural expression in the Western SOMA. This can help promote social inclusion and cultural vitality.

OBJECTIVE 8.3

PROTECT AND ENCOURAGE APPROPRIATE NEIGHBORHOOD ENTERTAINMENT USES

Policy 8.3.5

Allow entertainment uses in select areas under lower intensity circumstances and as a complementary activity in permitted uses

LLPs are low intensity activities which are required to be complimentary and subordinate to an eating and drinking establishment. The RCD and WMUG Districts are select areas of the Western SOMA, meeting this policy goal.

9. **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 will help preserve and enhance existing neighborhood serving retail uses by allowing a new activity to co-locate with an existing eating and drinking establishment. This expands the offerings of that existing establishment, which helps their economic sustainability.

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 will help conserve and protect the existing mixed use Western SOMA neighborhood character and preserve the economic diversity of San Francisco's neighborhoods by allowing a new activity to locate within the space of an existing eating and drinking establishment.

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

The proposed Ordinance will not have an adverse effect on the City's supply of affordable housing because the Ordinance concerns itself with the regulation of retail uses.

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

The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking because the Ordinance concerns itself with the regulation of retail uses.

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 will not cause displacement of the industrial or service sectors due to office development because the Ordinance is concerned with the regulation of retail uses. The proposed Ordinance does not have an effect on future opportunities for resident employment or ownership in these sectors.

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

The proposed Ordinance will not have an effect on City's preparedness against injury and loss of life in an earthquake as the Ordinance is concerned with the regulation of retail uses.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance will not have an effect on the City's Landmarks and historic buildings as the Ordinance is concerned with the regulation of retail uses.

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

The proposed Ordinance will not have an effect on the City's parks and open space and their access to sunlight and vistas as the Ordinance is concerned with the regulation of retail uses.

10. **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.

Resolution 19417
July 16, 2015

CASE NO. 2015-006759PCA
Accessory Use Entertainment in Specified WSOMA Districts

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on July 16, 2015.

Jonas P. Ionin
Commission Secretary

AYES: Commissioners Antonini, Fong, Moore, Richards, Wu

NOES:

ABSENT: Commissioner Hillis

ADOPTED: July 16, 2015



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change HEARING DATE: JULY 16, 2015

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Project Name: Accessory Use Entertainment in Specified WSOMA Districts
Case Number: 2015-006759PCA [Board File No. 150465]
Initiated by: Supervisor Kim / Introduced May 5, 2015
Staff Contact: Diego Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron Starr, Manager Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Recommend Approval**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend Planning Code Sections 703.2 and 803.3 to allow accessory use entertainment with Limited Live Performance (LLP) permits in the Regional Commercial District (RCD) and Western South of Market Mixed Use-General District (WMUG).

The Way It Is Now:

Planning Code Section 703.2 lists uses that may be considered accessory to principal or conditional uses in the Neighborhood Commercial Districts. An entertainment use requiring an LLP permit in the RCD cannot be considered an accessory use to another principal or conditional use. Instead this type of use is considered an Other Entertainment use, which is a prohibited use in RCD districts.

Planning Code Section 803.3 lists uses that may be considered accessory to principal or conditional uses in the Eastern Neighborhood Mixed Use Districts. An entertainment use requiring an LLP permit in the WMUG cannot be considered an accessory use to another principal or conditional use. Instead, this type of use is considered a Nighttime Entertainment use, which is a prohibited use in WMUG districts.

The Way It Would Be:

Planning Code Section 703.2 would consider an entertainment use requiring an LLP permit in the RCD an accessory use to another principal or conditional use, effectively allowing LLPs in the RCD districts.

Planning Code Section 803.3 would consider an entertainment use requiring an LLP permit in the WMUG an accessory use to another principal or conditional use, effectively allowing LLPs in the WMUG districts.

ISSUES AND CONSIDERATIONS

History, Privileges and Operational Limits of LLPs

Prior to 2011 the Planning Code did not distinguish entertainment activities based on their size or intensity. Larger entertainment uses, such as nightclubs, were regulated in the same manner as smaller activities, such as a poetry recital in a café. All entertainment activities were considered principal uses and subject to the same regulations and restrictions. Where entertainment activities were allowed, they

often required Conditional Use authorization. Clearly, these regulations ignored the different land use impacts that distinct entertainment activities create.

In addition, these regulations were unnecessarily stifling to small business owners. The lack of distinction between types of entertainment activities resulted in the same permit costs for all entertainment activities. The permit costs to host a guitarist accompanying meal service were identical to those for a late-night dance party. In this situation, there was little incentive to add this type of offering to a restaurant, for example. The City was worse off as it lost the added economic activity from the hiring musicians and, presumably, the increased sales tax revenue that could be generated by the restaurant. It also lost the vibrancy that live entertainment provides the City.

The Limited Live Performance Permits Ordinance, effective as of October 2011, amended the Police and Planning Codes to create the LLP as a new entertainment activity.¹ LLPs are accessory uses because they are minor, appropriate and subordinate activities to an eating and drinking establishment. Allowed activities include poetry, song, playing of recorded music by a live disc jockey and the playing of musical instruments.² The LLP is limited in size to 200 square feet and the activity must conclude by 10PM. In the absence of significant public safety or nuisance concerns, the Director of the Entertainment Commission may extend the LLP operational hours to 11PM. However, this extension is not possible in five areas of the City or for the playing of recorded music by a live disc jockey.³

Zoning Districts Permitting and Prohibiting LLPs

Because LLPs must accompany an eating and drinking use, they are allowed only in zoning districts that permit mixed use properties and that encourage commercial activity. These districts include the Neighborhood Commercial Districts (NCD) and many Eastern Neighborhood Mixed Use Districts (EN).

LLPs are not permitted in the RCD and WMUG zoning districts because the community planning process occurring at the time of the 2011 Ordinance's consideration, and encompassing a large segment of the South of Market neighborhood, including, but not exclusive of the areas from 13th Street/Division to 7th, between Mission Street and Bryant Street, had yet to conclude.⁴ The neighborhood's concerns about the compatibility between entertainment activities and residential uses and the lack of a track record on LLPs also informed the decision to prohibit LLPs.

¹ Ordinance 172-11 <https://sfgov.legistar.com/View.ashx?M=F&ID=1561634&GUID=A5C33532-35E7-4637-966D-6822F06D909D>

² Ordinance 100-13 expanded the scope of allowed activities to include recorded music presented by a live disc jockey. <http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances13/o0100-13.pdf>

³ The following areas prohibit an extension to 11PM: the North Beach Neighborhood Commercial District as defined in Planning Code Section 722.1; and the Polk Street Neighborhood Commercial District as defined in Planning Code Section 723.1; the Union Street Neighborhood Commercial District as defined in Planning Code Section 725.1; the north and south sides of Chestnut Street between the east side of Fillmore Street and the west side of Divisadero Street, and the north side of Lombard Street, between Fillmore Street and Divisadero Street.

⁴ Exhibit C: Map of Western SOMA zoning districts indicates the geographic extent of the Western SOMA community planning process

The City's Experience with LLPs

Since their inception in 2011, the number of LLPs has grown to approximately 65 as of June 2015.⁵ They are located across the City and are found in a wide variety of establishments that serve food and/or beverages for on-site consumption. They are known to provide an outlet for artistic expression to community musicians, poets and the like. They are also a relatively inexpensive means for business owners to expand their offerings and attract patrons.

The Entertainment Commission also reports that they receive relatively few complaints from the public about LLPs. In the last two years the Entertainment Commission reports that they have received roughly five complaints regarding the operation of LLPs. In general, the complaints received are often resolved by minor operational adjustments, such as closing venue windows and doors or moving speakers away from these locations. The small number of complaints is due in part to the fact that the vast majority of LLP activities conclude by 10PM and are restricted to a small size.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department recommends that the Commission recommend *approval* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

The Department supports the proposed Ordinance because it relaxes land use regulations on a minor and incidental entertainment activity in zoning districts that already allow mixed use properties.

The operational restrictions that limit LLPs to be subordinate and complimentary to an eating and drinking establishment help assure that this entertainment activity is compatible with other uses in the vicinity. The small number of complaints that the Entertainment Commission has received regarding LLPs also demonstrates that they can successfully coexist with residential uses.

Allowing eating and drinking establishments in the RCD and WMUG districts to add an LLP use will help the economic sustainability of those businesses. It will also help to enliven those districts and increase the areas livability by introducing artistic and entertainment activities in neighborhood serving venues.

The Department believes that the RCD and WMUG are suitable districts to allow LLPs to locate. There exist a wide range of uses, including light industrial uses, institutional uses, residential uses and ground floor retail uses, as well as a number of mixed use properties in these districts. LLPs, when collocated with an eating and drinking establishment, would complement this existing character.

⁵ Exhibit D: Limited Live Performance Map shows the location of permitted LLPS across San Francisco

Allowing LLPs in the RCD and WMUG satisfies a number of Western SOMA Area Plan policies including those seeking to differentiate large nighttime entertainment uses from smaller and complementary entertainment uses, those seeking to promote, preserve and maintain the mixed use character and those seeking to provide new spaces for artistic and cultural activities.

ENVIRONMENTAL REVIEW

The proposed Ordinance is not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment.

PUBLIC COMMENT

As of the date of this report, the Planning Department has received a letter from the Small Business Commission in support of the proposed Ordinance (Exhibit E).

RECOMMENDATION: Recommendation of Approval

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 150465
- Exhibit C: Map of Western SOMA zoning districts
- Exhibit D: Limited Live Performance Map
- Exhibit E: Small Business Commission Letter



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change HEARING DATE: JULY 16, 2015

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Project Name: Accessory Use Entertainment in Specified WSOMA Districts
Case Number: 2015-006759PCA [Board File No. 150465]
Initiated by: Supervisor Kim / Introduced May 5, 2015
Staff Contact: Diego Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron Starr, Manager Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Recommend Approval**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend Planning Code Sections 703.2 and 803.3 to allow accessory use entertainment with Limited Live Performance (LLP) permits in the Regional Commercial District (RCD) and Western South of Market Mixed Use-General District (WMUG).

The Way It Is Now:

Planning Code Section 703.2 lists uses that may be considered accessory to principal or conditional uses in the Neighborhood Commercial Districts. An entertainment use requiring an LLP permit in the RCD cannot be considered an accessory use to another principal or conditional use. Instead this type of use is considered an Other Entertainment use, which is a prohibited use in RCD districts.

Planning Code Section 803.3 lists uses that may be considered accessory to principal or conditional uses in the Eastern Neighborhood Mixed Use Districts. An entertainment use requiring an LLP permit in the WMUG cannot be considered an accessory use to another principal or conditional use. Instead, this type of use is considered a Nighttime Entertainment use, which is a prohibited use in WMUG districts.

The Way It Would Be:

Planning Code Section 703.2 would consider an entertainment use requiring an LLP permit in the RCD an accessory use to another principal or conditional use, effectively allowing LLPs in the RCD districts.

Planning Code Section 803.3 would consider an entertainment use requiring an LLP permit in the WMUG an accessory use to another principal or conditional use, effectively allowing LLPs in the WMUG districts

ISSUES AND CONSIDERATIONS

History, Privileges and Operational Limits of LLPs

Prior to 2011 the Planning Code did not distinguish entertainment activities based on their size or intensity. Larger entertainment uses, such as nightclubs, were regulated in the same manner as smaller activities, such as a poetry recital in a café. All entertainment activities were considered principal uses and subject to the same regulations and restrictions. Where entertainment activities were allowed, they

often required Conditional Use authorization. Clearly, these regulations ignored the different land use impacts that distinct entertainment activities create.

In addition, these regulations were unnecessarily stifling to small business owners. The lack of distinction between types of entertainment activities resulted in the same permit costs for all entertainment activities. The permit costs to host a guitarist accompanying meal service were identical to those for a late-night dance party. In this situation, there was little incentive to add this type of offering to a restaurant, for example. The City was worse off as it lost the added economic activity from the hiring musicians and, presumably, the increased sales tax revenue that could be generated by the restaurant. It also lost the vibrancy that live entertainment provides the City.

The Limited Live Performance Permits Ordinance, effective as of October 2011, amended the Police and Planning Codes to create the LLP as a new entertainment activity.¹ LLPs are accessory uses because they are minor, appropriate and subordinate activities to an eating and drinking establishment. Allowed activities include poetry, song, playing of recorded music by a live disc jockey and the playing of musical instruments.² The LLP is limited in size to 200 square feet and the activity must conclude by 10PM. In the absence of significant public safety or nuisance concerns, the Director of the Entertainment Commission may extend the LLP operational hours to 11PM. However, this extension is not possible in five areas of the City or for the playing of recorded music by a live disc jockey.³

Zoning Districts Permitting and Prohibiting LLPs

Because LLPs must accompany an eating and drinking use, they are allowed only in zoning districts that permit mixed use properties and that encourage commercial activity. These districts include the Neighborhood Commercial Districts (NCD) and many Eastern Neighborhood Mixed Use Districts (EN).

LLPs are not permitted in the RCD and WMUG zoning districts because the community planning process occurring at the time of the 2011 Ordinance's consideration, and encompassing a large segment of the South of Market neighborhood, including, but not exclusive of the areas from 13th Street/Division to 7th, between Mission Street and Bryant Street, had yet to conclude.⁴ The neighborhood's concerns about the compatibility between entertainment activities and residential uses and the lack of a track record on LLPs also informed the decision to prohibit LLPs.

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⁴ Exhibit C: Map of Western SOMA zoning districts indicates the geographic extent of the Western SOMA community planning process

The City's Experience with LLPs

Since their inception in 2011, the number of LLPs has grown to approximately 65 as of June 2015.⁵ They are located across the City and are found in a wide variety of establishments that serve food and/or beverages for on-site consumption. They are known to provide an outlet for artistic expression to community musicians, poets and the like. They are also a relatively inexpensive means for business owners to expand their offerings and attract patrons.

The Entertainment Commission also reports that they receive relatively few complaints from the public about LLPs. In the last two years the Entertainment Commission reports that they have received roughly five complaints regarding the operation of LLPs. In general, the complaints received are often resolved by minor operational adjustments, such as closing venue windows and doors or moving speakers away from these locations. The small number of complaints is due in part to the fact that the vast majority of LLP activities conclude by 10PM and are restricted to a small size.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department recommends that the Commission recommend *approval* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

The Department supports the proposed Ordinance because it relaxes land use regulations on a minor and incidental entertainment activity in zoning districts that already allow mixed use properties.

The operational restrictions that limit LLPs to be subordinate and complimentary to an eating and drinking establishment help assure that this entertainment activity is compatible with other uses in the vicinity. The small number of complaints that the Entertainment Commission has received regarding LLPs also demonstrates that they can successfully coexist with residential uses.

Allowing eating and drinking establishments in the RCD and WMUG districts to add an LLP use will help the economic sustainability of those businesses. It will also help to enliven those districts and increase the areas livability by introducing artistic and entertainment activities in neighborhood serving venues.

The Department believes that the RCD and WMUG are suitable districts to allow LLPs to locate. There exist a wide range of uses, including light industrial uses, institutional uses, residential uses and ground floor retail uses, as well as a number of mixed use properties in these districts. LLPs, when collocated with an eating and drinking establishment, would complement this existing character.

⁵ Exhibit D: Limited Live Performance Map shows the location of permitted LLPS across San Francisco

Allowing LLPs in the RCD and WMUG satisfies a number of Western SOMA Area Plan policies including those seeking to differentiate large nighttime entertainment uses from smaller and complementary entertainment uses, those seeking to promote, preserve and maintain the mixed use character and those seeking to provide new spaces for artistic and cultural activities.

ENVIRONMENTAL REVIEW

The proposed Ordinance is not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment.

PUBLIC COMMENT

As of the date of this report, the Planning Department has received a letter from the Small Business Commission in support of the proposed Ordinance (Exhibit E).

RECOMMENDATION:	Recommendation of Approval
------------------------	-----------------------------------

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 150465
- Exhibit C: Map of Western SOMA zoning districts
- Exhibit D: Limited Live Performance Map
- Exhibit E: Small Business Commission Letter



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution

HEARING DATE JULY 16, 2015

Project Name: Accessory Use Entertainment in Specified WSOMA Districts
Case Number: 2015-006759PCA [Board File No. 150465]
Initiated by: Supervisor Kim / Introduced May 5, 2015
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron Starr, Manager Legislative Affairs
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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTIONS 703.2 AND 803.3 TO ALLOW ACCESSORY USE ENTERTAINMENT WITH LIMITED LIVE PERFORMANCE PERMITS IN THE REGIONAL COMMERCIAL DISTRICT AND WESTERN SOUTH OF MARKET MIXED USE-GENERAL DISTRICT; AND 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 May 5, 2015, Supervisor Kim introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 150465, which would amend Planning Code Sections 703.2 and 803.3 to allow accessory use entertainment with Limited Live Performance (LLP) permits in the Regional Commercial District (RCD) and Western South of Market Mixed Use-General District (WMUG);

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on July 16, 2015; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c)(2) and 15378; 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

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve** 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. Limited Live Performances are minor, appropriate and subordinate entertainment activities that accompany eating and drinking establishments. They are restricted to 200 square feet in size and generally must conclude by 10PM.
2. Given the operational constraints, Limited Live Performances do not create significant adverse effects upon their surroundings and are compatible in most neighborhoods that allow commercial activities.
3. Limited Live Performances can help small businesses remain economically viable and alluring. They may also serve as a means to feature local artistic talent and provide forums for community gathering.
4. Under Resolution 18395 the Planning Commission recommended that the Board of Supervisors amend the Planning Code to create a Limited Live Performance permit for accessory live performances.
5. Ordinance 172-11 amended the Planning Code to create Limited Live Performance permits. Limited Live Performances (LLP) were permitted as accessory uses in most districts that allow commercial activity. However LLPs were not allowed in many areas of the South of Market Area neighborhood in part because the Western SOMA community planning process had yet to conclude and because the actual effects of LLPs on neighborhoods was unknown.
6. In the four years since their creation, LLPs have spread across the City. They have been well received by many neighborhoods. There have been relatively few complaints about LLPs.
7. Allowing LLPs in districts that allow the mixing of uses, such as the Regional Commercial District and the Western SoMa Mixed Use-General District, can contribute to the business vibrancy and livability of those areas, much like they have in other neighborhoods.
8. **General Plan Compliance.** The proposed amendments to the Planning Code are not addressed in the General Plan; the Commission finds that the proposed Ordinance is not inconsistent with the Objectives and Policies of the General Plan.

COMMERCE AND INDUSTRY ELEMENT OBJECTIVE 6

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.3

Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

Allowing LLPs in the RCD District adds to the mixed use character of that neighborhood commercial district by allowing another use to locate where an existing eating and drinking use exists.

OBJECTIVE 6

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

The Conditional Use authorization process will facilitate neighborhood-serving goods and services to locate in the City's neighborhood commercial districts. It will also provide a public process to help determine appropriate concentrations of particular retail uses, thereby encouraging diversity among the City's neighborhood commercial districts.

WESTERN SOMA AREA PLAN

OBJECTIVE 2.2

PROMOTE APPROPRIATE NEW NEIGHBORHOOD BUSINESS OPPORTUNITIES THAT CREATIVELY RESPOND TO NEIGHBORHOOD, CITYWIDE AND REGIONAL ECONOMIC NEEDS AND TRENDS

Policy 2.2.16

Differentiate large nighttime entertainment uses from smaller and complementary entertainment uses and permit these new less intense uses to the extent they enhance local neighborhood livability and neighborhood business viability

Allowing LLPs in the RCD and WMUG Districts recognizes that LLPs are a less intense use than uses requiring a Place of Entertainment Police Permit. It also recognizes that LLPs can help enhance the livability and business vitality in those Districts.

OBJECTIVE 5.1

REINFORCE THE DIVERSITY OF THE EXISTING BUILT FORM AND THE WAREHOUSE, INDUSTRIAL AND ALLEY CHARACTER

Policy 5.1.1

Promote, preserve and maintain the mixed use character of Western SoMa's small scale commercial and residential uses

Allowing LLPs in the RCD and WMUG Districts promotes, preserves and maintains the mixed use character of Western SOMA because it mingles performance activities with establishments that sell food

and/or beverages. It also respects the small scale of Western SOMA's commercial and residential uses as the LLP is restricted to be no more than a minor and complementary feature to a pre-existing principal use.

OBJECTIVE 8.1

REINFORCE THE IMPORTANCE OF THE ARTS BY PRESERVING AND ENHANCING EXISTING ARTS USES

Policy 8.1.2

Create, expand and protect space for the arts

Policy 8.1.10

Use arts and cultural activities to promote social inclusion and the cultural vitality of Western SoMa

Expanding the areas where LLPs are allowed to include the RCD and WMUG helps create spaces for artistic and cultural expression in the Western SOMA. This can help promote social inclusion and cultural vitality.

OBJECTIVE 8.3

PROTECT AND ENCOURAGE APPROPRIATE NEIGHBORHOOD ENTERTAINMENT USES

Policy 8.3.5

Allow entertainment uses in select areas under lower intensity circumstances and as a complementary activity in permitted uses

LLPs are low intensity activities which are required to be complimentary and subordinate to an eating and drinking establishment. The RCD and WMUG Districts are select areas of the Western SOMA, meeting this policy goal.

9. **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 will help preserve and enhance existing neighborhood serving retail uses by allowing a new activity to co-locate with an existing eating and drinking establishment. This expands the offerings of that existing establishment, which helps their economic sustainability.

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 will help conserve and protect the existing mixed use Western SOMA neighborhood character and preserve the economic diversity of San Francisco's neighborhoods by allowing a new activity to locate within the space of an existing eating and drinking establishment.

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

The proposed Ordinance will not have an adverse effect on the City's supply of affordable housing because the Ordinance concerns itself with the regulation of retail uses.

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

The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking because the Ordinance concerns itself with the regulation of retail uses.

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 will not cause displacement of the industrial or service sectors due to office development because the Ordinance is concerned with the regulation of retail uses. The proposed Ordinance does not have an effect on future opportunities for resident employment or ownership in these sectors.

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

The proposed Ordinance will not have an effect on City's preparedness against injury and loss of life in an earthquake as the Ordinance is concerned with the regulation of retail uses.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance will not have an effect on the City's Landmarks and historic buildings as the Ordinance is concerned with the regulation of retail uses.

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

The proposed Ordinance will not have an effect on the City's parks and open space and their access to sunlight and vistas as the Ordinance is concerned with the regulation of retail uses.

10. **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.

Resolution XXXXXX
July 16, 2015

CASE NO. 2015-006759PCA
Accessory Use Entertainment in Specified WSOMA Districts

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on July 16, 2015.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: July 16, 2015

1 [Planning Code - Accessory Use Entertainment in Specified Western South of Market
2 Districts]

3 **Ordinance amending the Planning Code to allow accessory use entertainment (with
4 limited live performance permits) in the Western South of Market Mixed Use General
5 and Regional Commercial Districts; affirming the Planning Department's determination
6 under the California Environmental Quality Act; and making findings of consistency
7 with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

8
9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in ~~*italics Times New Roman font*~~.
12 **Board amendment additions** are in Arial font.
13 **Board amendment deletions** are in ~~Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

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

17 Section 1. Findings.

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

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

1 Section 2. The Planning Code is hereby amended by revising Sections 703.2 and
2 803.3, to read as follows:

3 **SEC. 703.2. USES PERMITTED IN NEIGHBORHOOD COMMERCIAL DISTRICTS.**

4 A use is the specific purpose for which a property or building is used, occupied,
5 maintained, or leased. Whether or not a use is permitted in a specific district is set forth or
6 summarized and cross-referenced in Article 7 of this Code for each district class.

7 * * * *

8 (b) **Use Limitations.** The uses permitted in Neighborhood Commercial Districts are
9 either principal, conditional, accessory, or temporary uses as stated in this Section, and
10 include those uses set forth or summarized and cross-referenced in the zoning control
11 categories as listed in this Code for each district class.

12 (1) **Permitted Uses.** All permitted uses shall be conducted within an enclosed
13 building in Neighborhood Commercial Districts, unless otherwise specifically allowed in this
14 Code. Exceptions from this requirement are: uses which, when located outside of a building,
15 qualify as an outdoor activity area, as defined in Section 790.70 of this Code; accessory off-
16 street parking and loading and other uses listed below which function primarily as open-air
17 uses, or which may be appropriate if located on an open lot, outside a building, or within a
18 partially enclosed building, subject to other limitations of this Article 7 and other sections of
19 this Code.

No.	Zoning Control Category
56.	Automobile Parking
57.	Automotive Gas Station
58.	Automotive Service Station
60.	Automotive Wash
61.	Automobile Sale or Rental

1	81.	Other Institutions, Large (selected)
2	83.	Public Use (selected)
3	95.	Community Residential Parking

4
5 If there are two or more uses in a structure and none is classified below under Section
6 703.2(b)(1)(C) of this Code as accessory, then each of these uses will be considered
7 separately as independent principal, conditional or temporary uses.

8 * * * *

9 (C) **Accessory Uses.** Except as prohibited in Section 728 and subject to
10 the limitations set forth below and in Sections 204.1 (Accessory Uses for Dwelling Units in R
11 and NC Districts), 204.4 (Dwelling Units Accessory to Other Uses), and 204.5 (Parking and
12 Loading as Accessory Uses) of this Code, a related minor use which is either necessary to the
13 operation or enjoyment of a lawful principal use or conditional use, or is appropriate, incidental
14 and subordinate to any such use, shall be permitted as an accessory use when located on the
15 same lot. Any use which does not qualify as an accessory use shall be classified as a
16 principal or conditional use, unless it qualifies as a temporary use under Sections 205 through
17 205.4 of this Code.

18 No use will be considered accessory to a permitted principal or conditional use which
19 involves or requires any of the following:

20 (i) The use of more than 1/3 of the total floor area occupied by
21 such use and the principal or conditional use to which it is accessory, except in the case of
22 accessory off-street parking and loading and accessory wholesaling, manufacturing or
23 processing of foods, goods, or commodities;

24 (ii) Any Bar or Restaurant, or any other retail establishment which
25 serves liquor for consumption on-site;

1 (iii) Any Take-Out Food use, as defined in Section 790.122, except
2 for a Take-Out Food use which occupies 1/3 of the total floor area or up to 500 s/f whichever
3 is more restrictive in a general grocery or specialty grocery store. This Take-Out Food use
4 includes the area devoted to food preparation and service and excludes storage and waiting
5 areas;

6 (iv) Any Take-Out Food use, as defined in Section 790.122,
7 except for a Take-Out Food use operating as a minor and incidental use within a Restaurant
8 or Limited-Restaurant use;

9 (v) The wholesaling, manufacturing or processing of foods, goods,
10 or commodities on the premises of an establishment which does not also use or provide for
11 retail sale of such foods, goods or commodities at the same location where such wholesaling,
12 manufacturing or processing takes place.

13 (vi) Any retail liquor sales, as defined in Section 790.55, except for
14 beer, wine, and/or liquor sales for the consumption off the premises with a State of California
15 Alcoholic Beverage Control ("ABC") Board License type 20 (off-sale beer and wine) or type 21
16 (off-sale general) which occupy less than 15% of the gross square footage of the
17 establishment (including all areas devoted to the display and sale of alcoholic beverages) in a
18 general grocery store or specialty grocery store, or Limited-Restaurant use (ABC license type
19 20 only).

20 (vii) Medical Cannabis Dispensaries as defined in 790.141.

21 The foregoing rules shall not prohibit take-out food activity which operates in
22 conjunction with a Limited-Restaurant or a Restaurant. A Limited-Restaurant or a Restaurant,
23 by definition, includes take-out food as an accessory and necessary part of its operation.
24
25

1 (viii) Any other entertainment use, as defined in Section 790.38,
2 except for one that ~~both (1)~~ involves a Limited Live Performance Permit as set forth in Police
3 Code Section 1060 et seq. ~~and (2) is located outside of the RCD.~~

4 * * * *

5 **SEC. 803.3. USES PERMITTED IN EASTERN NEIGHBORHOODS MIXED USE**
6 **DISTRICTS AND SOUTH OF MARKET ~~USE~~ MIXED USE DISTRICTS.**

7 (a) **Use Categories.** A use is the specified purpose for which a property or building is
8 used, occupied, maintained, or leased. Whether or not a use is permitted in a specific Eastern
9 Neighborhood Mixed Use District and South of Market Mixed Use District is generally set
10 forth, summarized or cross-referenced in Sections 813 through 818 and 840 through 847 of
11 this Code for each district class.

12 (b) **Use Limitations.** Uses in Eastern Neighborhood Mixed Use Districts and South of
13 Market Mixed Use Districts are either permitted, conditional, accessory, temporary or are not
14 permitted.

15 (1) **Permitted Uses.** If there are two or more uses in a structure, any use not
16 classified below under Section 803.3(b)(1)(C) of this Code as accessory will be considered
17 separately as an independent permitted, conditional, temporary or not permitted use.

18 * * * *

19 (C) **Accessory Uses.** Subject to the limitations set forth below and in
20 Sections 204.1 (Accessory Uses for Dwelling Units in R and NC Districts), 204.2 (Accessory
21 Uses for Uses Other Than Dwellings in R Districts); 204.4 (Dwelling Units Accessory to Other
22 Uses), and 204.5 (Parking and Loading as Accessory Uses) of this Code, an accessory use is
23 a related minor use which is either necessary to the operation or enjoyment of a lawful
24 principal use or conditional use, or is appropriate, incidental and subordinate to any such use,
25 and shall be permitted as an accessory use in an Eastern Neighborhoods Mixed Use District

1 and South of Market Mixed Use District. In order to accommodate a principal use which is
2 carried out by one business in multiple locations within the same general area, such
3 accessory use need not be located in the same structure or lot as its principal use provided
4 that (1) the accessory use is located within 1,000 feet of the principal use; and (2) the multiple
5 locations existed on April 6, 1990 (the effective date of this amendment). Accessory uses to
6 non-office uses (as defined in Section 890.70) may occupy space which is non-contiguous or
7 on a different story as the principal use so long as the accessory use is located in the same
8 building as the principal use and complies with all other restrictions applicable to such
9 accessory uses. Any use which does not qualify as an accessory use shall be classified as a
10 principal use.

11 No use will be considered accessory to a principal use which involves or requires any
12 of the following:

13 (i) The use of more than one-third of the total occupied floor area
14 which is occupied by both the accessory use and principal use to which it is accessory,
15 combined, except in the case of accessory off-street parking or loading which shall be subject
16 to the provisions of Sections 151, 156 and 157 of this Code;

17 (ii) A hotel, motel, inn, hostel, adult entertainment, massage
18 establishment, large fast food restaurant, or movie theater use in a RED, RED-MX, SPD,
19 RSD, SLR, SLI, SSO, DTR, MUG, WMUG, MUR, MUO, WMUO, SALI or UMU District;

20 (iii) Any take-out food use, except for a take-out food use which
21 occupies 100 square feet or less (including the area devoted to food preparation and service
22 and excluding storage and waiting areas) in a restaurant, bar, catering establishment, bakery,
23 retail grocery or specialty food store.

24 (iv) Any sign not conforming to the limitations of Section
25 607.2(f)(3).

1 (v) Medical Cannabis Dispensaries as defined in 890.133.

2 (vi) Any nighttime entertainment use, as defined in Section
3 102.17; provided, however, that a Limited Live Performance Permit as set forth in Police Code
4 Section 1060 et seq. is allowed in any District except for an RED, RED-MX, RSD, SLR, MUR,
5 ~~#MUG~~, or MUG District.

6 * * * *

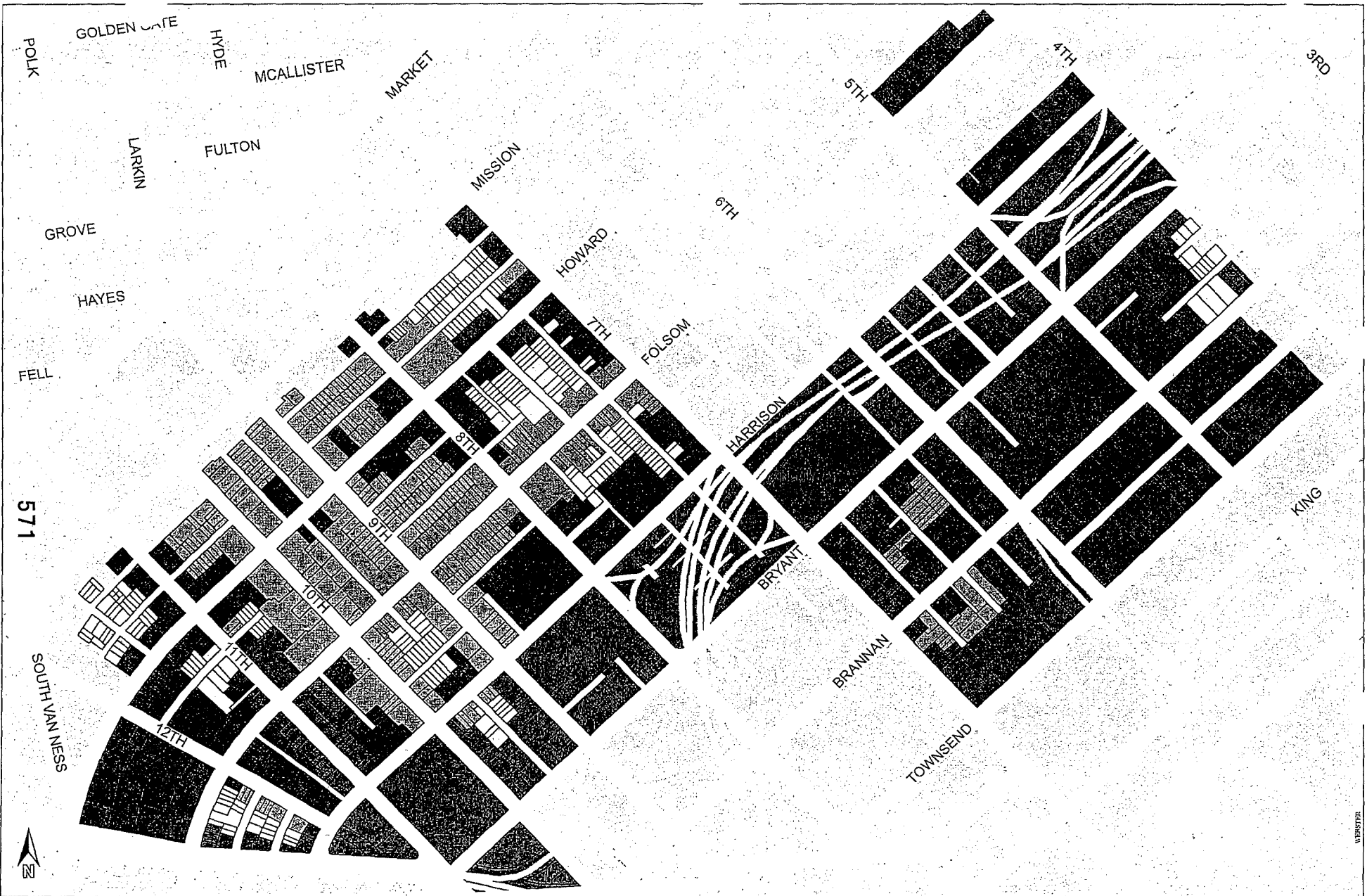
7
8 Section 3. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor's veto of the ordinance.

12
13 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
17 additions, and Board amendment deletions in accordance with the "Note" that appears under
18 the official title of the ordinance.

19
20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22 By: _____
23 JUDITH A. BOYAJIAN
Deputy City Attorney

24 n:\leganas2015\1500616\01006294.doc



Western SoMa
Adopted Zoning Districts

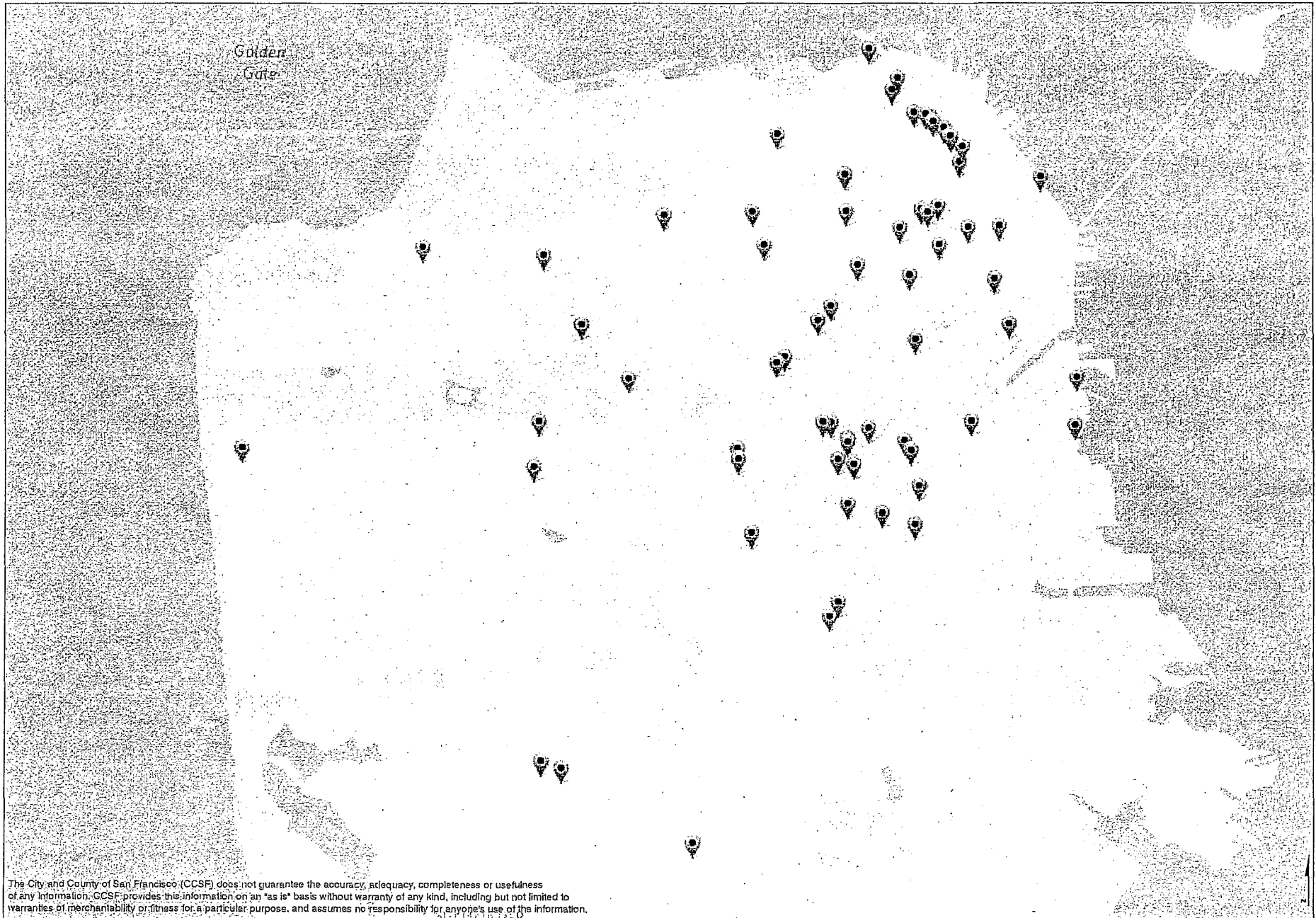
March 19, 2013

- | | | |
|--------|------------|-----|
| RED | RCD | SLR |
| RED-MX | SALI | |
| WMUG | Folsom NCT | |
| WMUO | P | |

1,000 Feet

SAN FRANCISCO
PLANNING DEPARTMENT

Limited Live Performance Permits



572

The City and County of San Francisco (CCSF) does not guarantee the accuracy, adequacy, completeness or usefulness of any information. CCSF provides this information on an "as is" basis without warranty of any kind, including but not limited to warranties of merchantability or fitness for a particular purpose, and assumes no responsibility for anyone's use of the information.



SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS



CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR

June 23, 2015

Ms. Angela Calvillo, Clerk of the Board
City Hall Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File No. 150465 [Planning Code – Accessory Use Entertainment in Specified Western South of Market Districts]

Small Business Commission Recommendation: Approval

Dear Ms. Calvillo,

On June 22, 2015, the Small Business Commission voted unanimously to recommend that the Board of Supervisors approve BOS File No. 150465.

The Small Business Commission recommended modification of the original Limited Live Performance Permit ordinance in June 2011 to include the areas being added by this legislation, and continues to fully endorse its inclusion.

Thank you for considering the Small Business Commission's comments. Please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in cursive script, which appears to read "Regina Dick-Endrizzi".

Regina Dick-Endrizzi
Director, Office of Small Business

cc: Andrea Ausberry, Land Use and Transportation Committee
Nicole Elliott, Mayor's Office



SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS



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Director, Office of Small Business

cc: Andrea Ausberry, Land Use and Transportation Committee
Nicole Elliott, Mayor's Office

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

MEMORANDUM

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

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Transportation Committee,
Board of Supervisors

DATE: May 13, 2015

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

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

File No. 150465

Ordinance amending the Planning Code to allow accessory use entertainment (with limited live performance permits) in the Western South of Market Mixed Use General and Regional Commercial Districts; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

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

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: 6-23-15

No Comment
 Recommendation Attached

Chairperson, Small Business Commission

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

May 13, 2015

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

Dear Commissioners:

On May 5, 2015, Supervisor Kim introduced the following legislation:

File No. 150465

Ordinance amending the Planning Code to allow accessory use entertainment (with limited live performance permits) in the Western South of Market Mixed Use General and Regional Commercial Districts; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

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 Economic Development 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 "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk
Land Use and Transportation Committee

c: John Rahaim, Director of Planning
Aaron Starr, Acting Manager of Legislative Affairs
AnMarie Rodgers, Senior Policy Manager
Scott Sanchez, Zoning Administrator
Sarah Jones, Chief, Major Environmental Analysis
Jeanie Poling, Environmental Planning
Joy Navarrete, Environmental Planning

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c) (2) because it does not result in a physical change in the environment.

Joy Navarrete

Digitally signed by Joy Navarrete
DN: cn=Joy Navarrete, o=Planning,
ou=Environmental Planning,
email=joy.navarrete@sfgov.org, c=US
Date: 2015.05.15 15:19:46 -0700

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
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By: Andrea Ausberry, Assistant Clerk
Land Use and Transportation Committee

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- Aaron Starr, Acting Manager of Legislative Affairs
- AnMarie Rodgers, Senior Policy Manager
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Date: 2015.05.13 15:19:46 -0700

BOARD of SUPERVISORS



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

MEMORANDUM

TO: Greg Suhr, Chief, Police Department
Jocelyn Kane, Executive Director, Entertainment Commission

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Transportation
Committee, Board of Supervisors

DATE: May 13, 2015

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, introduced by Supervisor Kim on May 5, 2015:

File No. 150465

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If you have any additional 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.

c:
Christine Fountain, Police Department
Crystal Stewart, Commission Secretary

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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MEMORANDUM

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

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Transportation Committee,
Board of Supervisors

DATE: May 13, 2015

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

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RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

No Comment

Recommendation Attached

Chairperson, Small Business Commission

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
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Aaron Starr, Acting Manager of Legislative Affairs
AnMarie Rodgers, Senior Policy Manager
Scott Sanchez, Zoning Administrator
Sarah Jones, Chief, Major Environmental Analysis
Jeanie Poling, Environmental Planning
Joy Navarrete, Environmental Planning

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2015 JUL -5 PM 2:15

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

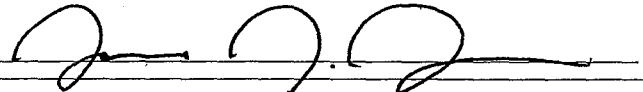
Supervisor Jane Kim

Subject:

Planning Code - Accessory Use Entertainment in Specified Western South of Market Districts

The text is listed below or attached:

See attached.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

