

BOARD of SUPERVISORS



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MEMORANDUM

Date: February 14, 2024
To: Planning Department/Planning Commission
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 240070
Planning Code - Exceptions and Extensions for Existing Uses

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - Ordinance / Resolution
 - Ballot Measure

- Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - General Plan
 - Planning Code, Section 101.1
 - Planning Code, Section 302

- Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)

- General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)

- Historic Preservation Commission
 - Landmark (*Planning Code, Section 1004.3*)
 - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - Mills Act Contract (*Government Code, Section 50280*)
 - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to John Carroll at john.carroll@sfgov.org.

1 [Planning Code - Exceptions and Extensions for Existing Uses]

2

3 **Ordinance amending the Planning Code to modify offset requirement for heights**
 4 **exceeding 30 feet in the Bernal Heights Special Use District; permit large movie theater**
 5 **signage in the Japantown Neighborhood Commercial District; allow Medical Cannabis**
 6 **Dispensaries to continue operating as Temporary Cannabis Retail Uses until December**
 7 **31, 2024; clarify eligibility for reduction in Inclusionary Housing requirements; and**
 8 **correct an error in the Zoning Control Table for the Urban Mixed Use District; affirming**
 9 **the Planning Department’s determination under the California Environmental Quality**
 10 **Act; making findings of consistency with the General Plan, and the eight priority**
 11 **policies of Planning Code, Section 101; and making findings of public necessity,**
 12 **convenience, and welfare pursuant to Planning Code, Section 302.**

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

17

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

19

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. ____ and is incorporated herein by reference. The Board affirms this
 25 determination.

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, the Board finds that this Planning Code
7 amendment will serve the public necessity, convenience, and welfare for the reasons set forth
8 in Planning Commission Resolution No. _____, and the Board incorporates such
9 reasons herein by reference. A copy of said resolution is on file with the Clerk of the Board of
10 Supervisors in File No. _____.

11
12 Section 2. Article 2 of the Planning Code is hereby amended by revising Section 242,
13 to read as follows:

14 **SEC. 242. BERNAL HEIGHTS SPECIAL USE DISTRICT.**

15 * * * *

16 (e) **Controls.** All provisions of the Planning Code applicable to an RH-1, RH-1(S),
17 RH-2, and RH-3 District shall apply to applicable portions of the Special Use District except as
18 otherwise provided in this Section 242.

19 (1) **Height Limits.** No portion of a dwelling in any portion of this district shall
20 exceed a height of 30 feet except as provided below. Notwithstanding the prior sentence, the
21 heights limits in this subsection (e)(1) shall not apply to building permits for structures erected on Lots
22 055, 056, and 057 in Block 5526 approved before January 8, 2020.

23 * * * *

1 Section 3. Article 6 of the Planning Code is hereby amended by revising Section
2 607.1, to read as follows:

3 **SEC. 607.1. NEIGHBORHOOD COMMERCIAL AND RESIDENTIAL-COMMERCIAL**
4 **DISTRICTS.**

5 * * * *

6 (f) **Business Signs.** Business Signs, as defined in Section 602, shall be permitted in all
7 Neighborhood Commercial and Residential-Commercial Districts subject to the limits set forth
8 below.

9 * * * *

10 (2) **RC, NC-2, NCT-2, NC-S, Inner Balboa Street, Outer Balboa Street,**
11 **Broadway, Castro Street, Inner Clement Street, Outer Clement Street, Cortland Avenue,**
12 **Divisadero Street, Excelsior Outer Mission Street, Fillmore Street, Upper Fillmore**
13 **Street, Folsom Street, Glen Park, Inner Sunset, Irving Street, Haight Street, Lower**
14 **Haight Street, Hayes-Gough, Japantown, Judah Street, Upper Market Street, Noriega**
15 **Street, North Beach, Ocean Avenue, Pacific Avenue, Polk Street, Regional Commercial**
16 **District, Sacramento Street, San Bruno Avenue, SoMa, Taraval Street, Inner Taraval**
17 **Street, Union Street, Valencia Street, 24th Street-Mission, 24th Street-Noe Valley, and**
18 **West Portal Avenue Neighborhood Commercial Districts.**

19 * * * *

20 (B) **Wall Signs.** The Area of all Wall Signs shall not exceed two square
21 feet per foot of street frontage occupied by the use measured along the wall to which the
22 Signs are attached, or 100 square feet for each street frontage, whichever is less. The Height
23 of any Wall Sign shall not exceed 24 feet, ~~or~~ the height of the wall to which it is attached, or
24 the height of the lowest of any residential windowsill on the wall to which ~~the Sign~~it is attached,

1 whichever is lower. Such Signs may be Nonilluminated, Indirectly Illuminated, or Directly
2 Illuminated.

3 Notwithstanding the foregoing paragraph, a Wall Sign for a Movie Theater
4 located within the Japantown NCD (i) shall not be higher than the height of the wall to which it is
5 attached, (ii) shall have an area not to exceed 150 square feet, if it is located at a height of 30 feet or
6 lower, (iii) shall have an area not to exceed 70 square feet, if it is located at a height of greater than 30
7 feet, and (iv) may be located on any building face so long as the total number of such Signs does not
8 exceed the total number of streets on which the parcel containing the Movie Theater has frontage.

9 * * * *

10
11 Section 4. Articles 1.7 and 2 of the Planning Code are hereby amended by revising
12 Sections 190, 191, and 205.2, to read as follows:

13 **SEC. 190. CONVERSION OF MEDICAL CANNABIS DISPENSARIES TO CANNABIS**
14 **RETAIL ESTABLISHMENTS.**

15 * * * *

16 (d) This Section 190 shall expire by operation of law on ~~January 1~~December 31, 2024.
17 Upon its expiration, the City Attorney ~~shall~~is authorized to cause this Section 190 to be
18 removed from the Planning Code.

19
20 **SEC. 191. AUTHORIZATION OF TEMPORARY CANNABIS RETAIL USES.**

21 * * * *

22 (b) This Section 191 shall expire by operation of law on ~~January 1~~December 31, 2024.
23 Upon its expiration, the City Attorney ~~shall~~is authorized to cause this Section 191 to be
24 removed from the Planning Code.

1 **SEC. 205.2. TEMPORARY USES: ONE- TO ~~SIX~~SIXSEVEN-YEAR LIMIT.**

2 A temporary use may be authorized for the following uses as specified below:

3 * * * *

4 **(d) Temporary authorization for a period not to exceed ~~six~~sixseven years.**

5 ~~(e)~~ Temporary Cannabis Retail Use, as provided by Section 191, to be authorized no
6 earlier than January 1, 2018 and to expire on ~~January 1~~December 31, 2024. This is the only
7 type of Temporary Use allowed for the sale of cannabis or cannabis products.

8
9 Section 5. Article 4 of the Planning Code is hereby amended by revising Section
10 415A.2, to read as follows:

11 **SEC. 415A.2. DEFINITIONS.**

12 The following terms shall have the following definitions:

13 “Pipeline Project” means a residential or live/work project that (1) is subject to the
14 Inclusionary Affordable Housing Ordinance, Planning Code Section 415.1 et seq., and (2) was
15 Finally Approved prior to November 1, 2023, and (3) has not been issued a First Construction
16 Document prior to November 1, 2023.

17 “Finally Approved” or “Final Approval” shall mean (1) approval of a project’s first
18 Development Application, unless such approval is appealed; or (2) if a project only requires a
19 building permit, ~~issuance~~planning approval of the first site or building permit, unless such permit
20 is appealed; or (3) if the first Development Application or first site or building permit is
21 appealed, then the final decision upholding the Development Application, or first site or
22 building permit, on the appeal by the relevant City Board or Commission. “Finally Approved”
23 or “Final Approval” shall not include any modification of the approval under Section 415A.5.

1 Section 6. Article 8 of the Planning Code is hereby amended by revising Section 838,
 2 to read as follows:

3 **SEC. 838. UMU – URBAN MIXED USE DISTRICT.**

4 * * * *

5 **Table 838**

6 **UMU – URBAN MIXED USE DISTRICT ZONING CONTROL TABLE**

7

Zoning Category	§ References	Urban Mixed Use District Controls
* * * *		
NON-RESIDENTIAL STANDARDS AND USES		
* * * *		
Utility and Infrastructure Use Category		
* * * *		
Wireless Telecommunications Services Facility	§ 102	C (3) (5)
* * * *		

15 * * * *

16 (3) P up to 3,999 gross sq. ft. per use; C for 4,000 gross sq. ft. or greater per use. Not
 17 subject to 3:1 ratio.

18 * * * *

19 (5) P in historic buildings per §803.9(c).

21 **Section 7. Effective Date; Partial Retroactivity.**

22 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs
 23 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
 24 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
 25 Mayor's veto of the ordinance.

LEGISLATIVE DIGEST

[Planning Code - Exceptions and Extensions for Existing Uses]

Ordinance amending the Planning Code to modify offset requirement for heights exceeding 30 feet in the Bernal Heights Special Use District; permit large movie theater signage in the Japantown Neighborhood Commercial District; allow Medical Cannabis Dispensaries to continue operating as Temporary Cannabis Retail Uses until December 31, 2024; clarify eligibility for reduction in Inclusionary Housing requirements; and correct an error in the Zoning Control Table for the Urban Mixed Use District; affirming the Planning Department’s determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

Existing Law

Planning Code Section 242 generally requires that no portion of a dwelling in any portion of this district shall exceed a height of 30 feet, with certain exceptions.

Sign heights and size in neighborhood commercial districts are generally governed by Planning Code Section 607.1.

Planning Code Sections 190, 191, and 205.2, permit Temporary Cannabis uses. The code sections authorizing this use were set to sunset on January 1, 2024.

Planning Code Section 415A.2 defines the terms “Finally Approved” or “Final Approval” to mean the (1) approval of a project’s first Development Application, unless such approval is appealed; or (2) if a project only requires a building permit, issuance of the first site or building permit, unless such permit is appealed; or (3) if the first Development Application or first site or building permit is appealed, then the final decision upholding the Development Application, or first site or building permit, on the appeal by the relevant City Board or Commission.

Planning Code Section 838 generally specifies the controls applicable to Urban Mixed-Use Districts.

Amendments to Current Law

This ordinance would:

- Create an exception to the height limits in Planning Code Section 242 for building permits for structures erected on Lots 055, 056, and 057 in Block 5526 approved before January 8, 2020.

- Create specific size and location controls for wall signs for movie theaters located within the Japantown NCD.
- Extend the sunset date for the Temporary Cannabis Uses to December 31, 2024.
- Amend the definition of “Finally Approved” or “Final Approval” for purposes of Planning Code Section 415A.2 to mean the Planning Department’s approval of a building permit rather than the issuance of a building permit or site permit.
- Correct a typographical error regarding the applicable control for Wireless Telecommunications Services Facilities in the Urban Mixed-Use District.

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