



SAN FRANCISCO PLANNING DEPARTMENT

April 20, 2012

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

**Re: Transmittal of Planning Case Number 2012.0167T
Board File No. 12-0083: 9th Street Power Retail SUD**

Recommendation: Disapproval

Dear Supervisor Kim and Ms. Calvillo,

On April 12, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearings at a regularly scheduled meeting to consider the proposed Ordinance under Board of Supervisors File Number 12-0083.

At the April 12th Hearing, the Commission voted 4-2 to recommend disapproval of the proposed Ordinance, which would create the 9th Street Power Retail SUD.

The attached resolution and exhibit provides more detail about the Commission's action. 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 "AM-Rodgers", with a long horizontal line extending to the right.

AnMarie Rodgers
Manager of Legislative Affairs

Cc: City Attorney Judith A. Boyajian

Attachments (one copy of the following):

Planning Commission Resolution No. 18581
Department Executive Summary

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 18581

HEARING DATE: APRIL 12, 2012

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Project Name: **Amendments to the San Francisco Planning Code to Create the 9th Street Power Retail Special Use District**

Case Number: 2012.0167T [Board File No. 12-0083]

Initiated by: Supervisor Kim/ Introduced January 31, 2012

Staff Contact: Aaron Starr, Legislative Affairs
Aaron.starr@sfgov.org, 415-558-6362

Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395

RECOMMENDING THAT THE BOARD OF SUPERVISORS DISAPPROVE A PROPOSED ORDINANCE THAT WOULD AMEND THE SAN FRANCISCO PLANNING CODE BY ADDING SECTION 249.66 TO ESTABLISH THE 9TH STREET POWER RETAIL SPECIAL USE DISTRICT FOR PROPERTY LOCATED AT 555-9TH STREET (ASSESSOR'S BLOCK NO. 3781, LOT NO. 003); 2) AMENDING THE SAN FRANCISCO ZONING MAP SHEET SU08 TO SHOW THE BOUNDARIES OF THE 9TH STREET POWER RETAIL SPECIAL USE DISTRICT; AND 3) MAKING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.1.

PREAMBLE

Whereas, on January 31, 2012, Supervisor Kim introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 12-0083 which would amend the San Francisco Planning Code by adding Section 249.66 (to be changed to Section 249.67 or the next available number under Section 249) to establish the 9th Street Power Retail Special Use District for property located at 555-9th Street (Assessor's Block No. 3781, Lot No. 003); amending the San Francisco Zoning Map Sheet SU08 to show the boundaries of the 9th Street Power Retail Special Use District; and making environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1, and

Whereas, on April 12, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed zoning changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

Whereas, the 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 the applicant, Department staff, and other interested parties; and

Whereas, the 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 Commission has reviewed the proposed Ordinance; and

MOVED, that the Commission hereby recommends that the Board of Supervisors *disapprove the proposed Ordinance* and adopts the attached Resolution to that effect.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The property that would be included in the proposed Special Use District contains a structure that turns inward from the street and has poor pedestrian access. Exempting the subject property from the Conditional Use process for Formula Retail would take away the Commission's ability to impose conditions that could improve the buildings street presence and enhance pedestrian access.
2. The Commission does not find that there is a need or justification to exempt the subject SUD from the sign controls in Section 608.12. New businesses will still be permitted to install a sign identifying their business on the exterior of the building as long as it complies with the limitations in Article 6.
3. The Commission does not find that there is a need or justification to exempt the subject SUD from the zoning district's maximum parking controls. The subject site currently has 330 parking spaces and is permitted to have in excess of 500 parking spaces under the current parking maximums outlined in the Planning Code.
4. The Commission does not find that there is a need or justification to exempt the subject SUD from the use size controls in the Planning Code. The provisions in the Planning Code still provide enough flexibility for the subject property to expand existing businesses or add new tenants with a larger retail space so long as they obtain Conditional Use authorization.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on April 12, 2012.

Linda Avery
Commission Secretary

AYES: Commissioners Moore, Sugaya, Miguel and Borden

NAYS: Commissioners Wu and Antonini

ABSENT: Commissioner Fong

ADOPTED: April 12, 2012



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change

HEARING DATE: APRIL 12, 2012

Project Name: **Amendments to the San Francisco Planning Code to Create the 9th Street Power Retail Special Use District**

Case Number: 2012.0167T [Board File No. 12-0083]

Initiated by: Supervisor Kim/ Introduced January 31, 2012

Staff Contact: Aaron Starr, Legislative Affairs
Aaron.starr@sfgov.org, 415-558-6362

Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395

Recommendation: **Recommend Approval with modifications**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend the San Francisco Planning Code by adding Section 249.66 (to be changed to Section 249.67 or the next available number under Section 249) to establish the 9th Street Power Retail Special Use District for property located at 555-9th Street (Assessor's Block No. 3781, Lot No. 003); amending the San Francisco Zoning Map Sheet SU08 to show the boundaries of the 9th Street Power Retail Special Use District; and making environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

The Way It Is Now:

555- 9th Street is zoned UMU, Urban Mixed Use District, which requires Conditional Use Authorization for formula retail establishments. The property is also located within the "Showplace Square Special Sign District," which prohibits new general advertising signs. Under the UMU zoning, the property has no minimum parking requirements, but does have a maximum parking requirement, as outlined in Section 151.1.

The subject property is also subject to various use size limits outlined in the Planning Code. Section 843.45 limits retail uses in the UMU zoning district to a maximum floor area of 25,000 gross square feet. Above 25,000 gross square feet, three gross square feet of other uses permitted in that District are required for every one gross square foot of retail. Section 121.6 requires a CU for anything over 50,000 sq. ft. and prohibits any single use larger than 120,000 sq. ft., except in the C-3.

The Way It Would Be:

The proposed ordinance would establish a new SUD, called the "9th Street Power Retail Special Use District," which would only include the subject parcel. The new Ordinance would:

1. principally permit formula retail in the proposed SUD,
2. remove the maximum parking limits in the new SUD,
3. exempt the SUD from the "Showplace Square Special Sign District," and
4. exempt the SUD from the use size limits outlined above.

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 with modifications* of the proposed Ordinance *with modifications* to include:

1. Remove Section 249.66(b)(4) from the Ordinance, which exempts the proposed SUD from the Showplace Square Special Sign District and the sign controls in Article 6 of the Planning Code.
2. Amend Section 249.66(b)(3) so that the proposed SUD is still subject to the maximum parking controls in Section 151.1, but allow the existing 330 parking spaces to remain regardless of a future change of use.
3. Add a 90,000 gross square foot trigger, which would require a CU for any single use that is above 90,000 sq. ft.

BASIS FOR RECOMMENDATION

Recommendation for Support of the Ordinance: The Department supports the establishment of the 9th Street Power Retail Special Use District. Except for a local taqueria, the subject property contains only formula retail (Bed Bath and Beyond, Chase Bank, Pier 1 Imports, Peet's Coffee, Trader Joes and Wells Fargo¹). The Formula Retail controls were primarily adopted to protect the aesthetic character of the City's Neighborhood Commercial Districts (NCDs) and South of Market Mixed Use Districts (MUDs). This shopping center is internally focused; presents inactive facades to the broader neighborhood; and generally has none of the unique qualities of districts which restrict formula retail uses. For these reasons, enforcing formula retail controls on this particular property does not make sense.

Recommendation for Modifications: The Department does not find any justification for exempting this property from the sign controls in Section 608.12. According to the property owner's representative, there was a misunderstanding that the prohibition on general advertising signs was also prohibition on business signs. However, there is nothing in the Planning Code that would prevent new businesses from having a sign identifying their business on the exterior of the building as long as it complies with the size limitations in Article 6. Therefore, the Department recommends removing Section 249.66(b)(4) from the Ordinance.

The Department also does not find that there is any justification for exempting the subject property from the zoning district's maximum parking controls. The Department supports language that would allow the subject property to maintain the existing number of spaces regardless of a change of use; however, we recommend removing the provision that exempts the property from Sections 151.1 and 843.10. Currently the property has approximately 330 parking spaces; a rough calculation of the total floor area puts the existing limit at over 500 spaces.

When the Small Business Commission reviewed the proposed ordinance, they expressed concern that the ordinance removes use size limits on the property, and the Department agrees with this concern. The

¹ Please see Exhibit C for a list of existing businesses and their total square footage.

Small Business Commission's recommendation that any change of use that is over 75,000 gross sq. ft. (the current largest tenant, Bed Bath and Beyond, is just under 75,000) would require Conditional Use Authorization. However, the Department would like this limit to be 90,000 sq. ft. Currently, the Planning Code has a 90,000 sq. ft. use size limit in the C-3 Districts. The Department would like to use the 90,000 sq. ft. number for consistency in the Planning Code.

ENVIRONMENTAL REVIEW

The proposal to amend the Planning Code by adding the 9th Street Power Retail Special Use District for property located at 555-9th Street (Assessor's Block No. 3781, Lot No. 003) and amending the San Francisco Zoning Map Sheet SU08 to show the boundaries of the 9th Street Power Retail Special Use District would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any comments regarding the proposed ordinance.

RECOMMENDATION: Recommendation of Approval with Modification
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 12-0083
- Exhibit C: List of existing businesses and gross square footage.
- Exhibit D: Map of proposed SUD