

BOARD of SUPERVISORS



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MEMORANDUM

Date: May 22, 2024
To: Planning Department/Planning Commission
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 240503
Administrative Code - Treatment of Shared Space Parklet on Clipper Street Sidewalk as Curbside Shared Space

- 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 [Administrative Code - Treatment of Shared Space Parklet on Clipper Street Sidewalk as
2 Curbside Shared Space]

3 **Ordinance waiving specified requirements in the Administrative Code to allow a**
4 **curbside shared space occupying both the parking lane and sidewalk space on the 100**
5 **Block of Clipper Street, at the intersection with Church Street, to be defined as a**
6 **curbside shared space, subject to certain requirements; and affirming the Planning**
7 **Department's determination under the California Environmental Quality Act.**

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

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

16 Section 1. Findings.

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

22 (b) Findings Regarding the Affected Shared Space.

23 (1) The food service seating area that is the subject of this ordinance is located
24 at 1351 Church Street (Assessor Parcel No. 6551-027A) on the southeastern corner of the
25 intersection at Church Street and Clipper Street.

(2) The permittee, Lovejoy's Tea Room was initially issued a pandemic Shared
Space permit for a Curbside Shared Space on Church Street in June of 2020. In August

1 2021, the City enacted the legislated Shared Space Program, codified in Administrative Code
2 Chapter 94A. Under the terms of the legislated Shared Space Program, existing pandemic
3 Shared Space permittees were granted time to convert their permits to the legislated program.
4 The pandemic Shared Space located on Church Street was ineligible for a Shared Space
5 permit under Administrative Code Chapter 94A because it did not accommodate the required
6 pedestrian visibility at the intersection, which was especially important at this location because
7 it is also a stop for the MUNI Metro J Church. As a result, the permittee had to relocate its
8 Shared Space from Church Street to Clipper Street.

9 (3) Administrative Code Chapter 94A identifies three types of Curbside Shared
10 Spaces: Fixed Commercial Parklets; Moveable Commercial Parklets; and Public Parklets. In
11 August 2022, the restaurant was granted a conditional permit to install a Fixed Commercial
12 Parklet in the parking lane on the Clipper Street side of their frontage (“Clipper Street Shared
13 Space”). During this process, the permittee worked with the City in good faith to address
14 traffic and pedestrian safety concerns.

15 (4) As built, the Clipper Street Shared Space is located on Clipper Street, and
16 occupies both the parking lane fronting the permittee, and portions of the sidewalk on Clipper
17 Street. The sidewalk in that area of Clipper Street is 15 feet wide. Even with the
18 encroachment from the Clipper Street Shared Space, the sidewalk is still functional for its
19 intended use, as there is still a ten-foot wide clearance on the sidewalk.

20 (5) Because the Clipper Street Shared Space occupies both the parking lane
21 and portions of the sidewalk, it does not qualify as a Fixed Commercial Parklet under
22 Administrative Code Section 94A.2, and Public Works Code Sections 793 et seq, which
23 require a Fixed Commercial Parklet to occupy only the parking lane. Because the Clipper
24 Street Parklet is fixed to the ground, and is used for commercial purposes, it does not qualify
25 as a Moveable Commercial Parklet or Public Parklet. In addition, because the Clipper Street

1 Shared Space is affixed to the sidewalk, it does not comply with the requirements of a
2 Sidewalk Shared Space under Administrative Code Section 94A.2 and Public Works Code
3 Sections 176 et seq. (Cafe Tables and Chairs), which require that any Sidewalk Shared
4 Spaces be temporary and removed each day after the close of business. Despite the fact the
5 Clipper Street Shared Space maintains a similar size and placement between the vehicular
6 travelway and pedestrian path of sidewalk travel as other Curbside Shared Spaces, the
7 Clipper Street Shared Space does not qualify as either a Fixed Commercial Parklet, or a
8 Sidewalk Shared Space. Consequently, it does not fall within the definitions or permitting
9 scheme of any of the existing categories of Shared Spaces.

10 (6) Parklets are an important part of the City's post-pandemic economic
11 recovery. Parklets promote pedestrian foot traffic and help enhance the vitality of
12 neighborhood and commercial corridors. The Clipper Street Shared Space adds to Noe
13 Valley's diverse collection of unique outdoor dining parklets that help promote small
14 businesses, foot traffic, and neighborhood culture. Ensuring that neighborhood businesses,
15 like the permittee of the Clipper Street Shared Space, can avail themselves of programs like
16 Shared Spaces serves the City's goals for economic vitality, pedestrian traffic, and
17 neighborhood pride.

18 (7) In recognition of the economic, health, safety, and recreational contributions
19 that Shared Spaces have provided to commercial enterprises, neighborhood businesses, and
20 City residents and visitors, the Board of Supervisors intends to allow the Clipper Street
21 Shared Space to continue operating as a viable extension of the associated restaurant in the
22 same manner as similarly situated Curbside Shared Spaces. To accomplish this objective,
23 this ordinance waives specific provisions of the Administrative Code governing Shared
24 Spaces that otherwise would be applicable to the Clipper Street Shared Space, conditioned
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1 on the Clipper Street Shared Space undergoing minor physical modifications to render it
2 compliant with applicable laws and similarly situated Shared Spaces.

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4 Section 2. Waiver of Certain Administrative Code Provisions.

5 (a) Based on the findings in Section 1, it is reasonable and in the public interest to
6 waive portions of Administrative Code Sections 94A.2, 94A.4, and 94A.5 as necessary to
7 allow the affected City departments to treat the Clipper Street Shared Space as a Fixed
8 Commercial Parklet.

9 (b) In regard to the Clipper Street Shared Space, portions of Administrative Code
10 Sections 94A.2, 94A.4, and 94A.5 are hereby waived as necessary to allow the affected City
11 departments to treat the Clipper Street Shared Space as a Curbside Shared Space,
12 conditioned on the Clipper Street Shared Space undergoing minor physical modifications to
13 render it compliant with applicable laws and similarly situated Shared Spaces.

14 (c) In implementing these waivers, the Public Works Director shall process any permits
15 for the Clipper Street Shared Space in accordance with the other requirements of
16 Administrative Code Chapter 94A, Public Works Code Sections 793 et seq., and Public Works
17 regulations for Curbside Shared Spaces that are Fixed Commercial Parklets and shall ensure
18 that the Clipper Street Shared Space is compliant with these laws and regulations. To the
19 extent that implementation of these waivers presents a conflict with Public Works Code
20 Sections 176 et seq. or Sections 793 et seq., the provisions of this ordinance shall prevail,
21 and the Public Works Director is authorized to exercise discretion to not apply any regulations
22 in conflict with this ordinance; provided, however, that the Clipper Street Shared Space shall
23 comply with all regulations regarding public health and safety design features for Fixed
24 Commercial Parklets.

LEGISLATIVE DIGEST

[Administrative Code - Treatment of Shared Space Parklet on Clipper Street Sidewalk as Curbside Shared Space]

Ordinance waiving specified requirements in the Administrative Code to allow a curbside shared space occupying both the parking lane and sidewalk space on the 100 Block of Clipper Street, at the intersection with Church Street, to be defined as a curbside shared space, subject to certain requirements; and affirming the Planning Department's determination under the California Environmental Quality Act

Existing Law

The Shared Spaces program is codified in Administrative Code Chapter 94A, and Public Works Code Sections 793 et seq. Administrative Code Chapter 94A identifies three types of Curbside Shared Spaces: Fixed Commercial Parklets; Moveable Commercial Parklets; and Public Parklets. Per Administrative Code Section 94A.2, Fixed Commercial Parklets may only occupy the parking lane portion of the roadway, and Sidewalk Shared Spaces must be temporary and removed each day after the close of business.

Amendments to Current Law

This ordinance would waive certain portions of Administrative Code Sections 94A.2, 94A.4, and 94A.5 to allow a Curbside Shared Space at Clipper Street and Church Street to occupy both the parking lane and portions of the adjacent sidewalk.

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