

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 24, 2019

File No. 190567

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

Dear Ms. Gibson:

On May 21, 2019, Supervisor Peskin introduced the following proposed legislation:

File No. 190567

Urgency ordinance approving an interim zoning moratorium for 45 days on changes of nighttime entertainment use in the One Maritime Plaza area bounded by Jackson Street to the north, Sacramento Street to the south, Drumm Street to the west, and Sansome Street to the east; 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.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

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

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

Attachment

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

1 [Planning Code - Interim Zoning Moratorium on Change of Nighttime Entertainment Use - One
2 Maritime Plaza Area]

3 **Urgency ordinance approving an interim zoning moratorium for 45 days on changes of**
4 **nighttime entertainment use in the One Maritime Plaza area bounded by Jackson Street**
5 **to the north, Sacramento Street to the south, Drumm Street to the west, and Sansome**
6 **Street to the east; affirming the Planning Department's determination under the**
7 **California Environmental Quality Act; and making findings of consistency with the**
8 **General Plan, and the eight priority policies of Planning Code, Section 101.1.**

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) **Environmental Findings.** The Planning Department has determined that the
19 actions contemplated in this urgency ordinance are in compliance with the California
20 Environmental Quality Act (California Public Resources Code sections 21000 et seq.). The
21 Board of Supervisors hereby affirms this determination. A copy of said determination is on file
22 with the Clerk of the Board of Supervisors in File No. _____ and incorporated by
23 reference.

24 (b) **Specific Findings.**

25 (1) The One Maritime Plaza area is zoned C-3-O, which has a wide range of
uses that are either principally permitted as of right or authorized as conditional uses. As the

1 area becomes more residential in nature and has a greater diversity of uses and publicly-
2 accessible open spaces, protecting existing uses that encourage and enhance street activity
3 at night is imperative, particularly on the mezzanine and publicly-accessible upper levels of
4 the area, which were constructed as a part of the plaza build-out of the Alcoa Building in 1967.
5 This public plaza and adjoining public pathways do not have existing street-level activation
6 and rely mainly on the Nighttime Entertainment Uses at One Maritime Plaza to activate the
7 upper level at night.

8 (2) Nighttime Entertainment Uses, defined in Section 102 of the Planning
9 Code as including such uses as dance halls, discotheques, nightclubs, comedy clubs, and
10 other similar evening-oriented entertainment activities, are an important contribution to
11 enlivening an area at night. Currently, Nighttime Entertainment Uses are a principally
12 permitted use on all stories in the C-3-O zoning district. The only other areas of the City where
13 these uses are principally permitted on all stories is in industrially-zoned areas or PDR
14 (Production, Distribution, and Repair) zoning districts. In most other zoning districts in the City,
15 Nighttime Entertainment is either restricted to the ground floor and/or requires a conditional
16 use authorization, or is not permitted at all. The existing entertainment uses at One Maritime
17 Plaza regularly activate the upper public mezzanine area after dark (approximately 40 hours a
18 week).

19 (3) In addition to enlivening the area at night, Nighttime Entertainment Uses
20 in the area of One Maritime Plaza are an important source of employment for City residents,
21 providing at least 40 service-industry jobs. This does not include the individual talent
22 bookings, which number at least 300 paid gigs a year.

23 (4) In addition to encouraging public patronage after dark, the existing
24 Nighttime Entertainment Uses at and around One Maritime Plaza employ three to four
25

1 security guards in addition to a doorman, depending on the size of programmed events, which
2 augment limited site staffing by One Maritime Plaza's two security guards.

3 (5) The existing Nighttime Entertainment Uses in the One Maritime Plaza
4 area, in addition to generating nighttime foot traffic, attract an average of 180 people a night,
5 who then patronize the limited number of restaurants and bars in the immediate downtown
6 vicinity.

7 (6) The adjacent Embarcadero Center complex is currently undergoing
8 renovations that make access to the top floor movie theater more difficult after hours, making
9 the existing Nighttime Entertainment Uses at One Maritime Plaza even more critical to the
10 public activation and overall safety and well-being of the surrounding area.

11 (c) **Findings Related to Imposition of an Interim Moratorium.**

12 (1) Planning Code Section 306.7 provides for the imposition of interim zoning
13 controls to accomplish several objectives, which include (A) preserving areas of mixed
14 residential and commercial uses in order to preserve the existing character of those
15 neighborhoods and areas and (B) conserving the commerce and industry of the City in order
16 to maintain the City's economic vitality and provide its citizens with adequate jobs and
17 business opportunities.

18 (2) The imposition of interim zoning controls in this ordinance is designed to
19 ameliorate the problems and conditions identified in subsection (b) above by imposing a
20 temporary moratorium on changes from a Nighttime Entertainment Use to any other
21 permissible use.

22 (3) This Board of Supervisors has considered the impact on the public
23 health, safety, peace, and general welfare if the interim controls proposed herein are not
24 imposed. It has determined that the public interest will be best served by imposing these
25 interim controls at this time to ensure that the legislative scheme that may be ultimately

1 adopted for the One Maritime Plaza area is not undermined during the planning and
2 legislative process for permanent controls, which process shall be conducted within a
3 reasonable time.

4 (d) **Planning Code Section 101.1 Findings.** This interim zoning moratorium
5 advances and is consistent with Priority Policy 5 of Planning Code Section 101.1 in that it
6 attempts to maintain a diverse economic base by protecting an important service sector from
7 displacement due to commercial office development. With respect to Policies 1-4 and 6-8, the
8 Board finds that the interim zoning moratorium does not, at this time, have an effect upon
9 these policies and thus will not conflict with said policies.

10
11 Section 2. The following interim zoning moratorium is hereby adopted as an Urgency
12 Ordinance:

13 (a) Neither the Planning Department nor the Planning Commission shall issue an
14 approval or authorization for any change in use from an existing Nighttime Entertainment Use
15 to any other Principal Use, Conditional Use, or Accessory Use, including Non-Retail Sales &
16 Service or Office Uses, authorized in the zoning district (as these terms are defined in Section
17 102 of the Planning Code), nor shall any private clubs be permitted, in the One Maritime Plaza
18 area bounded by Jackson Street to the north, Sacramento Street to the south, Drumm Street
19 to the west, and Sansome Street to the east.

20 (b) This interim zoning moratorium shall remain in effect for 45 days unless it is
21 extended by the Board of Supervisors in accordance with California Government Code
22 Section 65858 or permanent controls are adopted to address changes in use that better
23 protect neighborhood character, maintain the City's economic vitality, and conserve existing
24 uses in the defined area, whichever first occurs.

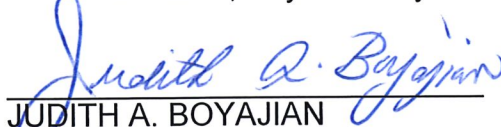
1 (c) If application of this ordinance would have the effect of denying approvals
2 needed for the development of a project with a significant component of multifamily housing,
3 as described in California Government Code Section 65858, this moratorium shall not apply to
4 that use, but otherwise shall be unaffected.

5 (d) Due to the urgency of establishing this interim zoning moratorium and
6 notwithstanding the requirements of Planning Code Section 306.7(g), the Board finds that the
7 standard public notice for Board of Supervisors hearings is adequate to inform the public of
8 any hearing(s) on this ordinance.

9
10 Section 3. Within 25 days of the Board's adoption of this Urgency Ordinance, the
11 Planning Department shall submit to the Clerk of the Board of Supervisors a written report
12 describing the measures taken to alleviate the conditions that led to the adoption of the
13 ordinance. Upon receipt of the report, the Clerk shall calendar a motion for the full Board to
14 consider and approve said report. Said hearing and the action taken thereon shall be no later
15 than 35 days after this ordinance is effective.

16
17 Section 4. Effective Date. This urgency ordinance shall become effective immediately
18 after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns
19 the ordinance unsigned or does not sign the ordinance within 10 days of receiving it, or the
20 Board of Supervisors overrides the Mayor's veto of the ordinance by a 4/5ths vote.

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

23 By: 
24 JUDITH A. BOYAJIAN
Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - Interim Zoning Moratorium on Change of Nighttime Entertainment Use - One Maritime Plaza Area]

Urgency ordinance approving an interim zoning moratorium for 45 days on changes of nighttime entertainment use in the One Maritime Plaza area bounded by Jackson Street to the north, Sacramento Street to the south, Drumm Street to the west, and Sansome Street to the east, 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 306.7 establishes procedures for adopting interim zoning controls to ensure that a legislative scheme that may be ultimately adopted is not undermined during the planning and legislative process for permanent controls. If the interim control takes the form of a moratorium, the legislation must also comply with Section 65858 of the California Government Code.

An interim moratorium takes the form of an urgency ordinance, has only one reading at the Board of Supervisors for approval, and is effective under the same terms as a Board of Supervisors resolution. The interim moratorium may initially last for only 45 days but may be further extended by the Board. Within 25 days of the interim moratorium's initial adoption, the Planning Department must submit to the Clerk of the Board of Supervisors a written report describing the measures taken to alleviate the conditions that led to its adoption and the Board must act to approve the report within 35 days after the ordinance is effective.

Amendments to Current Law

The proposed interim zoning control is an Urgency Ordinance that would impose for 45 days a moratorium in the One Maritime Plaza area bounded by Jackson Street to the north, Sacramento Street to the south, Drumm Street to the west and Sansome Street to the east. It would prohibit either the Planning Department or the Planning Commission from approving or authorizing any change of use from an existing Nighttime Entertainment Use to any other Principal Use, Conditional Use, or Accessory Use, including Non-Retail Sales & Service or Office Uses, authorized in the zoning district (as those terms as defined in Section 102 of the Planning Code) and any private clubs shall be prohibited.

Background Information

The One Maritime Plaza area is zoned C-3-O, which has a wide range of uses that are either principally permitted as of right or authorized as conditional uses. As the area becomes more residential in nature and has a greater diversity of uses and publicly-accessible open spaces, protecting existing uses that encourage and enhance street activity at night is imperative, particularly on the mezzanine and publicly-accessible upper levels of the area, which were constructed as part of the plaza build-out of the Alcoa Building in 1967. This public plaza and adjoining public pathways do not have existing street-level activation and rely mainly on the Nighttime Entertainment Uses at One Maritime Plaza to activate the upper level at night. The adjacent Embarcadero Center complex is currently undergoing renovations that make access to the top floor movie theater more difficult after hours, making the existing Nighttime Entertainment Uses at One Maritime Plaza even more critical to the public activation and overall safety and well-being of the surrounding area.

In addition to enlivening the area at night, Nighttime Entertainment Uses in the area of One Maritime Plaza are an important source of employment for City residents, providing at least 40 service-industry jobs, not including the individual talent bookings which number at least 300 paid gigs a year. In addition to generating nighttime foot traffic, the existing Nighttime Entertainment Uses in the One Maritime Plaza area attract an average of 180 people a night, who then patronize the limited number of restaurants and bars in the immediate downtown vicinity. Security guards for the nighttime venues augment the limited site staffing by One Maritime Plaza.

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