

BOARD of SUPERVISORS



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MEMORANDUM

Date: June 13, 2024
To: Planning Department/Planning Commission
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 240641
Planning Code - Laboratory Uses in the Urban Mixed Use Zoning District

- 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 - Laboratory Uses in the Urban Mixed Use Zoning District]

2

3 **Ordinance amending the Planning Code to revise the definition of Laboratory to**
 4 **include Biotechnology, and to make Laboratory uses, as defined, a not permitted use in**
 5 **the Urban Mixed Use zoning district; affirming the Planning Department's**
 6 **determination under the California Environmental Quality Act; and making public**
 7 **necessity, convenience, and welfare findings under Planning Code, Section 302, and**
 8 **findings of consistency with the General Plan, and the eight priority policies of**
 9 **Planning Code, Section 101.1.**

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

14

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

16

17 Section 1. Environmental and Land Use 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 this
 22 determination.

23 (b) On _____, the Planning Commission, in Resolution No. _____,
 24 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
 25 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
2 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
4 amendments will serve the public necessity, convenience, and welfare for the reasons set
5 forth in Planning Commission Resolution No. _____, and the Board adopts such
6 reasons as its own. A copy of said resolution is on file with the Clerk of the Board of
7 Supervisors in File No. _____ and is incorporated herein by reference.

8
9 Section 2. General Findings.

10 (a) The Urban Mixed Use (UMU) District is intended to promote a vibrant mix of uses
11 and complete neighborhoods while retaining the character of formerly industrial areas in the
12 Eastern Neighborhoods area of the City. It also serves as a transition between residential
13 districts and formerly industrial districts. Allowed uses in the UMU District include housing,
14 neighborhood and business services, arts activities and light manufacturing. Office uses are
15 limited, and Life Science use is prohibited.

16 (b) UMU zoning was developed to mediate tensions between residential and
17 commercial uses competing over limited land and building space. Those tensions have
18 continued in recent years, including with proposed Laboratory developments in the UMU that
19 have marketed themselves as available for Life Science uses, despite the prohibition of Life
20 Science.

21 (c) In 2021, the City enacted legislation to delete the Life Science and Medical Special
22 Use District, indicating a clear legislative desire to limit this use in the Eastern Neighborhoods
23 – in that specific case, in the Central Waterfront neighborhood. Specifically, that legislation
24 found that some Office and Life Science uses that opened in the area did not serve or
25 contribute in a positive way to the neighborhood, because they were located in spaces that

1 would otherwise have been available to a more diverse set of uses.

2 (d) These problems continue today. Prolific Life Science and Laboratory
3 developments in mixed use neighborhoods result in the loss of opportunities for housing,
4 community-serving amenities and the complete neighborhoods that were primary goals of the
5 Eastern Neighborhoods Plan, and the UMU District in particular. Additionally, the lack of
6 buffer between Life Science and Laboratory uses and residential uses raises health and
7 safety concerns similar to those from impactful industrial uses found in Production,
8 Distribution and Repair (PDR) zones. This ordinance aims to address these problems.

9
10 Section 3. Articles 1 and 8 of the Planning Code are hereby amended by revising
11 Sections 102, 803.9 and 838, to read as follows:

12
13 **SEC. 102. DEFINITIONS**

14
15 * * * *

16 **L**

17 **Laboratory.** A Non-Retail Sales and Services Use intended or primarily suitable for
18 scientific research. The space requirements of uses within this category include specialized
19 facilities and/or built accommodations that distinguish the space from Office uses, Light
20 Manufacturing, or Heavy Manufacturing. Examples of laboratories include the following:

- 21 (a) Chemistry, biochemistry, or analytical laboratory;
- 22 (b) Engineering laboratory;
- 23 (c) Development laboratory;

1 (d) Biological laboratories including those classified by the Centers for Disease
2 Control and Prevention (CDC) and National Institutes of Health (NIH) as Biosafety level 1,
3 Biosafety level 2, or Biosafety level 3;

4 (e) Animal facility or vivarium, including laboratories classified by the CDC/NIH as
5 Animal Biosafety level 1, Animal Biosafety level 2, or Animal Biosafety level 3;

6 (f) Support laboratory;

7 (g) Quality assurance/Quality control laboratory;

8 (h) Core laboratory; ~~and~~

9 (i) Cannabis testing facility (any use requiring License Type 8—Testing Laboratory, as
10 defined in California Business and Professions Code, Division 10); and

11 (j) Biotechnology research and experimental development.

12 * * * *

13
14 **SEC. 803.9. COMMERCIAL USES IN EASTERN NEIGHBORHOODS MIXED USE**
15 **DISTRICTS.**

16
17 * * * *

18 (c) **Preservation of Historic Buildings within and UMU Districts.** The following
19 rules are intended to support the economic viability of buildings of historic importance within
20 the UMU District.

21 (1) This subsection applies only to buildings that are a designated landmark
22 building, or a building listed on or determined eligible for the California Register of Historical
23 Resources by the State Office of Historic Preservation.

24 (2) All uses, except for Laboratory, are permitted as of right, provided that:

25 (A) The project does not contain nighttime entertainment.

1 (B) Prior to the issuance of any necessary permits, the Zoning
2 Administrator, with the advice of the Historic Preservation Commission, determines that
3 allowing the use will enhance the feasibility of preserving the building.

4 (C) Residential uses meet the affordability requirements of the
5 Residential Inclusionary Affordable Housing Program set forth in Section 415 et seq.

6 (3) The Historic Preservation Commission shall review the proposed project for
7 compliance with the Secretary of the Interior's Standards, (36 C.F.R. § 67.7 (2001)) and any
8 applicable provisions of the Planning Code.

9 * * * *

10
11 **SEC. 838. UMU – URBAN MIXED USE DISTRICT.**

12 The Urban Mixed Use (UMU) District is intended to promote a vibrant mix of uses while
13 maintaining the characteristics of this formerly industrially-zoned area. It is also intended to
14 serve as a buffer between residential districts and PDR districts in the Eastern
15 Neighborhoods. Within the UMU, allowed uses include production, distribution, and repair
16 uses such as light manufacturing, home and business services, arts activities, warehouse,
17 and wholesaling. Additional permitted uses include retail, educational facilities, and nighttime
18 entertainment. Housing is also permitted, but is subject to higher affordability requirements.
19 Family-sized dwelling units are encouraged. Within the UMU, ~~o~~Office uses are generally
20 prohibited in the Mission Area Plan and elsewhere are restricted to the upper floors of multiple
21 story buildings. In considering any new land use not contemplated in this District, the Zoning
22 Administrator shall take into account the intent of this District as expressed in this Section
23 848~~3~~ and in the General Plan. Accessory Dwelling Units are permitted within the district
24 pursuant to Section s 207.1 and 207.2 ~~(e)(6)~~ of this Code.

Table 838

UMU – URBAN MIXED USE DISTRICT ZONING CONTROL TABLE

Zoning Category	§ References	Urban Mixed Use District Controls
* * * *		
NON-RESIDENTIAL STANDARDS AND USES		
* * * *		
Sales and Service Category		
* * * *		
Non-Retail Sales and Service*	§ 102	P
<i>Laboratory</i>	<u>§ 102</u>	<u>NP</u>
Life Science	§ 102	NP(5)
Office Uses	§§ 102; 803.9(f)	P(4)
Professional Services, Non-Retail	§§ 102	P(4)
* * * *		

Section 4. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the ordinance.

Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

1 additions, and Board amendment deletions in accordance with the “Note” that appears under
2 the official title of the ordinance.

3 APPROVED AS TO FORM:
4 DAVID CHIU, City Attorney

5 By: /s/ Andrea Ruiz-Esquide
6 ANDREA RUIZ-ESQUIDE
7 Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - Laboratory Uses in the Urban Mixed Use Zoning District]

Ordinance amending the Planning Code to revise the definition of Laboratory to include Biotechnology, and to make Laboratory uses, as defined, a not permitted use in the Urban Mixed Use zoning district; affirming the Planning Department’s determination under the California Environmental Quality Act; and making public necessity, convenience, and welfare findings under Planning Code, Section 302, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

The Planning Code sets forth different zoning districts where different uses are permitted, conditionally permitted, or prohibited, and where various controls (such as density, height and bulk standards, rear yard, and open space requirements) apply.

The Urban Mixed Use (UMU) district was created in 2008 as part of the Eastern Neighborhoods area plans and related rezoning effort. According to the Planning Code, the UMU “is intended to promote a vibrant mix of uses while maintaining the characteristics of this formerly industrially-zoned area. It is also intended to serve as a buffer between residential districts and PDR districts in the Eastern Neighborhoods. Within the UMU, allowed uses include production, distribution, and repair uses such as light manufacturing, home and business services, arts activities, warehouse, and wholesaling. Additional permitted uses include retail, educational facilities, and nighttime entertainment. Housing is also permitted, but is subject to higher affordability requirements. Family-sized dwelling units are encouraged. Within the UMU, office uses are restricted to the upper floors of multiple story buildings.”

Currently, Laboratory uses are permitted within the UMU, as part of the larger zoning category of “Non-Retail Sales and Service.” Life Science uses are not permitted. The current definitions of Laboratories and Life Science, which apply Citywide, do not include biotechnology.

Amendments to Current Law

This ordinance amends the current definition of Laboratory uses to include biotechnology research and experimental development. It also makes Laboratory uses not permitted within the UMU, and makes conforming changes to other Planning Code sections that regulate uses in the UMU.

Background Information

The ordinance contains findings explaining that UMU zoning was developed to mediate tensions between residential and commercial uses competing over limited land and building space.

Those tensions have continued in recent years, including with proposed Laboratory developments in the UMU that have marketed themselves as available for Life Science uses, despite the prohibition of Life Science. This has resulted in the loss of opportunities for housing, community-serving amenities and the complete neighborhoods that were primary goals of the Eastern Neighborhoods Plan, and the UMU District in particular.

The ordinance intends to address these problems.

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Introduction Form

(by a Member of the Board of Supervisors or the Mayor)



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

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)
(Routine, non-controversial and/or commendatory matters only)
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor inquires..."
- 5. City Attorney Request
- 6. Call File No. from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the Board on

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes No

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

Sponsor(s):

Subject:

Long Title or text listed:

Signature of Sponsoring Supervisor: