

File No. 231192

Committee Item No. 4

Board Item No. 28

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Rules Committee

Date April 1, 2024

Board of Supervisors Meeting

Date April 16, 2024

Cmte Board

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OTHER (Use back side if additional space is needed)

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Completed by: Victor Young

Date Mar 28, 2024

Completed by: _____

Date _____

1 [Administrative Code - Shared Space at 1429 Mendell Street Parklet]

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3 **Ordinance waiving specified requirements in the Administrative Code to allow a food**
4 **service shared space located at 1429 Mendell Street to be considered as a curbside**
5 **shared space, subject to certain requirements; and affirming the Planning**
6 **Department’s determination under the California Environmental Quality Act.**

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

11

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

13

14 Section 1. Environmental Findings. The Planning Department has determined that the
15 actions contemplated in this ordinance comply with the California Environmental Quality Act
16 (California Public Resources Code Sections 21000 et seq.). Said determination is on file with
17 the Clerk of the Board of Supervisors in File No. 231192 and is incorporated herein by
18 reference. The Board affirms this determination.

19

20 Section 2. Background and General Findings.

21 (a) The food service seating area that is the subject of this ordinance is located at
22 1429 Mendell Street (Assessor Parcel No. 5323/015) on the eastern side of the street,
23 between Oakdale and Palou Avenues (“Mendell Parklet”). During the declaration of COVID
24 emergency, the restaurant at this location installed a food service seating area on the public
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1 right-of-way as a shared space in accordance with Administrative Code Sections 94A et seq.
2 and Public Works Code Sections 793 et seq.

3 (b) The Mendell Parklet is located on the vehicular portion of Mendell Street, which
4 has been closed to vehicular traffic. Though this block of Mendell Street resembles a public
5 plaza in use and appearance, it has not been legally designated as such. Because the
6 Mendell Parklet is not located in the curbside lane, it does not qualify as a Curbside Shared
7 Space under Administrative Code Section 94A.2 and Public Works Code Sections 793 et seq,
8 which defines a Curbside Shared Space as “a Shared Space occurring in a portion of the
9 curbside lane of a City street.” Further, because the Mendell Parklet is not located on a
10 sidewalk, it does not qualify as a Sidewalk Shared Space, defined and addressed in
11 Administrative Code Section 94A.2 and Public Works Code Sections 176 et seq. Moreover,
12 any tables and chairs installed pursuant to a Sidewalk Shared Spaces permit are temporary
13 and removed each day after the close of business, and as such, may not be affixed to the
14 sidewalk. The tables and chairs for the Mendell Parklet, by contrast, remain in the public
15 right-of-way after the close of business. Therefore, the Mendell Parklet does not qualify for a
16 Fixed Commercial Parklets/Curbside Shared Space permit or a Sidewalk Shared Space
17 permit. Consequently, the Mendell Parklet does not fall within the definitions or permitting
18 scheme of any of the existing categories of Shared Spaces.

19 (c) In recognition of the economic, health, safety, and recreational contributions that
20 Shared Spaces have provided to commercial enterprises, neighborhood businesses, and City
21 residents and visitors, the Board of Supervisors intends to allow the Mendell Parklet to
22 continue operating as a viable extension of the associated restaurant in the same manner as
23 similarly situated Curbside Shared Spaces. To accomplish this objective, this ordinance
24 waives certain provisions of the Administrative Code governing Shared Spaces that otherwise
25 would be applicable to the Mendell Parklet, conditioned on the Mendell Parklet undergoing

1 physical modifications to make the parklet compliant with applicable laws and similarly
2 situated Shared Spaces.

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4 Section 3. Waiver of Certain Administrative Code Provisions.

5 (a) The provisions of Administrative Code Sections 94A.2, 94A.4, and 94A.5 are
6 hereby waived to the extent necessary to allow the affected City departments to consider the
7 Mendell Parklet as a Curbside Shared Space that is a Fixed Commercial Parklet. Any
8 provisions of those Administrative Code Sections that need not be waived for that purpose are
9 not waived.

10 (b) In implementing these waivers, the Public Works Director shall process permits for
11 the Mendell Parklet in accordance with the other requirements of Administrative Code
12 Sections 94A et seq., Public Works Code Sections 793 et seq., and Public Works regulations
13 for Curbside Shared Spaces that are Fixed Commercial Parklets and shall ensure that the
14 Mendell Parklet is compliant with these laws and regulations. To the extent that
15 implementation of these waivers presents a conflict with Public Works Code Sections 176 et
16 seq. or Sections 793 et seq., the provisions of this ordinance shall prevail, and the Public
17 Works Director is authorized to exercise discretion to amend any regulations in conflict with
18 this ordinance; provided, however, that the Mendell Parklet shall comply with all regulations
19 regarding public health and safety design features for Shared Spaces and that the Mendell
20 Parklet shall undertake physical modifications to make the parklet compliant with applicable
21 laws and similarly situated Shared Spaces.

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

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5 APPROVED AS TO FORM:
6 DAVID CHIU, City Attorney

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7 By: /s/ Giulia Gualco-Nelson
8 GIULIA GUALCO-NELSON
9 Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Shared Space at 1429 Mendell Street Parklet]

Ordinance waiving specified requirements in the Administrative Code to allow a food service shared space located at 1429 Mendell Street to be considered as a curbside shared space, subject to certain requirements; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Restaurants, bars, and other establishments may place outdoor seating on public sidewalks and streets under the Shared Spaces Program, regulated by Chapter 94A of the Administrative Code.

During the COVID-19 emergency, an existing business at 1429 Mendell Street (between Oakdale and Palou Streets) installed a food service parklet on the public right-of-way. This food service parklet is located on the vehicular portion of Mendell Street, which has been closed to vehicular traffic. Because the food service area is not located in the curbside lane, it does not qualify as a Curbside Shared Space. The food service area does not qualify for a Sidewalk Shared Space permit because it is not located on the sidewalk.

Amendments to Current Law

This ordinance would waive provisions of the Administrative Code to allow the parklet at 1429 Mendell Street to be considered a Curbside Shared Space that is a Fixed Commercial Parklet. Any provisions of those Administrative Code Sections that need not be waived for that purpose are not waived. The waiver is conditioned on the parklet's compliance with all regulations regarding public health and safety design features for Shared Spaces and that the parklet undertake physical modifications to become compliant with applicable laws and similarly situated Shared Spaces.

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BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

Date: January 4, 2024
To: Planning Department / Commission
From: Victor Young, Clerk of the Rules Committee
Subject: Board of Supervisors Legislation Referral - File No. 231192
Administrative Code - Shared Space at 1429 Mendell Street Parklet

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
- Ordinance / Resolution
- Ballot Measure
- Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change. The existing uses would remain unchanged.
2/6/2024 *Joy Navarrete*
- 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 Victor Young at Victor.Young@sfgov.org.

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MEMORANDUM

TO: Carla Short, Director, Public Works

FROM: Victor Young, Assistant Clerk

A handwritten signature in black ink that reads "Victor Young".

DATE: January 4, 2024

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed legislation:

File No. 231192

Ordinance waiving specified requirements in the Administrative Code to allow a food service shared space located at 1429 Mendell Street to be considered as a curbside shared space, subject to certain requirements; and affirming the Planning Department's determination under the California Environmental Quality Act.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: victor.young@sfgov.org.

cc. David Steinberg, Public Works
Ian Schneider, Public Works
Lena Liu, Public Works