

1 [Interim Zoning Controls - Conditional Use for Restaurants and Storefront Mergers]

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3 **Resolution imposing interim zoning controls to require that for a 15-month period a**  
4 **Conditional Use authorization is required for a proposed restaurant use and for a**  
5 **commercial storefront merger resulting in a non-residential use size of 2,000 gross**  
6 **square feet or larger in the area generally defined by the following boundaries: 13th,**  
7 **Duboce, and Division Streets to the north, Mission Street to the west (including any**  
8 **parcel with a property line on either side of Mission Street), Cesar Chavez Street to the**  
9 **south, and Potrero Avenue to the east; affirming the Planning Department’s**  
10 **determination under the California Environmental Quality Act; and making findings of**  
11 **consistency with the General Plan, and the eight priority policies of Planning Code,**  
12 **Section 101.1.**

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14 WHEREAS, Planning Code, Section 306.7 authorizes the Planning Commission or the  
15 Board of Supervisors to impose interim zoning controls to allow time for the orderly completion  
16 of a planning study and the adoption of appropriate legislation, and to ensure that the  
17 legislative scheme which may be ultimately adopted is not undermined during the planning  
18 and legislative process by changes of use or approval actions which will conflict with that  
19 scheme; and

20 WHEREAS, The Planning Department and other City staff are currently working with  
21 the community on the Mission Action Plan (MAP) 2020, which is a collaboration between  
22 community organizations and the City to create more housing and economic stability in the  
23 Mission; and

24 WHEREAS, The Mission District has seen a rapid increase in the number of new  
25 restaurant uses within its neighborhood commercial districts and light industrial areas; and

1           WHEREAS, The City’s neighborhood commercial districts and light industrial areas are  
2 where existing neighborhood-serving retail uses are found and from where the neighborhood  
3 character is largely derived; and

4           WHEREAS, An overconcentration of restaurants may crowd out existing neighborhood-  
5 serving retail establishments, and adversely alter the existing neighborhood character and its  
6 cultural and economic diversity; and

7           WHEREAS, The neighborhood commercial districts feature many smaller-sized  
8 commercial tenant spaces which, owing to their size, are affordable to a greater number of  
9 merchants; and

10          WHEREAS, The smaller tenant spaces also lend to the character and economic  
11 diversity of the Mission District, as they provide opportunities for smaller and local merchants  
12 to own or operate businesses and employ local residents; and

13          WHEREAS, The Guidelines for Specific Uses contained in the Neighborhood  
14 Commerce section of the General Plan’s Commerce and Industry Element recognizes that the  
15 balance of commercial uses may be threatened when eating and drinking establishments  
16 occupy too much commercial frontage; and

17          WHEREAS, On March 2, 2017, and amended on April 10, 2017, the Planning  
18 Commission adopted Resolution No. 19865, which, in the area bounded by 13th, Duboce, and  
19 Division Streets to the north, Mission Street to the west (including parcels with a property line  
20 on either side of Mission Street), Cesar Chavez Street to the south, and Potrero Avenue to the  
21 east, 1) imposed for nine months a new interim control requiring a Conditional Use  
22 authorization for any change of use to a restaurant from any other use and 2) extended  
23 previously-imposed interim controls for an additional nine months; and

1           WHEREAS, The interim controls imposed by the Planning Commission in Resolution  
2 No. 19865 expire on January 14, 2018, and the Board of Supervisors wishes to adopt an  
3 interim control that extends the existing control on restaurant uses for the remainder of the  
4 time allowed under Planning Code, Section 306.7 and imposes a new interim control on  
5 commercial storefront mergers; and

6           WHEREAS, In Resolution No. 19865, the Planning Commission found that the interim  
7 control on restaurant use was in conformity with the General Plan, and the eight priority  
8 policies of Planning Code, Section 101.1; and

9           WHEREAS, The Board of Supervisors finds that this interim control on restaurant uses  
10 is consistent with the General Plan, and with the eight priority policies of Planning Code,  
11 Section 101.1 for the reasons set forth in Planning Commission Resolution No. 19865, a copy  
12 of which is on file with the Clerk of the Board of Supervisors in File No. 171290 and is  
13 incorporated herein by reference, and the findings of which the Board adopts as its own; and

14           WHEREAS, The Board finds that this interim control on commercial storefront mergers  
15 is consistent with Policy 6.1 of the Neighborhood Commerce section of the General Plan's  
16 Commerce and Industry Element ["Ensure and encourage the retention and provision of  
17 neighborhood-serving goods and services in the city's neighborhood commercial districts,  
18 while recognizing and encouraging diversity among the districts"], with Policy 1 of the eight  
19 priority policies of Planning Code, Section 101.1 ["that existing neighborhood-serving retail  
20 uses be preserved and enhanced and future opportunities for resident employment in and  
21 ownership of such businesses enhanced"], and with Policy 2 of the eight priority policies of  
22 Planning Code, Section 101.1 ["that existing housing and neighborhood character be  
23 conserved and protected in order to preserve the cultural and economic diversity of our  
24 neighborhoods"], in that the interim control addresses the effects of the merger of commercial  
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1 storefronts on neighborhood-serving retail, neighborhood character, and neighborhood  
2 economic diversity; and

3 WHEREAS, The Board further finds that these interim controls on restaurant uses and  
4 commercial storefront mergers do not have an effect on Policies 3 through 8 of Planning  
5 Code, Section 101.1; and

6 WHEREAS, The Board has considered the impact on the public health, safety, peace,  
7 and general welfare if these proposed interim controls are not imposed; and

8 WHEREAS, The Board has determined that the public interest will best be served by  
9 imposition of these interim controls at this time, to ensure that the legislative scheme that may  
10 ultimately be adopted to regulate new restaurants and the size of commercial uses in the  
11 Mission District is not undermined during the planning and legislative process; and

12 WHEREAS, The Planning Department has determined that the actions contemplated in  
13 this Resolution comply with the California Environmental Quality Act (California Public  
14 Resources Code, Sections 21000 et seq.), which determination is on file with the Clerk of the  
15 Board of Supervisors in File No. 171290, and the Board hereby affirms and incorporates said  
16 determination herein by reference; now, therefore, be it

17 RESOLVED, That as of the effective date of this Resolution, unless otherwise  
18 prohibited, any proposed Restaurant use (as defined in Planning Code, Section 102) in the  
19 area bounded by 13th, Duboce, and Division Streets to the north, Mission Street to the west  
20 (including parcels with a property line on either side of Mission Street), Cesar Chavez Street  
21 to the south, and Potrero Avenue to the east, must obtain Conditional Use authorization from  
22 the Planning Commission pursuant to Planning Code, Section 303; and, be it

23 FURTHER RESOLVED, That as of the effective date of this Resolution, any proposed  
24 commercial storefront merger in the area bounded by 13th, Duboce, and Division Streets to  
25 the north, Mission Street to the west (including parcels with a property line on either side of

1 Mission Street), Cesar Chavez Avenue to the south, and Potrero Avenue to the east that  
2 would result in a Non-Residential Use Size (as defined in Planning Code Section 102) of  
3 2,000 square feet or larger must obtain Conditional Use authorization from the Planning  
4 Commission pursuant to Planning Code Section 303; and be it

5 FURTHER RESOLVED, That these interim controls shall remain in effect for 15  
6 months from the effective date of this Resolution, or until the adoption of permanent legislation  
7 regulating Restaurant uses and Commercial Use sizes in the area covered by these interim  
8 controls, whichever first occurs.

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10 APPROVED AS TO FORM:  
11 DENNIS J. HERRERA, City Attorney

12 By: \_\_\_\_\_  
13 JUDITH A. BOYAJIAN  
14 Deputy City Attorney

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