

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

July 27, 2016

File No. 160828

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

Dear Ms. Jones:

On July 19, 2016, Supervisor Cohen introduced the following proposed legislation:

File No. 160828

Resolution imposing interim controls to require replacement space and conditional use authorization for conversion of Production, Distribution, and Repair Use, Institutional Community Use, and Arts Activities Use; and making environmental findings, including findings of consistency with the eight priority policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review, pursuant to Planning Code 306.7.

Angela Calvillo, Clerk of the Board

A handwritten signature in blue ink that reads "Alisa Somera".

By: Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

Attachment

- c: John Rahaim, Director, Planning Department
- Scott Sanchez, Planning Department
- AnMarie Rodgers, Planning Department
- Aaron Starr, Planning Department
- Joy Navarrete, Environmental Planning
- Jeanie Poling, Environmental Planning

1 [Interim Zoning Controls - Conditional Use Requirement and Replacement of Production,
2 Distribution, Repair, Institutional Community, and Arts Activities Uses]

3 **Resolution imposing interim controls to require replacement space and conditional use**
4 **authorization for conversion of Production, Distribution, and Repair Use, Institutional**
5 **Community Use, and Arts Activities Use; and making environmental findings, including**
6 **findings of consistency with the eight priority policies of Planning Code, Section 101.1.**

7
8 WHEREAS, Planning Code Section 306.7, provides for the imposition of interim zoning
9 controls to accomplish several objectives, including among others: preservation of historic and
10 architecturally significant buildings and areas; and development and conservation of the
11 commerce and industry of the City in order to maintain the economic vitality of the City, to
12 provide its citizens with adequate jobs and business opportunities, and to maintain adequate
13 services for its residents, visitors, businesses and institutions; and

14 WHEREAS, San Francisco is a unique city and its character is made up of the diversity
15 of its people and its businesses; and

16 WHEREAS, As outlined in San Francisco's General Plan, its density creates a rich
17 variety of experiences and encounters on every street. The City is cosmopolitan and affable,
18 easily traversed by foot or by bus, and offers an intriguing balance of urban architecture. San
19 Francisco is the center and the soul of the region and cooperative efforts to maintain the
20 area's quality of life are imperative; and

21 WHEREAS, The City has long been a magnet for business, culture, retailing, tourism
22 and education. Its rich 150 year history reflects the cultures of the world and gives energetic
23 diversity to its neighborhoods; and

24 WHEREAS, The residents strive to maintain this tradition, welcoming people from
25 around the world to participate in the promise of a healthy city; and

1 WHEREAS, In recent years, this diversity is threatened because of the high cost of
2 commercial real estate; and

3 WHEREAS, Steady increases in commercial real estate rental rates have pushed office
4 prices to 122% above where they were five years ago to about \$70 per square foot; and

5 WHEREAS, The Bay Area commercial real estate markets are now the toughest in the
6 nation; and

7 WHEREAS, This threatens organizations and businesses that are important to the City
8 but find themselves unable to compete for limited commercial space in this real estate market;
9 and

10 WHEREAS, Nonprofits organizations, arts organizations, and spaces for people to
11 work in jobs that do not require high educational attainment find themselves pushed out of this
12 market; and

13 WHEREAS, In a recent report commissioned by the Northern California Grantmakers
14 Association, "Status of Nonprofit Space and Facilities," in March 2016, two out of every three
15 nonprofits surveyed say they will have to make a decision about moving within the next five
16 years; and

17 WHEREAS, Many nonprofits fear they will have to abandon part of their mission
18 because of the economic pressure created by high real estate costs or move to new locations;
19 and

20 WHEREAS, The report identifies that some of this pressure can be addressed at the
21 local government level by using zoning to create space suitable for arts and other community
22 organizations, turning to publicly owned property for space, and including nonprofit space in
23 affordable housing development; and

24 WHEREAS, These pressures, although City-wide, are felt acutely in San Francisco's
25 South of Market neighborhoods. Because of this, the Eastern Neighborhoods community

1 planning process began in 2001 with the goal of developing new zoning controls for the
2 industrial portions of these neighborhoods; and

3 WHEREAS, At one time, land zoned for industrial uses covered almost the entire
4 eastern bayfront of San Francisco, from the southern county line to well north of Market
5 Street; and

6 WHEREAS, As the city's economy has transformed over time, away from traditional
7 manufacturing and "smoke-stack" industry toward tourism, service, and "knowledge-based"
8 functions, the city's industrial lands have shrunk steadily; and

9 WHEREAS, By the 1990s, land zoned for industrial uses stood at about 12% of the
10 city's total usable land (i.e., not including parks and streets), and

11 WHEREAS, This period was one of strong economic growth in which the city gained
12 thousands of new jobs and residents; and

13 WHEREAS, As a result, capital, business, and building activity surged into the
14 industrial and residential Eastern Neighborhoods, south of Downtown, and

15 WHEREAS, While this wealth brought needed resources, it also created conflicts
16 around the use of land. San Francisco's industrial zoning has historically been permissive -
17 allowing residences, offices, and other uses, in addition to industrial businesses; and

18 WHEREAS, As part of the Eastern Neighborhoods planning process, the Planning
19 Department conducted a series of workshops where stakeholders articulated goals for their
20 neighborhood, considered how new land use regulations (zoning) might promote these goals,
21 and created several rezoning options representing variations on the amount of industrial land
22 to retain for employment and business activity; and

23 WHEREAS, Starting in 2005, the community planning process expanded to address
24 other issues critical to these communities including affordable housing, transportation, parks
25 and open space, urban design, and community facilities; and

1 WHEREAS, The Planning Department began working with the neighborhood
2 stakeholders to create Area Plans for each neighborhood to articulate a vision for the future;
3 and

4 WHEREAS, Based on several years of community input and technical analysis, the
5 Eastern Neighborhoods Program calls for transitioning about half of the existing industrial
6 areas in these four neighborhoods to mixed use zones that encourage new housing; and

7 WHEREAS, The other remaining half would be reserved for Production, Distribution
8 and Repair zoning districts, where a wide variety of functions such as Muni vehicle yards,
9 caterers, and performance spaces can continue to thrive; and

10 WHEREAS, In 2008, the Planning Commission and the Board of Supervisors adopted
11 the Eastern Neighborhoods Plan; and

12 WHEREAS, At their core, the Eastern Neighborhoods Plans try to accomplish two key
13 policy goals: 1) to ensure a stable future for Production, Distribution and Repair (PDR) uses in
14 the city, mainly by reserving a certain amount of land for this purpose; and 2) to provide a
15 significant amount of new housing affordable to low, moderate, and middle income families
16 and individuals, along with “complete neighborhoods” that provide appropriate amenities for
17 these new residents; and

18 WHEREAS, Because San Francisco has very limited land available, it is important to
19 evaluate the current state of land available for PDR use and to protect PDR uses because of
20 competing pressure from residential and office uses, which can afford to pay far more to buy
21 and develop land; and

22 WHEREAS, Office tenants are willing to pay well over twice what PDR commands —
23 creative tech space goes for \$70 a square foot in SoMa or the Inner Mission; and

24 WHEREAS, This leads to the loss of space critical for PDR activities and therefore the
25 loss of jobs that result from these activities; and

1 WHEREAS, The Planning Department prepared a report in April 2005 on the demand
2 for and supply of PDR in the City; and

3 WHEREAS, This report is known as the EPS PDR Study; and

4 WHEREAS, To alleviate the impact of loss of PDR uses and to revitalize PDR uses
5 and to attract technology and biotech businesses to the City, it is necessary for the City to
6 aggressively pursue retention of PDR and its associated job sectors; and

7 WHEREAS, Development that removes PDR use should have the option of replacing
8 the lost space at a one-to-one ratio; and

9 WHEREAS, To accomplish this, a PDR replacement program should be established;
10 and

11 WHEREAS, Policy 5 of the eight Priority Policies of the City's General Plan and
12 Planning Code Section 101.1 establishes a policy "That a diverse economic base be
13 maintained by protecting our industrial and service sectors from displacement due to
14 commercial office development, and that future opportunities for resident employment and
15 ownership in these sectors be enhanced;" and

16 WHEREAS, The Planning Department just released the five year Eastern
17 Neighborhoods Monitoring Report and the Eastern Neighborhoods Citizen Advisory
18 Committee and the Planning Commission are currently in the process of reviewing that report
19 which tracks development activity in the Eastern Neighborhoods; and

20 WHEREAS, Adoption of these interim controls will allow the Board of Supervisors time
21 to consider whether to adopt permanent controls for Residential Mergers; and

22 WHEREAS, Additional Priority Policies of the City's General Plan and Planning Code
23 Section 101.1, state "That existing housing and neighborhood character be conserved and
24 protected in order to preserve the cultural and economic diversity of our neighborhoods"
25 (Policy 1) and "That existing neighborhood-serving retail uses be preserved and enhanced

1 and future opportunities for resident employment in and ownership of such businesses
2 enhanced” (Policy 2); and

3 WHEREAS, These interim zoning controls advance and are consistent with the Priority
4 Policies set forth in Planning Code Section 101.1, particularly Policies 1, 2, and 5, in that the
5 conditional use authorization and replacement requirement will help ensure these uses are
6 protected from displacement and will help ensure new development projects will preserve and
7 protect the existing neighborhood character and will preserve the cultural and economic
8 diversity of these neighborhoods; and

9 WHEREAS, With respect to Priority Policies 3, 4, 6, 7, and 8, the Board finds that these
10 interim zoning controls do not, at this time, have an effect upon these policies, and thus will
11 not conflict with said policies; and

12 WHEREAS, This Board has considered the impact on the public health, safety, peace,
13 and general welfare if the interim controls proposed herein are not imposed; and

14 WHEREAS, This Board has determined that the public interest will be best served by
15 imposition of these interim controls at this time, in order to ensure that the legislative schedule
16 which may be ultimately adopted is not undermined during the planning and legislative
17 process for permanent controls; and

18 WHEREAS, Planning Code Section 306.7 requires consideration of the following
19 objectives when determining whether to impose interim controls:

- 20 (1) Preservation of historic and architecturally significant buildings and areas;
 - 21 (2) Preservation of residential neighborhoods;
 - 22 (3) Preservation of neighborhoods and areas of mixed residential and commercial
23 uses in order to preserve the existing character of such neighborhoods and areas;
 - 24 (4) Preservation of the City's rental housing stock;
- 25

1 (5) Development and conservation of the commerce and industry of the City in order
2 to maintain the economic vitality of the City, to provide its citizens with adequate jobs and
3 business opportunities, and to maintain adequate services for its residents, visitors,
4 businesses and institutions;

5 (6) Control of uses which have an adverse impact on open space and other
6 recreational areas and facilities;

7 (7) Control of uses which generate an adverse impact on pedestrian and vehicular
8 traffic; and

9 (8) Control of uses which generate an adverse impact on public transit; and

10 WHEREAS, Adoption of these interim controls will ensure that objectives 1 and 5
11 above are met by supporting PDR, Institutional Community Uses and Arts Activities Uses that
12 contribute to the cultural and economic diversity of San Francisco's Eastern Neighborhoods
13 and provide a diverse range of employment opportunities for San Francisco residents; and

14 WHEREAS, The Planning Department has determined that the actions contemplated in
15 this Resolution are in compliance with the California Environmental Quality Act (California
16 Public Resources Code Section 21000 et. seq.); and

17 WHEREAS, Said determination is on file with the Clerk of the Board of Supervisors in
18 File No. _____ and is hereby affirmed and incorporated by reference as though fully set
19 forth; now, therefore, be it

20 RESOLVED, That pursuant to Planning Code Section 306.7, the Board of Supervisors,
21 by this resolution, adopts the following controls for the following Eastern Neighborhoods Plan
22 Areas: Mission; Eastern SoMa; Western SoMa; and, if adopted, Central SoMa; and, be it

23 FURTHER RESOLVED, That for purposes of these interim controls, notwithstanding
24 any other provision of the Planning Code, conversion of building space where the prior use in
25 such space was a PDR use of at least 5,000 square feet, an Institutional Community use of at

1 least 2,500 square feet, or an Arts Activities use, all as defined in Section 102, through
2 change in use or any other removal, including but not limited to demolition of a building that is
3 not unsound, shall require Conditional Use authorization pursuant to Planning Code Section
4 303 and shall be subject to the following additional requirements:

5 (a) To preserve the existing stock of building space suitable for PDR, Institutional
6 Community, and Arts Activities uses, if a project would result in conversion of building space,
7 where the prior use in such space was PDR of at least 5,000 square feet, Institutional
8 Community of at least 2,500 square feet, or Arts Activities use, through removal, including
9 through demolition of a building that is not unsound, or through change of use, such space
10 shall be replaced in compliance with the following criteria:

11 (1) In the areas that, as of July 1, 2016, are zoned SALI, PDR, or C-3-G, the
12 replacement space shall include one square foot of PDR, Institutional Community, or Arts
13 Activities use for each square foot of the use proposed for conversion.

14 (2) In the areas that, as of July 1, 2016, are zoned UMU, MUO, or SLI, the
15 replacement space shall include 0.75 square foot of PDR, Institutional Community, or Arts
16 Activities use for each square foot of the use proposed for conversion if replaced on the same
17 property or shall include one square foot of PDR, Institutional Community, or Arts Activities
18 use for each square foot of the use proposed for conversion if replaced off-site.

19 (3) In the areas that, as of July 1, 2016, are zoned MUG or MUR, the
20 replacement space shall include 0.50 square foot of PDR, Institutional Community, or Arts
21 Activities use for each square foot of the use proposed for conversion if replaced on the same
22 property or shall include one square foot of PDR, Institutional Community, or Arts Activities
23 use for each square foot of the use proposed for conversion if replaced off-site.

1 (4) The replacement space shall be located on the same property or, if located
2 off-site, shall be in the same area plan area or within 1/4 mile of the property, or, if replacing
3 PDR space off-site, in any area that is zoned for PDR as a principally permitted use.

4 (5) The replacement requirements of this subsection (a) may be reduced by
5 0.25 for any project subject to a development agreement approved by the City under
6 California Government Code Section 65864 et seq. if, as part of the terms of such
7 development agreement, the required replacement space is rented, leased, or sold at 50%
8 below market rate for such commercial space.

9 (b) Definitions. For the purposes of these interim controls, the following definitions
10 shall apply:

11 "Prior use" shall mean the prior permanent use and shall not include any approved
12 temporary uses such as "pop-up" eating establishments, craft fairs, or other seasonal uses.

13 "Replacement space" shall mean newly developed building space and shall not include
14 building space that was previously used for PDR, Institutional Community, or Arts Activities.

15 "Unsound" shall mean a building for which rehabilitation would cost 50% or more of the
16 cost to construct a comparable building.

17 (c) The amount of replacement space required under subsection (a)(1) may be
18 reduced by the amount that is necessary to provide building entrances and exits;
19 maintenance, mechanical, and utilities facilities; and on-site open space and bicycle facilities
20 required under this Code; provided that no reduction shall be permitted for non-car-share
21 vehicle parking spaces.

22 (d) In determining whether to grant Conditional Use authorization, in addition to
23 making the required findings under Section 303, the Planning Commission shall consider the
24 suitability of the replacement space for the use proposed for conversion.
25

1 (e) Exemptions. The following shall be exempt from the requirements of these interim
2 controls:

3 (1) Any property under the jurisdiction of the Port of San Francisco or the
4 Recreation and Park Commission; and all Redevelopment Plan Areas in effect as of July 1,
5 2016.

6 (2) Undeveloped property. The requirements of these interim controls shall only
7 apply to those portions of a site that are developed with building space where the prior use in
8 such space was PDR use of at least 5,000 square feet, an Institutional Community use of at
9 least 2,500 square feet, or an Arts Activities use.

10 (3) Any project where the PDR use, Institutional Community use, or Arts
11 Activities use subject to conversion commenced after June 14, 2016.

12 (4) Any project for which an Environmental Evaluation application was
13 submitted to the Planning Department by June 14, 2016.

14 (5) Any public transportation project.

15 (6) Any project that receives affordable housing credits associated with
16 retention of affordable units at the South Beach Marina Apartments, pursuant to Board of
17 Supervisors Resolution No. 197-16.

18 (7) Any project that is providing 100% affordable housing.

19 (8) Any project proposing a conversion of use in a historic building pursuant to
20 Planning Code Section 803.9(b) or (c).

21 (f) These interim controls shall not authorize a change in use if the new use or uses
22 are otherwise prohibited.

23 FURTHER RESOLVED, That these interim controls shall remain in effect for eighteen
24 months from the effective date of this legislation, or until the adoption of permanent legislation
25

1 establishing requirements for conversion of PDR, Institutional Community and Arts Activities
2 uses in these area plan areas.

3
4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By: 
7 MARLENA BYRNE
8 Deputy City Attorney

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