

File No. 180803 Committee Item No. 1  
 Board Item No. 11

**COMMITTEE/BOARD OF SUPERVISORS**  
 AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation Committee Date October 22, 2018

Board of Supervisors Meeting Date 11/13/2018  
 Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion                                       |
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| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form                            |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
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| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
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| <input type="checkbox"/>            | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Referral CEQA 080318</u>      |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Referral PC 080318</u>        |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Referral FYI 080318</u>       |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Referral SBC 091018</u>       |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>CEQA Determination 092718</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>PLN Transmittal 101918</u>    |
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Completed by: Erica Major Date October 19, 2018  
 Completed by: Erica Major Date 11/13/2018

1 [Planning Code - Mission Alcoholic Beverage Special Use District and Mission Street  
2 Neighborhood Commercial Transit District]

3 Ordinance amending the Planning Code to require Conditional Use authorization for  
4 Restaurants and prohibit new ABC License Type 75 establishments Brewpubs within a  
5 subarea of the Mission Alcoholic Beverage Special Use District; to establish limits on  
6 the number of eating and drinking establishments, require Conditional Use  
7 authorization for replacing Legacy Businesses and new Bars, prohibit mergers of  
8 commercial space resulting in greater than 1,500 gross square feet, require ground-  
9 floor non-residential tenant space for large projects, and expand Philanthropic Service  
10 and Light Manufacturing uses in the Mission Street Neighborhood Commercial Transit  
11 District; and affirming the Planning Department's determination under the California  
12 Environmental Quality Act, and making findings of consistency with the General Plan  
13 and the eight priority policies of Planning Code, Section 101.1, and findings of public  
14 necessity, convenience, and welfare under Planning Code, Section 302.

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

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

23 Section 1. Environmental and Land Use Findings.

24 (a) The Planning Department has determined that the actions contemplated in this  
25 ordinance comply with the California Environmental Quality Act (California Public Resources  
Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of

1 Supervisors in File No. 180803 and is incorporated herein by reference. The Board affirms  
2 this determination.

3 (b) On October 19, 2018, the Planning Commission, in Resolution No. 20316, adopted  
4 findings that the actions contemplated in this ordinance are consistent, on balance, with the  
5 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board  
6 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
7 Board of Supervisors in File No. 180803, and is incorporated herein by reference.

8 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that these  
9 Planning Code amendments will serve the public necessity, convenience, and welfare for the  
10 reasons set forth in Planning Commission Resolution No. 20316, and the Board incorporates  
11 such reasons herein by reference. A copy of said Resolution is on file with the Clerk of the  
12 Board of Supervisors in File No. 180803, and is incorporated herein by reference.

13  
14 Section 2. The Planning Code is hereby amended by revising Section 249.60, to read  
15 as follows:

16 **SEC. 249.60. MISSION ALCOHOLIC BEVERAGE SPECIAL USE DISTRICT.**

17 \* \* \* \*

18 (f) Restaurants and establishments with ABC License Type 75Brewpubs. The  
19 following provisions shall apply to all parcels located east of the western boundary of the Mission  
20 Street Neighborhood Commercial Transit District (including parcels fronting 14th Street and east of  
21 Mission Street) and north of Cesar Chavez Street:

22 (1) Any proposed Restaurant use, as defined in Planning Code Section 102, must  
23 obtain Conditional Use authorization from the Planning Commission pursuant to Planning Code  
24 Section 303.

1                   (2) New establishments with ABC License Type 75 Brewpubs are prohibited.  
2 Existing Brewpubs with ABC License Type 75 establishments located within the SUD may relocate,  
3 subject to the underlying zoning district, within the SUD.

4  
5                   Section 3. The Planning Code is hereby amended by revising Section 754, to read as  
6 follows:

7  
8                   **SEC. 754: MISSION STREET NEIGHBORHOOD COMMERCIAL TRANSIT**  
9 **DISTRICT.**

10                   (a) Background. The Mission Street Neighborhood Commercial Transit District is  
11 located near the center of San Francisco in the Mission District. It lies along Mission Street  
12 between 15th and Cesar Chavez ~~(Army)~~ Streets, and includes adjacent portions of 17th Street,  
13 21st Street, 22nd Street, and Cesar Chavez Street. The commercial area of this District  
14 provides a selection of goods serving the day-to-day needs of the residents of the Mission  
15 District. Additionally, this District serves a wider trade area with its specialized retail outlets.  
16 Eating and drinking establishments contribute to the ~~street's~~ District's mixed-use character and  
17 activity in the evening hours.

18                   (b) Purpose. The purposes of the Mission Street Neighborhood Commercial Transit  
19 District include:

20                   (1) To preserve and enhance the existing storefront configuration and size, signage,  
21 artwork, and other character-defining elements of the built environment;

22                   (2) To preserve the contributions of Legacy Businesses to the history and identity of  
23 the District;

1                   (3) To retain, enhance, and promote active community involvement and input on  
2 development within the District by conducting thorough outreach to stakeholders and neighborhood  
3 groups and responding to community input; and

4                   (4) To retain, enhance, and promote neighborhood-serving businesses and  
5 institutions that enhance economic and workforce opportunities for local residents by coordinating  
6 with the Office of Economic and Workforce Development to engage with the City's workforce system to  
7 provide employment opportunities, career trainings, and formal partnerships to identify and address  
8 both business and community workforce needs.

9                   (c) Controls.

10                   (1) General Controls. The District is extremely well-served by transit, including  
11 regional-serving BART stations at 16th Street and 24th Street, major buses running along  
12 Mission Street, and both cross-town and local-serving buses intersecting Mission Street along  
13 the length of this district. Given the area's central location and accessibility to the City's transit  
14 network, accessory parking for residential uses is not required. Any new parking is required to  
15 be set back or be below ground.

16                   This District has a mixed pattern of larger and smaller lots and businesses, as well as a  
17 sizable number of upper-story residential units. Controls are designed to permit moderate-  
18 scale buildings and uses, protecting rear yards above the ground story and at residential  
19 levels. New neighborhood-serving commercial development is encouraged mainly at the  
20 ground story. Ground story uses are required to include active commercial uses with  
21 storefronts facing the street. While offices and general retail sales uses may locate at the  
22 second story of new buildings under certain circumstances, most commercial uses are  
23 prohibited above the second story. Continuous retail frontage is promoted by requiring ground  
24 floor commercial uses in new developments and prohibiting curb cuts. Housing development  
25 in new buildings is encouraged above the ground story. Housing density is not controlled by

1 the size of the lot but by requirements to supply a high percentage of larger units and by  
2 physical envelope controls. Existing residential units are protected by prohibitions on upper-  
3 story conversions and limitations on demolitions, mergers, and subdivisions. Accessory  
4 Dwelling Units are permitted within the District pursuant to subsection 207(c)(4) of this Code.

5 (2) Commercial Mergers. The consolidation or merger of existing ground floor  
6 commercial spaces that would result in greater than 1,500 gross square feet of consolidated or merged  
7 space shall be prohibited, except for Legacy Businesses, Arts Activities Uses, and Institutional  
8 Community Uses. The prohibition shall not apply to projects that submitted a development  
9 application, as defined in Section 401, to the Planning Department prior to July 31, 2018.

10 (3) First Story Non-Residential Tenant Space for Large Projects. Projects larger  
11 than 10,000 gross square feet shall be required to provide space for a non-residential tenant on the  
12 first story with immediate access to the street frontage. The non-residential tenant space shall not  
13 exceed 1,500 gross square feet.

14 (4) Replacement of a Legacy Business Requires Conditional Use Authorization.  
15 Where an immediately prior use was a Legacy Business, as defined under Administrative Code Section  
16 2A.242, the controls require any new Non-Residential Use to obtain Conditional Use authorization;  
17 provided, however, that this requirement shall not apply where: (A) the subject non-residential space  
18 has had no occupant and has not been open to the public for three or more years from the date the  
19 application for the new use is filed, or (B) where the Legacy Business has removed itself or has been  
20 otherwise removed from the Legacy Business Registry.

21 (5) For any use subject to Conditional Use authorization under this Section 754, the  
22 Planning Commission shall find that the use supports at least three of the four purposes of the District  
23 as set forth in subsection (b) above.

**Table 754. MISSION STREET NEIGHBORHOOD COMMERCIAL TRANSIT  
DISTRICT ZONING CONTROL TABLE**

\* \* \* \*

Zoning Category	§ References	Controls		
<b>NON-RESIDENTIAL STANDARDS AND USES</b>				
* * * *				
		Controls by Story		
		1st	2nd	3rd+
* * * *				
<b>Industrial Use Category</b>				
<b>Industrial Uses*</b>	§§ 102, 202.2(d)	NP	NP	NP
<i>Light Manufacturing</i>	§§ 102, 890.54	<u>P(5)</u>	<u>P</u>	<u>P</u>
* * * *				
<b>Institutional Use Category</b>				
* * * *				
Philanthropic Admin. Services	§ 102	NP	NP	<u>NPP(6)</u>
* * * *				
<b>Sales and Service Use Category</b>				
* * * *				
Bar	§§ 102, 202.2(a)	<u>PC(7)</u>	<u>PC(7)</u>	NP
* * * *	* * * *	* * * *	* * * *	* * * *

1 Restaurant	§§ 102, 202.2(a), <u>249.60(f)(1)</u>	<u>PC(7)</u>	NP	NP
2 Restaurant, Limited	§§ 102, 202.2(a)	<u>P(7)</u>	NP	NP

3 \* \* \* \*

4 (5) Light Manufacturing is not permitted in first-story spaces that front Mission Street.

5 (6) Philanthropic Administrative Services shall not exceed 2,500 gross square feet per use.

6 (7) The total number of eating and drinking uses (Restaurants, Limited Restaurants, and  
7 Bars) within the District shall not exceed 167. A new Restaurant, Limited Restaurant, or Bar shall not  
8 be permitted if it would result in a net total of more than 167 eating and drinking uses in the District.  
9 Accessory Limited Restaurants are not subject to and do not count toward the 167 cap on eating and  
10 drinking uses.

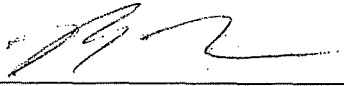
11  
12 Section 4. Two years after the effective date of this ordinance, the Office of Economic  
13 and Workforce Development, in consultation with the Planning Department, shall evaluate  
14 economic conditions and the functionality of the Mission Alcoholic Beverage Special Use  
15 District and Mission Street Neighborhood Commercial Transit District. No less than five years  
16 and no more than six years from the effective date of this ordinance, the Office of Economic  
17 and Workforce Development, in consultation with the Planning Department, shall again  
18 evaluate economic conditions and the functionality of the Mission Alcoholic Beverage Special  
19 Use District and Mission Street Neighborhood Commercial Transit District and shall make a  
20 report to the Board of Supervisors on each district's effectiveness in serving the purposes of  
21 the applicable district and the Mission District as a whole, which report may include  
22 recommended amendments to the Planning Code provisions regarding those districts.  
23  
24  
25



1 Section 5. Effective Date. This ordinance shall become effective 30 days after  
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
4 of Supervisors overrides the Mayor's veto of the ordinance.  
5

6 Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
7 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
8 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
9 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
10 additions, and Board amendment deletions in accordance with the "Note" that appears under  
11 the official title of the ordinance.  
12  
13

14 APPROVED AS TO FORM:  
15 DENNIS J. HERRERA, City Attorney

16 By:   
17 ROBB W. KAPLA  
Deputy City Attorney

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20  
21  
22  
23  
24  
25

**REVISED LEGISLATIVE DIGEST**  
(Amended in Board, 10/30/2018)

[Planning Code - Mission Alcoholic Beverage Special Use District and Mission Street Neighborhood Commercial Transit District]

**Ordinance amending the Planning Code to require Conditional Use Authorization for Restaurants and prohibit new ABC License Type-75 establishments within a subarea of the Mission Alcoholic Beverage Special Use District; to establish limits on the number of eating and drinking establishments, require Conditional Use Authorization for replacing Legacy Businesses and new bars, prohibit mergers of commercial space resulting in greater than 1,500 gross square feet, require ground-floor non-residential tenant space for large projects, and expand Philanthropic Service and Light Manufacturing uses in the Mission Street Neighborhood Commercial Transit District; 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, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.**

Existing Law

Mission Alcoholic Beverage Special Use District

The Mission Alcoholic Beverage Special Use District ("SUD") does not require Conditional Use authorization for Restaurants. The SUD does not have any controls for new establishments with ABC License Type 75—places that brew a limited amount of beer and serve food, wine, beer, and distilled spirits—or relocation of such establishments within the SUD.

On January 9, 2018, the Board of Supervisors adopted Resolution No. 6-18, which extended interim controls requiring Conditional Use authorization for proposed new Restaurant uses within a subarea of the SUD (the interim control's subarea boundaries are 13th, Duboce, and Division Streets to the north, Mission Street to the west, Cesar Chavez Street to the south, and Potrero Avenue to the east).

Mission Street Neighborhood Commercial Transit District

The Mission Street Neighborhood Commercial Transit District ("Mission NCT") does not contain any restrictions on ground floor commercial mergers or replacement of Legacy Businesses. Light Manufacturing Uses and Philanthropic Administrative Services are not permitted in the Mission NCT. There is no cap on the total number of eating and drinking uses (Restaurants, Limited Restaurants, and Bars) in the Mission NCT. Bars are permitted on the first and second floors within the Mission NCT.

Amendments to Current Law

Mission Alcoholic Beverage Special Use District

The Proposed Legislation would create a subarea within the SUD encompassing all parcels east of the western boundary of the Mission NCT and north of Cesar Chavez Street. Within this subarea, new Restaurants are required to get a Conditional Use authorization from the Planning Commission. The Proposed Legislation also prohibits new ABC License Type 75 establishments from opening within the subarea. Existing ABC License Type 75 establishments—those already in the SUD prior to the Effective Date of the legislation—may relocate within the SUD.

Mission Street Neighborhood Commercial Transit District

The Proposed Legislation would prohibit commercial mergers on ground floor spaces that would result in greater than 1,500 gross square feet of merged space. The prohibition does not apply to mergers where the merged space will serve a Legacy Business, Arts Activities Use, or Institutional Use.

The Proposed Legislation would create a new requirement for projects larger than 10,000 square feet. These large projects shall be required to provide space, up to 1,500 gross square feet, for non-residential tenant use on the ground floor with immediate access to the street.

The Proposed Legislation would require a Conditional Use authorization to replace a Legacy Business within the Mission NCT. The Proposed Legislation mandates that the Planning Commission, in granting a Conditional Use, must find that the use supports at least three of the four purposes of the Mission NCT.

The Proposed Legislation updates the District Zoning Controls Table to: (a) allow Light Manufacturing on all floors throughout the Mission NCT; (b) cap the total number of eating and drinking uses at 167 establishments within the Mission NCT; (c) pursuant to the changes in the SUD, require that Restaurants receive a Conditional Use authorization; (d) new Bars on the first or second story require Conditional Use authorization; and (e) allow Philanthropic Administrative Services on the third floor and above throughout the Mission NCT (subject to a limit of 2,500 square feet per use).

Background Information

The Proposed Legislation implements key objectives of the Mission Action Plan 2020 ("MAP2020"). MAP2020 is a community-initiated effort that began in 2015 as a collaborative process between community advocates. The MAP2020 effort recognizes the Mission District's array of nonprofit service providers, cultural institutions, and small legacy

businesses, and the unintended consequences of a rebounding economy causing displacement of many long-time residents and businesses. The Proposed Legislation is aimed at addressing MAP2020's objectives to protect and promote: (1) small neighborhood-serving retail by limiting large commercial mergers, requiring space for non-residential tenant use, and requiring Conditional Use authorizations for replacing Legacy Businesses; (2) light-industrial businesses by allowing Light Manufacturing within the Mission NCT; and (3) a suitable number of alcohol-serving establishments in the Mission District by capping the number of eating and drinking establishments within the Mission NCT, requiring Conditional Use authorization for new Restaurants and Bars and prohibiting new ABC License Type 75 establishments within a subarea of the SUD.

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# SAN FRANCISCO PLANNING DEPARTMENT

October 19, 2018

Ms. Angela Calvillo, Clerk  
Honorable Supervisor Ronen  
Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

1650 Mission St.  
Suite 400  
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415.558.6409

Planning  
Information:  
415.558.6377

Re: Transmittal of Planning Department Case Number 2018-010759PCA:  
Mission Alcoholic Beverage SUD and Mission St. NCT District  
Board File No. 180803  
Planning Commission Recommendation: Approval with Modifications

Dear Ms. Calvillo and Supervisor Ronen,

On October 18, 2018, the Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed Ordinance, introduced by Supervisor Ronen, that would amend the Planning Code to require Conditional Use authorization for Restaurants and prohibit new brewpubs within a subarea of the Mission Alcoholic Beverage Special Use District. It would also amend the Planning Code to establish limits on the number of eating and drinking establishments, require Conditional Use authorization for replacing Legacy Businesses and new Bars, prohibit mergers of commercial space resulting in greater than 1,500 gross square feet, require ground-floor non-residential tenant space for large projects, and expand Philanthropic Service and Light Manufacturing uses in the Mission Street Neighborhood Commercial Transit District. At the hearing the Planning Commission recommended approval with modifications.

The Commission's proposed modifications were as follows:

- Amend Section 759 to allow Non-Retail Professional Services at the Third Floor and above within the MNCT. Limit each Non-Retail Professional Service use to 2,500 gross square feet and to those that can demonstrate active non-profit status.
- Amend the prohibition on the consolidation or merger of existing ground floor commercial spaces that result in a commercial space 1,500 square feet or larger to provide an exemption for projects having submitted to the Planning Department a development application by July 31, 2018.

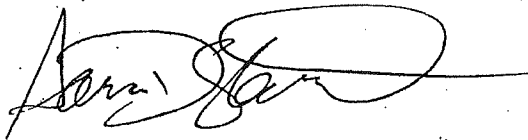
Any project for which a development application, as defined in Planning Code Section 401, that includes the consolidation or merger of existing ground floor commercial spaces and that was submitted by July 31, 2018 shall be exempt from the requirements of Section 754(c)(2)

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,



Aaron D. Starr  
Manager of Legislative Affairs

cc:  
Robb W. Kapla, Deputy City Attorney  
Amy Beiriart, Aide to Supervisor Ronen  
Erica Major, Office of the Clerk of the Board

Attachments:  
Planning Commission Resolution  
Planning Department Executive Summary



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Resolution No. 20316

HEARING DATE OCTOBER 18, 2018

*Project Name:* Mission Alcoholic Beverage Special Use District and Mission Street  
Neighborhood Commercial Transit District  
*Case Number:* 2018-010759PCA [Board File No. 180803]  
*Initiated by:* Supervisor Ronen / Introduced July 31, 2018  
*Staff Contact:* Diego R Sánchez, Legislative Affairs  
diego.sanchez@sfgov.org, 415-575-9082  
*Reviewed by:* Aaron Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362

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**RESOLUTION APPROVING A PROPOSED ORDINANCE WITH MODIFICATIONS THAT WOULD AMEND THE PLANNING CODE TO REQUIRE CONDITIONAL USE AUTHORIZATION FOR RESTAURANTS AND PROHIBIT NEW BREWPUBS WITHIN A SUBAREA OF THE MISSION ALCOHOLIC BEVERAGE SPECIAL USE DISTRICT; ESTABLISH LIMITS ON THE NUMBER OF EATING AND DRINKING ESTABLISHMENTS, REQUIRE CONDITIONAL USE AUTHORIZATION FOR REPLACING LEGACY BUSINESSES AND NEW BARS, PROHIBIT MERGERS OF COMMERCIAL SPACE RESULTING IN GREATER THAN 1,500 GROSS SQUARE FEET, REQUIRE GROUND-FLOOR NON-RESIDENTIAL TENANT SPACE FOR LARGE PROJECTS AND EXPAND PHILANTHROPIC SERVICE AND LIGHT MANUFACTURING USES IN THE MISSION STREET NEIGHBORHOOD COMMERCIAL TRANSIT; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.**

WHEREAS, on July 31, 2018 Supervisor Ronen introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 180803, which would amend the Planning Code to require Conditional Use authorization for Restaurants and prohibit new brewpubs within a subarea of the Mission Alcoholic Beverage Special Use District; to establish limits on the number of eating and drinking establishments, require Conditional Use authorization for replacing Legacy Businesses and new Bars, prohibit mergers of commercial space resulting in greater than 1,500 gross square feet, require ground-floor non-residential tenant space for large projects, and expand Philanthropic Service and Light Manufacturing uses in the Mission Street Neighborhood Commercial Transit District;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on October 18, 2018; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c) and 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby approves with modifications the proposed ordinance. The modifications include:

1. Amend Planning Code Section 759 to allow Non-Retail Professional Services at the Third Floor and above within the Mission Street Neighborhood Commercial Transit District. Limit each Non-Retail Professional Service use to 2,500 gross square feet and to those that can demonstrate active non-profit status.
2. Amend the prohibition on the consolidation or merger of existing ground floor commercial spaces that result in a commercial space 1,500 square feet or larger to provide an exemption for projects having submitted to the Planning Department a development application by July 31, 2018

Any project for which a development application, as defined in Planning Code Section 401, that includes the consolidation or merger of existing ground floor commercial spaces and that was submitted by July 31, 2018 shall be exempt from the requirements of Section 754(c)(2)

## FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Ordinance is the product of a City-Community partnership aimed at addressing the rapidly changing character of the Mission Street retail corridor and the non-residential areas to the east. The proposed Planning Code amendments are the result of approximately one year of stakeholder meetings and deliberation between City staff and Mission area community members.
2. Planning Code amendments in the Mission area should balance the need to preserve neighborhood commercial district character with the need to allow new uses and users into the retail corridor. This can be accomplished by applying restrictive controls on uses already deemed in abundance and by loosening controls on uses that are currently prohibited or desired.



3. The Ordinance increases regulations on uses that are of concern, such as alcohol dispensing establishments, while promoting, preserving or requiring the provision of other neighborhood-serving uses, such as Legacy Businesses, or neighborhood-serving facilities, such as smaller retail tenant spaces.
4. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

## COMMERCE AND INDUSTRY ELEMENT

### OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

#### Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

*The proposed Ordinance will establish regulations encouraging new uses that are compatible within the Mission Alcoholic Beverage Special Use District and the Mission Street Neighborhood Commercial Transit District. This will help provide substantial net benefits and minimize undesirable consequences.*

### OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

#### Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

#### Policy 2.3

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

*The proposed Ordinance establishes land use controls that encourage the retention of character defining businesses. This helps maintain a favorable social and cultural climate and can attract other compatible commercial activity to the Mission Alcoholic Beverage Special Use District and the Mission Street Neighborhood Commercial Transit District.*

### OBJECTIVE 3

MAINTAIN PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

#### Policy 3.2

Promote measures designed to increase the number of San Francisco jobs held by San Francisco residents.

**Policy 3.3**

Emphasize job training and retraining programs that will impart skills necessary for participation in the San Francisco labor.

*The proposed Ordinance establishes compatibility findings for new Conditional Uses that can help increase the number of jobs held by San Francisco residents as well as provide job training programs.*

**OBJECTIVE 6**

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

**Policy 6.1**

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

*By requiring Conditional Use authorization to replace a Legacy Business, the proposed Ordinance helps to retain long standing, character defining businesses that provide neighborhood-serving goods and services.*

**MISSION AREA PLAN**

**OBJECTIVE 1.1**

STRENGTHEN THE MISSION'S EXISTING MIXED USE CHARACTER, WHILE MAINTAINING THE NEIGHBORHOOD AS A PLACE TO LIVE AND WORK.

**Policy 1.1.3**

Maintain the successful Mission Street, 24th Street, and Valencia Street Neighborhood Commercial districts; recognize the proximity to good transit service by eliminating residential density limits and minimum parking requirements.

*The proposed Ordinance will establish regulations encouraging new uses that are compatible with the existing, distinctive character of Mission Street.*

**OBJECTIVE 1.8**

MAINTAIN AND STRENGTHEN MISSION'S NEIGHBORHOOD COMMERCIAL AREAS

**Policy 1.8.2**

Ensure that the Mission's neighborhood commercial districts continue to serve the needs of residents, including immigrant and low-income households.

*The proposed Ordinance will establish compatibility findings for new Conditional Uses that can help ensure that the Mission Street corridor continues to serve the needs of residents, including immigrant and low-income households.*

**OBJECTIVE 7.3**

REINFORCE THE IMPORTANCE OF THE MISSION AS THE CENTER OF LATINO LIFE IN SAN FRANCISCO

**Policy 7.3.1**

Support efforts to preserve and enhance social and cultural institutions.

**Policy 7.3.3**

Protect and support Latino and other culturally significant local business, structures, property and institutions in the Mission.

*The proposed Ordinance will require Conditional Use authorization to replace Legacy Businesses within the Mission Street NCT. These establishments are long standing, character-defining business and institutions that are often culturally significant to the Latino community and are generally important to the Mission as a whole.*

5. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

*The Ordinance proposes amendments to the Planning Code that would help preserve long standing retail uses within the Mission Street Neighborhood Commercial Transit District.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

*The proposed Ordinance would enact land use regulations that help preserve the existing neighborhood character of the Mission area, helping to conserve and protect the cultural and economic diversity of that neighborhood.*

3. That the City's supply of affordable housing be preserved and enhanced;

*The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing as the Ordinance concerns itself with the retail composition of the Mission area.*

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

*Because the Ordinance concerns itself with modifying the land use regulations on retail uses to assure the preservation of neighborhood-serving uses, it would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.*

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

*The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired because the Ordinance modifies retail controls within the Mission area.*

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

*The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake because the Ordinance modifies retail controls within the Mission area.*

7. That the landmarks and historic buildings be preserved;

*Because the Ordinance concerns itself with the land use regulations on retail uses in the Mission area, the proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.*

8. That our parks and open space and their access to sunlight and vistas be protected from development;

*The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.*

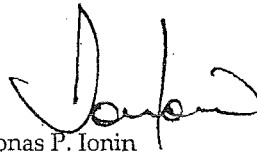
6. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

Resolution 20316  
October 18, 2018

CASE NO. 2018-010759PCA  
Mission Alcoholic Beverage SUD and Mission St NCT

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on October 18, 2018.



Jonas P. Ionin  
Commission Secretary

AYES: Fong, Hillis, Johnson, Koppel, Melgar, Moore

NOES: None

ABSENT: Richards

ADOPTED: October 18, 2018





# SAN FRANCISCO PLANNING DEPARTMENT

## Executive Summary Planning Code Text Amendment

HEARING DATE: OCTOBER 11, 2018  
90-DAY DEADLINE: NOVEMBER 1, 2018

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

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Planning  
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*Project Name:* Mission Alcoholic Beverage Special Use District and Mission Street  
Neighborhood Commercial Transit District  
*Case Number:* 2018-010759PCA [Board File No. 180803]  
*Initiated by:* Supervisor Ronen / Introduced July 31, 2018  
*Staff Contact:* Diego R Sánchez, Legislative Affairs  
diego.sanchez@sfgov.org, 415-575-9082  
*Reviewed by:* Aaron Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362  
*Recommendation:* Approval with Modifications

### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to require Conditional Use authorization for Restaurants and prohibit new brewpubs within a subarea of the Mission Alcoholic Beverage Special Use District. It would also amend the Planning Code to establish limits on the number of eating and drinking establishments, require Conditional Use authorization for replacing Legacy Businesses and new Bars, prohibit mergers of commercial space resulting in greater than 1,500 gross square feet, require ground-floor non-residential tenant space for large projects, and expand Philanthropic Service and Light Manufacturing uses in the Mission Street Neighborhood Commercial Transit District.

#### The Way It Is Now:

##### Mission Alcoholic Beverage Special Use District

1. Restaurant uses are regulated according to the underlying zoning district in which they are located.
2. Alcoholic Beverage Control (ABC) Type 75 (Brewpub) licenses are allowed in conjunction with a Bona Fide Eating Place.

##### Mission Street Neighborhood Commercial Transit District

3. The merging of existing ground-floor commercial spaces is regulated by the use size controls which require conditional use authorization for establishing a use 6,000 square feet or larger.
4. There is no requirement for projects larger than 10,000 gross square feet to provide first story non-residential tenant spaces 1,500 gross square feet or smaller and with immediate access to the street frontage.
5. New non-residential uses are not required to secure Conditional Use authorization to occupy a space where the immediately prior use was a Legacy Business solely because the immediately prior use occupying that space was a Legacy Business
6. Light Manufacturing uses are not allowed at any story.
7. Philanthropic Administrative Services are not allowed at any story.

8. Bars are principally permitted at the first and second stories, and Restaurants are principally permitted at the first story.
9. There is no strict quantitative limit on the total number of Eating and Drinking Uses. Concentration of these uses is regulated through underlying zoning districts and the standard concentration guidelines for Eating and Drinking uses found in the General Plan and Planning Code Section 303 (that proposed Eating and Drinking uses increasing the proportion of total occupied commercial frontage above 25% should be reviewed to ensure they do not reduce the variety of neighborhood serving uses and that the concentration of Eating and Drinking uses in the immediate area *should not* exceed 25%, respectively).
10. New commercial uses subject to Conditional Use authorization are not required to make compatibility findings particular to the Mission Street NCT.

#### **The Way It Would Be:**

##### Mission Alcoholic Beverage Special Use District

1. Within a subarea of the Mission Alcoholic Beverage Special Use District, Restaurant uses would require Conditional Use authorization. (*See Exhibit B: Map of subarea of Mission Alcoholic Beverage Special Use District*)
2. ABC Type 75 (Brewpub) licenses would be prohibited within a subarea of the Mission Alcoholic Beverage Special Use District. (*See Exhibit B: Map of subarea of Mission Alcoholic Beverage Special Use District*)

##### Mission Street Neighborhood Commercial Transit District

3. Mergers of ground floor commercial space resulting in greater than 1,500 gross square feet would be prohibited, except for Legacy Businesses, Arts Activities, and Institutional Community uses.
4. Projects larger than 10,000 gross square feet would be required to provide at least one first story non-residential tenant space not exceeding 1,500 gross square feet with immediate access to the street frontage.
5. Conditional Use authorization would be required for any new non-residential use where the immediately prior use was a Legacy Business and where the property has been vacant for less than three years.
6. Light Manufacturing uses would be allowed at all stories except within first story spaces that front Mission Street.
7. Philanthropic Administrative Services would be allowed at the third story and above, but could not exceed 2,500 gross square feet per individual use.
8. Bars would require Conditional Use authorization at the first and second stories and Restaurants would require Conditional Use authorization at the first story.
9. The total number of Eating and Drinking uses would not be allowed to exceed 167. A new Eating and Drinking use would not be permitted if it would result in a net total of more than 167.
10. New commercial uses subject to Conditional Use authorization would be required to make compatibility findings particular to the Mission Street NCT.

## **BACKGROUND**

### **Mission Action Plan 2020**

Since early 2015, the City has engaged with the Mission neighborhood community groups on the Mission Action Plan 2020 (MAP 2020) to address issues related to gentrification and displacement. MAP 2020



included strategies in seven categories, including tenant protections, affordable housing, and economic development. The focus on economic development emphasizes maintaining and strengthening neighborhood-serving uses and activities. The Planning Commission endorsed the recommendations of MAP 2020 on March 2, 2017. Since then, City staff has continued to work with community stakeholders to develop policies and programs, including new land use regulations, to address concerns around neighborhood character and retail corridor viability. This proposed legislation is the third Planning Code change to implement MAP2020.

Exhibit D of this case report includes the first MAP2020 Annual Status Report, which tracks data on neighborhood trends, and progress on MAP2020 targets and strategies. Of note from the Status Report: a drop in formal evictions in 2017 (to 134) from 175 in 2015; a slowing of the decrease of the Latino population in the neighborhood (holding steady at 39% since 2012 after a significant drop from 50% in 2000 to 38% in 2011); but a continued decline of households with >50% to <100 % of Area Median Income. Future Annual Status updates will aim to include more data on commercial and economic development trends as well as on whether harassment and unlawful evictions are increasing with the decrease in lawful evictions. Ongoing work with the Mission community will identify additional strategies needed to stem displacement and stabilize existing residents, businesses, nonprofits, and arts organizations.

#### **Interim Controls and Community Outreach**

On January 19, 2018, then Acting Mayor Breed approved interim zoning controls requiring Conditional Use authorization for Restaurants and Storefront Mergers in the Mission Interim Controls Area.<sup>1</sup> The interim controls expire on April 19, 2019 or upon the adoption of permanent legislation regulating Restaurant uses and Commercial Use sizes in the area. This timeframe allows for the MAP 2020 process to continue to study and generate land use controls aimed at the Mission neighborhood retail corridors.

Through MAP 2020 the City and community stakeholders have continued to study and generate land uses controls aimed at preserving and enhancing the retail corridors in the Mission neighborhood. This process also included extensive outreach to community stakeholders. For example, on April 18, 2018 staff from Planning Department and OEWD led a community meeting at the Women's Building. Department and OEWD Staff also engaged a wide array of community stakeholders about possible amendments to land use regulations. These included the San Francisco Brewers Guild, SFMADE, the Golden Gate Restaurant Association, North East Mission Business Association, Mission Merchants, Central Mission Neighborhood Association, Mission Dolores Neighborhood Association, United to Save the Mission, HOMEY, the Eastern Neighborhoods CAC and in-person visits with individual Mission Street Merchants.

#### **Small Business Commission Hearing**

On September 24, 2018 the Small Business Commission (SBC) heard the proposed Ordinance. Staff from Supervisor Ronen's Office, OEWD and the Planning Department presented the proposed Ordinance and answered questions from the SBC. Overall the proposed Ordinance was very well received. The SBC moved unanimously to approve the proposed Ordinance with a recommendation that the number of new

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<sup>1</sup> Resolution No. 006-18

<https://sfgov.legistar.com/View.ashx?M=F&ID=5745478&GUID=35D27D37-5D67-4695-A8B7-257E1A8510EE>

accessory food service uses within the Mission Street Neighborhood Commercial Transit District be carefully tracked.

## ISSUES AND CONSIDERATIONS

### Mission Alcoholic Beverage Special Use District

The Mission Alcoholic Beverage Special Use District was established in 1996 in response to the effects the large number of alcohol dispensing uses had on the area.<sup>2</sup> It was argued that the alcohol dispensing uses contributed to a number of neighborhood problems including public drunkenness, excessive noise and impacted traffic circulation and parking. These alcohol dispensing establishments and their externalities were thought to discourage or block the entry of neighborhood-serving uses to the area.

At its inception, the Mission Alcoholic Beverage Special Use District prohibited new Bars and new off-sale liquor establishments. Off-sale liquor establishments include liquor stores, convenience markets, and supermarkets with specific State alcohol licenses. Bona fide restaurants, operating under specific conditions, were exempted from the alcohol license prohibitions.

Over time the Mission Alcoholic Beverage Special Use District has been amended. These amendments often loosened restrictions or provided clarifications for improved implementation. For example, Ordinance No. 220-11 allowed bowling alleys and single screen movie theaters to serve alcoholic beverages. Similarly, Ordinance No. 143-14 allowed mini-golf and other entertainment uses integrated with a Restaurant use to serve alcoholic beverages. In general, these amendments were responses to changing needs and perceptions about alcohol dispensing uses and the wellbeing of the neighborhood.

Today many community stakeholders are expressing concern again over the proliferation of alcohol dispensing establishments. New Restaurants and Brewpubs, in particular, are the source of unease. Both uses are allowed to serve not only beer and wine but also distilled spirits with specific State issued alcohol licenses. While healthy retail areas feature these uses, an overabundance can squeeze out other needed uses and foster the disturbances for which the Mission Alcoholic Beverage Special Use District was created to contain. Balancing the retail mix is therefore important to neighborhood wellbeing. Assuring that these uses are desirable and compatible with the neighborhood through the Conditional Use authorization process is one way to achieve a balance. Prohibiting them is another way. In general, closely reviewing or curbing their growth is in line with the original intentions of the Mission Alcoholic Beverage Special Use District.

### Character and Retail Mix

Successful neighborhood serving commercial districts tend to reflect the surrounding neighborhood's social character. This is because adjacent residents rely on finding an array of goods and services at accessible price points in the neighborhood commercial district. Successful neighborhood commercial districts often feature unique goods or services that attract consumers from outside the neighborhood as well. It is therefore favorable that no one type of retail or other use dominates the neighborhood commercial district.

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<sup>2</sup> Ordinance No. 256-96

The description and purpose statement of the Mission Street Neighborhood Commercial Transit District (MNCT) aligns with this concept.<sup>3</sup> The MNCT, it is noted, provides goods to satisfy daily needs of neighborhood residents and serves a wider trade area through its specialized retail offerings. Amendments to the MNCT should further this purpose in balancing retail corridor composition.

Using the Conditional Use authorization (CU) process is one way to help assure a healthy and balanced retail mix that is compatible with adjacent residents' needs. The standard findings for all CUs require the proposed use to be necessary or desirable for, and compatible with, the neighborhood or the community.<sup>4</sup> These findings can help vet whether a proposed use is in fact needed within the retail corridor, including the MNCT, or if there exists an overabundance.

In certain areas of the City the land use controls also require specific compatibility findings in the CU process. For example, the North Beach Special Use District requires proposals to be found compatible with the five purposes of the district.<sup>5</sup> Likewise, the Calle 24 Special Use District requires proposals to be compatible with at least four of the six purposes of the district.<sup>6</sup> The purposes for each of those Special Use Districts are custom tailored to the needs of the area. For the MNCT specific criteria can be crafted to assure the following goals are met:

- Associated physical improvements are compatible with existing character defining elements of the built environment;
- Legacy Businesses are preserved or enhanced;
- New businesses strive to hire local residents; and
- Through robust outreach, new development responds to community concerns.

Together these findings are intended to assure a balanced and diverse mix of uses within the MNCT that provides for neighborhood-serving, visitor related, and foot traffic generating uses.

Another way to assure a balanced retail mix that responds to adjacent residents' needs is to set a limit on the number of particular uses allowed in the corridor. This can be of particular utility for eating and drinking uses. These uses comprise 25% of all storefront uses in the MNCT. Allowing another 5%, or 22 storefronts, to convert to eating and drinking uses would bring the concentration approximately in line with those of the 24<sup>th</sup> Street/Mission NCT (32%) and the Valencia Street NCT (33%). This simultaneously allows for new growth but also limits that growth to assure space for other neighborhood-serving uses within the MNCT.

#### Storefront Size

A neighborhood commercial corridor's character and its success are also influenced by the size and number of its retail establishments. Smaller, fined-grained storefronts lead to more retail offerings, and more visual interests for pedestrians helping create a critical mass of visitors to the district. A compact

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<sup>3</sup> Planning Code Section 754

<sup>4</sup> Planning Code Section 303(c)

<sup>5</sup> Planning Code Section 780.3

<sup>6</sup> Planning Code Section 249.59

layout and concentration of retail establishments is one factor the OWED State of the Retail Sector report identified as a contributor to commercial corridor success.<sup>7</sup>

Smaller storefront sizes and retail spaces also tend to have lower total lease rates because commercial lease rates are typically based on a square foot basis. Larger spaces generally appeal to well established Formula Retail businesses, which if over represented in a NC District can homogenize a neighborhood so that it is indistinguishable from a standard shopping mall. Smaller storefronts also provide a lower barrier to entry for new businesses. Landlords can also benefit from smaller retail spaces; deeper and larger spaces can be challenging to lease since they appeal to a limited number of tenants.<sup>8</sup> The Mission Area Plan also encourages the small sized retail establishments, particularly in the neighborhood commercial areas.<sup>9</sup>

Assuring that Mission Street retains new, smaller-sized retail establishments is important to its character and success. One way to accomplish this is to prohibit the loss of smaller-sized retail spaces by merging them into fewer, larger ones. Another way is to require that new, larger developments provide smaller-sized retail spaces with direct street access. These strategies not only retain the existing stock of smaller tenant spaces but also augment the supply in conjunction with new and larger development.

#### Increasing Consumer Demand

Neighborhood commercial districts depend on the number and spending power of the households that patronize their businesses. Densely populated areas and areas where household income, either individually or in aggregate, is high are two sources of retail demand. Similarly, employees of firms located within a neighborhood commercial district are also a source of retail demand. Much like neighborhood residents, employees also seek goods and services throughout the day and often into the evening. Attracting uses that bring new patrons to neighborhood commercial districts is one strategy to increase consumer demand for available goods and services.<sup>10</sup> Amending neighborhood commercial district land use controls to allow prohibited uses, such as light manufacturing, administrative service uses or other professional service uses is one way to draw new consumers. Non-Retail Professional Service uses provide services, including management, legal and other consultant services, to other businesses.<sup>11</sup> These uses can aptly serve as another source of demand for the goods and services in a neighborhood commercial district like the MNCT.

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<sup>7</sup> State of the Retail Sector: Challenges and Opportunities for San Francisco's Neighborhood Commercial Districts. Final Report. February 15, 2018. Prepared for the San Francisco Office of Economic and Workforce Development by Strategic Economics. Accessed September 6, 2018.

<https://oewd.org/sites/default/files/Invest%20In%20Neighborhoods/State%20of%20the%20Retail%20Sector%20-%20Final%20Report.pdf>

<sup>8</sup> *Ibid.*

<sup>9</sup> Mission Area Plan, Objective 1.1 Strengthen the Mission's existing mixed use character, while maintaining the neighborhood as a place to live and work, Policy 1.1.6 Permit and encourage small and moderate size retail establishments in neighborhood commercial areas of the Mission, while allowing larger retail in the formerly industrial areas when part of a mixed-use development.

<sup>10</sup> State of the Retail Sector: Challenges and Opportunities for San Francisco's Neighborhood Commercial Districts.

<sup>11</sup> Planning Code Section 102 Definitions

Care must be taken to assure that new uses do not crowd out other uses. This competition for space can result in an escalation in lease rates, and in certain circumstances result in the loss of establishments serving resident's daily needs. Higher lease rates can also prevent new neighborhood serving uses from locating in the corridor as well. To manage this, new uses that do not necessarily serve daily resident needs can be directed toward upper stories within retail corridor buildings or off principal street frontages. This maintains these spaces for those neighborhood serving retail and institutional uses that are vital to the community's wellbeing. Size limitations may also be imposed to assure any one use is not of a magnitude so as to prevent other smaller but similar uses from locating within the retail corridor.

### Legacy Businesses

Longtime retailers and institutions greatly influence neighborhood commercial corridor character. By serving as anchors or landmarks, these establishments help develop and define corridor identity. They also lend a sense of place and act as a bridge to the corridor's past. In this way they can draw foot traffic to the retail corridor. Losing these establishments can be harmful to the corridor's character and businesses.<sup>12</sup>

The City's Legacy Business Program and Legacy Business Registry (Registry) recognizes the importance of longstanding retail and institutions to the City's commercial corridors.<sup>13</sup> Inclusion on the Registry indicates the establishment's significant contribution to a neighborhood's history and/or identity. The process includes nomination by the Mayor or the Board of Supervisors, and review by the Historic Planning Commission and the Small Business Commission. San Francisco's voters bolstered the Registry by approving grant programs for Legacy Businesses and for landlord of properties housing Legacy Businesses.<sup>14</sup>

The Registry and accompanying grant programs are ways the City recognizes the contributions of longstanding retailers and institutions. Adding land use controls that help deter the loss of these businesses is another way the City can demonstrate its support. The North Beach Special Use District, the

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<sup>12</sup> Commerce and Industry Element, Policy 6.1: Ensure and Encourage the Retention and Provision of Neighborhood-Serving Goods and Services in the City's Neighborhood Commercial Districts, while Recognizing and Encouraging Diversity among the Districts.

<sup>13</sup> San Francisco Legacy Business Program

<https://sfosb.org/legacy-Business>

San Francisco Administrative Code Section 2A.242, Legacy Business Registry

<https://sfosb.org/legacy-business/registry>

<sup>14</sup> San Francisco Administrative Code Section 2A.243, Legacy Business Historic Preservation Fund

Legacy Business Assistance Grant

<https://sfosb.org/legacy-business/businessgrant>

Legacy Business Rent Stabilization Grant

<https://sfosb.org/legacy-business/rentgrant>

Proposition J, November 2015

<http://www.amlegal.com/pdffiles/sanfran/Admin%20App.%20117.pdf>

Calle 24 Special Use District and the Polk Street Neighborhood Commercial District all require Conditional Use authorization to replace a Legacy Business with another business. This requirement can be extended to other commercial corridors seeking to retain these crucial establishments, including the MNCT.

### General Plan Compliance

#### Commerce and Industry Element

**Objective 1:** Manage economic growth and change to ensure enhancement of the total City living and working environment.

**Policy 1.1:** Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

The proposed Ordinance will establish regulations encouraging new uses that are compatible within the Mission Alcoholic Beverage SUD and the Mission Street NCT. This will help provide substantial net benefits and minimize undesirable consequences.

**Objective 2:** Maintain and enhance a sound and diverse economic base and fiscal structure for the City.

**Policy 2.1:** Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

**Policy 2.3:** Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

The proposed Ordinance establishes land use controls that encourage the retention of character defining businesses. This helps maintain a favorable social and cultural climate and can attract other compatible commercial activity to the Mission Alcoholic Beverage SUD and the Mission Street NCT.

**Objective 3:** Provide expanded employment opportunities for City residents, particularly the unemployed and economically disadvantaged.

**Policy 3.2:** Promote measures designed to increase the number of San Francisco jobs held by San Francisco residents.

**Policy 3.3:** Emphasize job training and retraining programs that will impart skills necessary for participation in the San Francisco labor market.

The proposed Ordinance establishes compatibility findings for new Conditional Uses that can help increase the number of jobs held by San Francisco residents as well as provide job training programs.

**Objective 6:** Maintain and strengthen viable neighborhood commercial areas easily accessible to City residents.

**Policy 6.1:** Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

By requiring Conditional Use authorization to replace a Legacy Business, the proposed Ordinance helps to retain long standing, character defining businesses that provide neighborhood-serving goods and services.

Mission Area Plan

**Objective 1.1:** Strengthen the Mission's existing mixed use character, while maintaining the neighborhood as a place to live and work.

**Policy 1.1.3:** Maintain the successful Mission Street, 24th Street, and Valencia Street Neighborhood Commercial districts; recognize the proximity to good transit service by eliminating residential density limits and minimum parking requirements.

The proposed Ordinance will establish regulations encouraging new uses that are compatible with the existing, distinctive character of Mission Street.

**Objective 1.8:** Maintain and strengthen Mission's neighborhood commercial areas

**Policy 1.8.2:** Ensure that the Mission's neighborhood commercial districts continue to serve the needs of residents, including immigrant and low-income households.

The proposed Ordinance will establish compatibility findings for new Conditional Uses that can help ensure that the Mission Street corridor continues to serve the needs of residents, including immigrant and low-income households.

**Objective 7.3:** Reinforce the importance of the Mission as the Center of Latino Life in San Francisco.

**Policy 7.3.1:** Support efforts to preserve and enhance social and cultural institutions.

**Policy 7.3.3:** Protect and support Latino and other culturally significant local business, structures, property and institutions in the Mission.

The proposed Ordinance will require Conditional Use authorization to replace Legacy Businesses within the Mission Street NCT. These establishments are long standing, character-defining business and institutions that are often culturally significant to the Latino community and are generally important to the Mission as a whole.

**Implementation**

The Department has determined that this ordinance will not impact our current implementation procedures.

**RECOMMENDATION**

The Department recommends that the Commission *approve with modifications* the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

1. Modify the Ordinance to allow Non-Retail Professional Services on the Third Floor and above within the Mission Street Neighborhood Commercial Transit District (MNCT). Limit each Non-Retail Professional Service use to 2,500 gross square feet and to those that can demonstrate active non-profit status.

## BASIS FOR RECOMMENDATION

The Department supports the Ordinance's intent and proposed Planning Code Amendments to the Mission area land use controls. They represent an attempt to balance preservation of neighborhood and retail corridor character while allowing entry of new uses and users. The proposed Planning Code Amendments are also a product of over six months of stakeholder engagement and as such have been vetted thoroughly.

The Department is proposing one minor modification to the Ordinance regarding allowed uses within the MNCT.

**Recommendation 1: Amend Section 759 to allow Non-Retail Professional Services at the Third Floor and above within the MNCT. Limit each Non-Retail Professional Service use to 2,500 gross square feet and to those that can demonstrate active non-profit status.** The health of retail corridors depends upon demand for the goods and services offered there. Demand for the goods and services offered in the MNCT comes from many sources, including employees of firms located in the corridor. Expanding the types of firms allowed to locate in the MNCT can augment this demand. Allowing Non-Retail Professional Services within the MNCT is one way to help augment demand. Restrictions on the location of new Non-Retail Professional Service firms to the third floor and above, to their size and to active non-profit status can help balance concern of these firms contributing to the gentrification of the corridor by occupying tenant spaces aimed at establishments serving the daily needs of neighborhood residents.

## REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

## ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

## PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

### Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Map of subarea of Mission Alcoholic Beverage Special Use District
- Exhibit C: Board of Supervisors File No. 180803
- Exhibit D: MAP2020 Annual Status Report



BOARD of SUPERVISORS



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TDD/TTY No. 554-5227

August 3, 2018

File No. 180803

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

Dear Ms. Gibson:


On July 31, 2018, Supervisor Ronen introduced the following proposed legislation:

File No. 180803

Ordinance amending the Planning Code to require Conditional Use Authorization for Restaurants and prohibit new brewpubs within a subarea of the Mission Alcoholic Beverage Special Use District; to establish limits on the number of eating and drinking establishments, require Conditional Use Authorization for replacing Legacy Businesses and new bars, prohibit mergers of commercial space resulting in greater than 1,500 gross square feet, require ground-floor non-residential tenant space for large projects, and expand Philanthropic Service and Light Manufacturing uses in the Mission Street Neighborhood Commercial Transit District; 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, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

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

Attachment

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

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment.

688 by Navarrete

\* Digitally signed by Joy Navarrete  
DN: cn=Joy Navarrete, o=Planning,  
ou=Environmental Planning,  
email=joy.navarrete@sf.org, c=US  
Date: 2018.08.27 14:35:07-0700

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

# MEMORANDUM

TO: Regina Dick-Endrizzi, Director  
Small Business Commission, City Hall, Room 448

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

DATE: September 10, 2018

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

**File No. 180803**

**Ordinance amending the Planning Code to require Conditional Use Authorization for Restaurants and prohibit new brewpubs within a subarea of the Mission Alcoholic Beverage Special Use District; to establish limits on the number of eating and drinking establishments, require Conditional Use Authorization for replacing Legacy Businesses and new bars, prohibit mergers of commercial space resulting in greater than 1,500 gross square feet, require ground-floor non-residential tenant space for large projects, and expand Philanthropic Service and Light Manufacturing uses in the Mission Street Neighborhood Commercial Transit District; 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, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.**

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

\*\*\*\*\*

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: \_\_\_\_\_

- No Comment
- Recommendation Attached

\_\_\_\_\_  
Chairperson, Small Business Commission

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

August 3, 2018

File No. 180803

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

Dear Ms. Gibson:

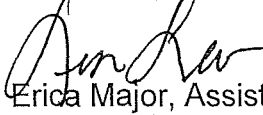
On July 31, 2018, Supervisor Ronen introduced the following proposed legislation:

**File No. 180803**

**Ordinance amending the Planning Code to require Conditional Use Authorization for Restaurants and prohibit new brewpubs within a subarea of the Mission Alcoholic Beverage Special Use District; to establish limits on the number of eating and drinking establishments, require Conditional Use Authorization for replacing Legacy Businesses and new bars, prohibit mergers of commercial space resulting in greater than 1,500 gross square feet, require ground-floor non-residential tenant space for large projects, and expand Philanthropic Service and Light Manufacturing uses in the Mission Street Neighborhood Commercial Transit District; 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, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.**

This legislation is being transmitted to you for environmental review.

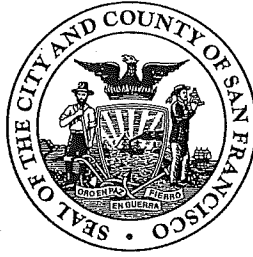
Angela Calvillo, Clerk of the Board

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

Attachment

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

BOARD of SUPERVISORS



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

August 3, 2018

Planning Commission  
Attn: Jonas Ionin  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Commissioners:

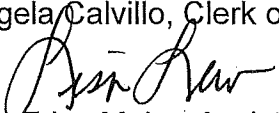
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**Ordinance amending the Planning Code to require Conditional Use Authorization for Restaurants and prohibit new brewpubs within a subarea of the Mission Alcoholic Beverage Special Use District; to establish limits on the number of eating and drinking establishments, require Conditional Use Authorization for replacing Legacy Businesses and new bars, prohibit mergers of commercial space resulting in greater than 1,500 gross square feet, require ground-floor non-residential tenant space for large projects, and expand Philanthropic Service and Light Manufacturing uses in the Mission Street Neighborhood Commercial Transit District; 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, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.**

The proposed ordinance is being transmitted pursuant to Planning Code, Section 302(b), for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

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

c: John Rahaim, Director of Planning  
Aaron Starr, Manager of Legislative Affairs  
AnMarie Rodgers, Director of Citywide Planning  
Scott Sanchez, Zoning Administrator  
Lisa Gibson, Environmental Review Officer  
Joy Navarrete, Environmental Planning  
Laura Lynch, Environmental Planning


BOARD of SUPERVISORS



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San Francisco 94102-4689  
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TDD/TTY No. 554-5227

## MEMORANDUM

TO: Nelly Gordon, Inspector, Police Department  
John Rahaim, Director, Planning Department  
Joaquin Torres, Director, Office of Economic and Workforce Development

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

DATE: August 3, 2018

SUBJECT: LEGISLATION INTRODUCED

---

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Ronen on July 31, 2018:

**File No. 180803**

**Ordinance amending the Planning Code to require Conditional Use Authorization for Restaurants and prohibit new brewpubs within a subarea of the Mission Alcoholic Beverage Special Use District; to establish limits on the number of eating and drinking establishments, require Conditional Use Authorization for replacing Legacy Businesses and new bars, prohibit mergers of commercial space resulting in greater than 1,500 gross square feet, require ground-floor non-residential tenant space for large projects, and expand Philanthropic Service and Light Manufacturing uses in the Mission Street Neighborhood Commercial Transit District; 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, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.**

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: [erica.major@sfgov.org](mailto:erica.major@sfgov.org).

- c: Dave Falzon, Police Department
- Scott Sanchez, Planning Department
- Lisa Gibson, Planning Department
- AnMarie Rodgers, Planning Department
- Dan Sider, Planning Department
- Aaron Starr, Planning Department
- Joy Navarrete, Planning Department
- Laura Lynch, Planning Department
- J'Wel Vaughan, Office of Economic and Workforce Development
- Ken Rich, Office of Economic and Workforce Development
- Lisa Pagan, Office of Economic and Workforce Development





180803  
RECEIVED VIA EMAIL  
10/25/2018

1 [Planning Code - Mission Alcoholic Beverage Special Use District and Mission Street  
2 Neighborhood Commercial Transit District]

3 **Ordinance amending the Planning Code to require Conditional Use authorization for**  
4 **Restaurants and prohibit new ABC License Type 75 establishments Brewpubs within a**  
5 **subarea of the Mission Alcoholic Beverage Special Use District; to establish limits on**  
6 **the number of eating and drinking establishments, require Conditional Use**  
7 **authorization for replacing Legacy Businesses and new Bars, prohibit mergers of**  
8 **commercial space resulting in greater than 1,500 gross square feet, require ground-**  
9 **floor non-residential tenant space for large projects, and expand Philanthropic Service**  
10 **and Light Manufacturing uses in the Mission Street Neighborhood Commercial Transit**  
11 **District; and affirming the Planning Department's determination under the California**  
12 **Environmental Quality Act, and making findings of consistency with the General Plan**  
13 **and the eight priority policies of Planning Code, Section 101.1, and findings of public**  
14 **necessity, convenience, and welfare under Planning Code, Section 302.**

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

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

23 Section 1. Environmental and Land Use Findings.

24 (a) The Planning Department has determined that the actions contemplated in this  
25 ordinance comply with the California Environmental Quality Act (California Public Resources  
Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of

1 Supervisors in File No. \_\_\_\_ and is incorporated herein by reference. The Board affirms this  
2 determination.

3 (b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_,  
4 adopted findings that the actions contemplated in this ordinance are consistent, on balance,  
5 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The  
6 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of  
7 the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

8 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that these  
9 Planning Code amendments will serve the public necessity, convenience, and welfare for the  
10 reasons set forth in Planning Commission Resolution No. \_\_\_\_\_, and the Board incorporates  
11 such reasons herein by reference. A copy of said Resolution is on file with the Clerk of the  
12 Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

13  
14 Section 2. The Planning Code is hereby amended by revising Section 249.60, to read  
15 as follows:

16 **SEC. 249.60. MISSION ALCOHOLIC BEVERAGE SPECIAL USE DISTRICT.**

17 \* \* \* \*

18 (f) Restaurants and establishments with ABC License Type 75Brewpubs. The  
19 following provisions shall apply to all parcels located east of the western boundary of the Mission  
20 Street Neighborhood Commercial Transit District (including parcels fronting 14th Street and east of  
21 Mission Street) and north of Cesar Chavez Street:

22 (1) Any proposed Restaurant use, as defined in Planning Code Section 102, must  
23 obtain Conditional Use authorization from the Planning Commission pursuant to Planning Code  
24 Section 303.

1           (2) New establishments with ABC License Type 75 Brewpubs are prohibited.  
2 Existing Brewpubs with ABC License Type 75 establishments located within the SUD may relocate,  
3 subject to the underlying zoning district, within the SUD.  
4

5           Section 3. The Planning Code is hereby amended by revising Section 754, to read as  
6 follows:  
7

8           **SEC. 754. MISSION STREET NEIGHBORHOOD COMMERCIAL TRANSIT**  
9 **DISTRICT.**

10           (a) Background. The Mission Street Neighborhood Commercial Transit District is  
11 located near the center of San Francisco in the Mission District. It lies along Mission Street  
12 between 15th and Cesar Chavez ~~(Army)~~ Streets, and includes adjacent portions of 17th Street,  
13 21st Street, 22nd Street, and Cesar Chavez Street. The commercial area of this District  
14 provides a selection of goods serving the day-to-day needs of the residents of the Mission  
15 District. Additionally, this District serves a wider trade area with its specialized retail outlets.  
16 Eating and drinking establishments contribute to the ~~street's~~ District's mixed-use character and  
17 activity in the evening hours.

18           (b) Purpose. The purposes of the Mission Street Neighborhood Commercial Transit  
19 District include:

20           (1) To preserve and enhance the existing storefront configuration and size, signage,  
21 artwork, and other character-defining elements of the built environment;

22           (2) To preserve the contributions of Legacy Businesses to the history and identity of  
23 the District;  
24  
25

1                   (3) To retain, enhance, and promote active community involvement and input on  
2 development within the District by conducting thorough outreach to stakeholders and neighborhood  
3 groups and responding to community input; and

4                   (4) To retain, enhance, and promote neighborhood-serving businesses and  
5 institutions that enhance economic and workforce opportunities for local residents by coordinating  
6 with the Office of Economic and Workforce Development to engage with the City's workforce system to  
7 provide employment opportunities, career trainings, and formal partnerships to identify and address  
8 both business and community workforce needs.

9                   (c) Controls.

10                   (1) General Controls. The District is extremely well-served by transit, including  
11 regional-serving BART stations at 16th Street and 24th Street, major buses running along  
12 Mission Street, and both cross-town and local-serving buses intersecting Mission Street along  
13 the length of this district. Given the area's central location and accessibility to the City's transit  
14 network, accessory parking for residential uses is not required. Any new parking is required to  
15 be set back or be below ground.

16                   This District has a mixed pattern of larger and smaller lots and businesses, as well as a  
17 sizable number of upper-story residential units. Controls are designed to permit moderate-  
18 scale buildings and uses, protecting rear yards above the ground story and at residential  
19 levels. New neighborhood-serving commercial development is encouraged mainly at the  
20 ground story. Ground story uses are required to include active commercial uses with  
21 storefronts facing the street. While offices and general retail sales uses may locate at the  
22 second story of new buildings under certain circumstances, most commercial uses are  
23 prohibited above the second story. Continuous retail frontage is promoted by requiring ground  
24 floor commercial uses in new developments and prohibiting curb cuts. Housing development  
25 in new buildings is encouraged above the ground story. Housing density is not controlled by

1 the size of the lot but by requirements to supply a high percentage of larger units and by  
2 physical envelope controls. Existing residential units are protected by prohibitions on upper-  
3 story conversions and limitations on demolitions, mergers, and subdivisions. Accessory  
4 Dwelling Units are permitted within the District pursuant to subsection 207(c)(4) of this Code.

5 (2) Commercial Mergers. The consolidation or merger of existing ground floor  
6 commercial spaces that would result in greater than 1,500 gross square feet of consolidated or merged  
7 space shall be prohibited, except for Legacy Businesses, Arts Activities Uses, and Institutional  
8 Community Uses. The prohibition shall not apply to projects that submitted a development  
9 application, as defined in Section 401, to the Planning Department prior to July 31, 2018.

10 (3) First Story Non-Residential Tenant Space for Large Projects. Projects larger  
11 than 10,000 gross square feet shall be required to provide space for a non-residential tenant on the  
12 first story with immediate access to the street frontage. The non-residential tenant space shall not  
13 exceed 1,500 gross square feet.

14 (4) Replacement of a Legacy Business Requires Conditional Use Authorization.  
15 Where an immediately prior use was a Legacy Business, as defined under Administrative Code Section  
16 2A.242, the controls require any new Non-Residential Use to obtain Conditional Use authorization;  
17 provided, however, that this requirement shall not apply where: (A) the subject non-residential space  
18 has had no occupant and has not been open to the public for three or more years from the date the  
19 application for the new use is filed, or (B) where the Legacy Business has removed itself or has been  
20 otherwise removed from the Legacy Business Registry.

21 (5) For any use subject to Conditional Use authorization under this Section 754, the  
22 Planning Commission shall find that the use supports at least three of the four purposes of the District  
23 as set forth in subsection (b) above.

**Table 754. MISSION STREET NEIGHBORHOOD COMMERCIAL TRANSIT  
DISTRICT ZONING CONTROL TABLE**

\* \* \* \*

Zoning Category	§ References	Controls		
<b>NON-RESIDENTIAL STANDARDS AND USES</b>				
* * * *				
		Controls by Story		
		1st	2nd	3rd+
* * * *				
<b>Industrial Use Category</b>				
<b>Industrial Uses*</b>	§§ 102, 202.2(d)	NP	NP	NP
<i>Light Manufacturing</i>	<i>§§ 102, 890.54</i>	<i>P(5)</i>	<i>P</i>	<i>P</i>
* * * *				
<b>Institutional Use Category</b>				
* * * *				
Philanthropic Admin. Services	§ 102	NP	NP	<i>NPP(6)</i>
* * * *				
<b>Sales and Service Use Category</b>				
* * * *				
Bar	§§ 102, 202.2(a)	<i>PC(7)</i>	<i>PC(7)</i>	NP
* * * *				
* * * *				

1 Restaurant	§§ 102, 202.2(a), <u>249.60(f)(1)</u>	<u>PC(7)</u>	NP	NP
2 Restaurant, Limited	§§ 102, 202.2(a)	<u>P(7)</u>	NP	NP

3 \* \* \* \*

4 (5) Light Manufacturing is not permitted in first-story spaces that front Mission Street.

5 (6) Philanthropic Administrative Services shall not exceed 2,500 gross square feet per use.

6 (7) The total number of eating and drinking uses (Restaurants, Limited Restaurants, and  
7 Bars) within the District shall not exceed 167. A new Restaurant, Limited Restaurant, or Bar shall not  
8 be permitted if it would result in a net total of more than 167 eating and drinking uses in the District.  
9 Accessory Limited Restaurants are not subject to and do not count toward the 167 cap on eating and  
10 drinking uses.

11  
12 Section 4. Two years after the effective date of this ordinance, the Office of Economic  
13 and Workforce Development, in consultation with the Planning Department, shall evaluate  
14 economic conditions and the functionality of the Mission Alcoholic Beverage Special Use  
15 District and Mission Street Neighborhood Commercial Transit District. No less than five years  
16 and no more than six years from the effective date of this ordinance, the Office of Economic  
17 and Workforce Development, in consultation with the Planning Department, shall again  
18 evaluate economic conditions and the functionality of the Mission Alcoholic Beverage Special  
19 Use District and Mission Street Neighborhood Commercial Transit District and shall make a  
20 report to the Board of Supervisors on each district's effectiveness in serving the purposes of  
21 the applicable district and the Mission District as a whole, which report may include  
22 recommended amendments to the Planning Code provisions regarding those districts.  
23  
24  
25

1 Section 5. Effective Date. This ordinance shall become effective 30 days after  
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
4 of Supervisors overrides the Mayor's veto of the ordinance.

5  
6 Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
7 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
8 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
9 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
10 additions, and Board amendment deletions in accordance with the "Note" that appears under  
11 the official title of the ordinance.

12  
13  
14 APPROVED AS TO FORM:  
15 DENNIS J. HERRERA, City Attorney

16 By:

17 ROBB W. KAPLA  
Deputy City Attorney

18 n:\leganas2018\1800495\01313448.docx  
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21  
22  
23  
24  
25



**LEGISLATIVE DIGEST**

[Planning Code - Mission Alcoholic Beverage Special Use District and Mission Street Neighborhood Commercial Transit District]

**Ordinance amending the Planning Code to require Conditional Use authorization for Restaurants and prohibit new ABC License Type 75 establishments Brewpubs within a subarea of the Mission Alcoholic Beverage Special Use District; to establish limits on the number of eating and drinking establishments, require Conditional Use authorization for replacing Legacy Businesses and new Bars, prohibit mergers of commercial space resulting in greater than 1,500 gross square feet, require ground-floor non-residential tenant space for large projects, and expand Philanthropic Service and Light Manufacturing uses in the Mission Street Neighborhood Commercial Transit District; and 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, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.**

Existing Law

Mission Alcoholic Beverage Special Use District

The Mission Alcoholic Beverage Special Use District ("SUD") does not require Conditional Use authorization for Restaurants. The SUD does not have any controls for new establishments with ABC License Type 75—places that brew a limited amount of beer and serve food, wine, beer, and distilled spirits—or relocation of such establishments within the SUD.

On January 9, 2018, the Board of Supervisors adopted Resolution No. 6-18, which extended interim controls requiring Conditional Use authorization for proposed new Restaurant uses within a subarea of the SUD (the interim control's subarea boundaries are 13th, Duboce, and Division Streets to the north, Mission Street to the west, Cesar Chavez Street to the south, and Potrero Avenue to the east).

Mission Street Neighborhood Commercial Transit District

The Mission Street Neighborhood Commercial Transit District ("Mission NCT") does not contain any restrictions on ground floor commercial mergers or replacement of Legacy Businesses. Light Manufacturing Uses and Philanthropic Administrative Services are not permitted in the Mission NCT. There is no cap on the total number of eating and drinking uses (Restaurants, Limited Restaurants, and Bars) in the Mission NCT. Bars are permitted on the first and second floors within the Mission NCT.

Amendments to Current Law

Mission Alcoholic Beverage Special Use District

The Proposed Legislation would create a subarea within the SUD encompassing all parcels east of the western boundary of the Mission NCT and north of Cesar Chavez Street. Within this subarea, new Restaurants are required to get a Conditional Use authorization from the Planning Commission. The Proposed Legislation also prohibits new ABC License Type 75 establishments from opening within the subarea. Existing ABC License Type 75 establishments—those already in the SUD prior to the Effective Date of the legislation—may relocate within the SUD.

Mission Street Neighborhood Commercial Transit District

The Proposed Legislation would prohibit commercial mergers on ground floor spaces that would result in greater than 1,500 gross square feet of merged space. The prohibition does not apply to mergers where the merged space will serve a Legacy Business, Arts Activities Use, or Institutional Use.

The Proposed Legislation would create a new requirement for projects larger than 10,000 square feet. These large projects shall be required to provide space, up to 1,500 gross square feet, for non-residential tenant use on the ground floor with immediate access to the street.

The Proposed Legislation would require a Conditional Use authorization to replace a Legacy Business within the Mission NCT. The Proposed Legislation mandates that the Planning Commission, in granting a Conditional Use, must find that the use supports at least three of the four purposes of the Mission NCT.

The Proposed Legislation updates the District Zoning Controls Table to: (a) allow Light Manufacturing on all floors throughout the Mission NCT; (b) cap the total number of eating and drinking uses at 167 establishments within the Mission NCT; (c) pursuant to the changes in the SUD, require that Restaurants receive a Conditional Use authorization; (d) new Bars on the first or second story require Conditional Use authorization; and (e) allow Philanthropic Administrative Services on the third floor and above throughout the Mission NCT (subject to a limit of 2,500 square feet per use).

Background Information

The Proposed Legislation implements key objectives of the Mission Action Plan 2020 ("MAP2020"). MAP2020 is a community-initiated effort that began in 2015 as a collaborative process between community advocates. The MAP2020 effort recognizes the Mission District's array of nonprofit service providers, cultural institutions, and small legacy

FILE NO.

businesses, and the unintended consequences of a rebounding economy causing displacement of many long-time residents and businesses. The Proposed Legislation is aimed at addressing MAP2020's objectives to protect and promote: (1) small neighborhood-serving retail by limiting large commercial mergers, requiring space for non-residential tenant use, and requiring Conditional Use authorizations for replacing Legacy Businesses; (2) light-industrial businesses by allowing Light Manufacturing within the Mission NCT; and (3) a suitable number of alcohol-serving establishments in the Mission District by capping the number of eating and drinking establishments within the Mission NCT, requiring Conditional Use authorization for new Restaurants and Bars and prohibiting new ABC License Type 75 establishments within a subarea of the SUD.

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# Introduction Form

By a Member of the Board of Supervisors or Mayor

BOARD OF SUPERVISORS  
SAN FRANCISCO  
Time stamp  
2018 Jul 24 PM 3:06

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

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [redacted] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [redacted] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. [redacted]
- 9. Reactivate File No. [redacted]
- 10. Topic submitted for Mayoral Appearance before the BOS on [redacted]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

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

Sponsor(s):

Ronen

Subject:

[Planning Code - Mission Alcoholic Beverage Special Use District and Mission Street Neighborhood Commercial Transit District]

The text is listed:

Ordinance amending the Planning Code to require Conditional Use authorization for Restaurants and prohibit new Brewpubs within a subarea of the Mission Alcoholic Beverage Special Use District; to establish limits on the number of eating and drinking establishments, require Conditional Use authorization for replacing Legacy Businesses and new Bars, prohibit mergers of commercial space resulting in greater than 1,500 gross square feet, require ground-floor non-residential tenant space for large projects, and expand Philanthropic Service and Light Manufacturing uses in the Mission Street Neighborhood Commercial Transit District; and affirming the Planning Department's termination 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, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Signature of Sponsoring Supervisor:

*Hilla Ronen*

