

BOARD of SUPERVISORS



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MEMORANDUM

Date: August 8, 2024
To: Planning Department/Planning Commission
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 240817
Interim Zoning Controls - Entertainment and Commercial Uses in Mid-Market, Folsom NCT, and SoMa NCT

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - Ordinance / Resolution
 - Ballot Measure

- Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - General Plan Planning Code, Section 101.1 Planning Code, Section 302

- Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)

- General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)

- Historic Preservation Commission
 - Landmark (*Planning Code, Section 1004.3*)
 - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - Mills Act Contract (*Government Code, Section 50280*)
 - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to John Carroll at john.carroll@sfgov.org.

1 [Interim Zoning Controls - Entertainment and Commercial Uses in Mid-Market, Folsom NCT,
and SoMa NCT]

2

3 **Resolution imposing interim zoning controls for 18 months to require conditional use**
4 **authorization and additional findings for any change of use from an Entertainment, Arts**
5 **and Recreation use or a Retail Sales and Service use to any other use for parcels in the**
6 **Downtown General Commercial (“C-3-G”) or Downtown Retail (“C-3-R”) zoning districts**
7 **with frontage on Market Street between 5th Street and 9th Street, in the Folsom**
8 **Neighborhood Commercial Transit District (“NCT”), or in the SoMa NCT; affirming the**
9 **Planning Department’s determination under the California Environmental Quality Act;**
10 **and making findings of consistency with the eight priority policies of Planning Code,**
11 **Section 101.1, and with Planning Code, Section 306.7.**

12

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

19 WHEREAS, The neighborhoods of Market Street between 5th and 9th Streets (“Mid-
20 Market”) and South of Market (“SoMa”) are home to many businesses, from large corporate
21 offices to small, local bars, restaurants, and retail stores; and

22 WHEREAS, Mid-Market, SoMa, and immediately adjacent areas including Civic Center
23 are home to some of the region’s busiest and most desirable arts and performance
24 destinations, including theaters, galleries, and museums; and

25

1 WHEREAS, Mid-Market and SoMa’s entertainment venues also attract visitors to local
2 bars, restaurants, and shops, further supporting the local economy; and

3 WHEREAS, The Mid-Market and SoMa neighborhoods, including the SoMa
4 Neighborhood Commercial Transit District (“NCT”) and Folsom Street NCT, are experiencing
5 challenges from the impacts of COVID-19 and remote work, including fewer people
6 commuting into downtown for work or shopping, dining, and attending shows in the area; and

7 WHEREAS, According to a report by the Market Street Business Association &
8 Foundation, vacancy rates for ground floor commercial spaces is 40% in the area, as
9 compared to 2017, when the vacancy rate was just 11%; and

10 WHEREAS, Mid-Market’s entertainment venues continue to be a significant driver for
11 pedestrian activity in the area, despite the loss of significant office tenants; and

12 WHEREAS, Public safety concerns and perceptions negatively affect the area’s
13 economic stability and desirability as a place to do business and to visit; and

14 WHEREAS, Several large and prominent businesses have permanently or temporarily
15 closed their stores or reduced their office footprints in these neighborhoods; and

16 WHEREAS, All of the factors described above create pressures and incentives for
17 existing and potential new businesses that are causing development to trend away from
18 entertainment and commercial uses; and

19 WHEREAS, Mid-Market and SoMa’s proximity to transit, tourism, and business
20 centers, combined with the recent changes in the neighborhoods’ commercial tenants, create
21 a need to protect and support these active entertainment and commercial corridors; and

22 WHEREAS, At present, when commercial rents and prices are down, measures must
23 be put in place to preserve the long-term health of the commercial corridor by preserving this
24 crucial combination of arts, retail, restaurants, and entertainment – uses that attract visitors
25 and enrich the residential experience; and

1 WHEREAS, The zoning districts located between these commercial hubs are very
2 permissive to a wide variety of uses, and this Resolution is tailored toward ensuring the area's
3 active commercial corridors remain active commercial corridors, while allowing other uses in
4 more appropriate locations; and

5 WHEREAS, With the future of downtown uncertain as office vacancy there remains
6 high and many residential projects there are stalled, this is an important time to study the new
7 trends and options before adopting permanent regulations into the Planning Code; and

8 WHEREAS, The Planning Department is evaluating the current zoning controls for
9 preserving entertainment and commercial uses in Mid-Market, the SoMa NCT, and the
10 Folsom Street NCT, and is considering potential zoning amendments and other policy
11 approaches to address these issues; and

12 WHEREAS, It is necessary for the City to further study and assess preserving the Mid-
13 Market, SoMa NCT, and Folsom Street NCT areas as active and vibrant commercial corridors
14 amidst future development of the area; and

15 WHEREAS, This interim measure is necessary to ensure that the legislative scheme
16 which may be ultimately adopted is not undermined during the planning and legislative
17 process by changes of use or approval actions which will conflict with that scheme,
18 specifically, by changing the character of these key corridors through converting existing
19 active commercial or entertainment spaces to other uses; and

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

22 WHEREAS, The Board has determined that the public health, safety and welfare will
23 best be served by imposition of these interim zoning controls at this time, to ensure that any
24 legislative scheme that may ultimately be adopted to regulate changes of use from
25

1 entertainment or commercial uses will not be undermined during the planning and legislative
2 process; and

3 WHEREAS, For the reasons stated above, the Board finds that, consistent with
4 Planning Code, Section 306.7, these interim controls: a) support the development and
5 conservation of the commerce and industry of the City in order to maintain the economic
6 vitality of the City, to provide its citizens with adequate jobs and business opportunities, and to
7 maintain adequate services for its residents, visitors, businesses, and institutions; b) support
8 the preservation of historic and architecturally significant buildings and areas; and c) support
9 the preservation of neighborhoods and areas of mixed residential and commercial uses in
10 order to preserve the existing character of such neighborhoods and areas; and the Board
11 finds that, conversely, these objectives would be negatively impacted if these interim controls
12 were not imposed; and

13 WHEREAS, The Board finds that these interim controls are unlikely to affect and do not
14 negatively impact any of the remaining public health, safety, peace, and general welfare
15 objectives of Planning Code, Section 306.7; and

16 WHEREAS, For the reasons stated above, the Board finds that these interim zoning
17 controls promote the General Plan Priority Policies by: a) conserving and protecting existing
18 housing and neighborhood character in order to preserve the cultural and economic diversity
19 of our neighborhoods; b) maintaining a diverse economic base by protecting service sectors
20 from displacement due to commercial office development; and c) preserving landmarks and
21 historic buildings; and the Board finds that the interim controls do not have an effect on and
22 therefore are consistent with the remaining Priority Policies of Planning Code, Section 101.1;
23 and

24 WHEREAS, The Board finds that these interim controls are consistent with the City's
25 General Plan, in that they satisfy the Commerce and Industry Element and Downtown Area

1 Plan Objective 1 to “manage economic growth and change to ensure enhancement of the
2 total city living and working environment,” Commerce and Industry Element Objective 2 to
3 “maintain and enhance a sound and diverse economic base and fiscal structure for the city,”
4 Commerce and Industry Element Objective 8 to “enhance San Francisco's position as a
5 national center for conventions and visitor trade,” and Downtown Area Plan Objective 4 to
6 “enhance San Francisco's role as a tourist and visitor center;” and the Board finds that the
7 interim zoning controls do not conflict with any other aspects of the General Plan; and

8 WHEREAS, The following General Plan Policies of the Commerce and Industry
9 Element are specifically and particularly advanced by these interim controls:

10 (a) Policy 1.1: “Encourage development which provides substantial net
11 benefits and minimizes undesirable consequences. Discourage development which has
12 substantial undesirable consequences that cannot be mitigated.” Imposing these interim
13 zoning controls will provide time for the City to study zoning regulations aimed at preserving
14 the entertainment, arts, and retail character of the area, in the midst of an evolving remote and
15 hybrid work climate. The interim controls will help retain the area’s rich cultural offerings and
16 the businesses that support them, while permanent regulations are evaluated;

17 (b) Policy 2.3: “Maintain a favorable social and cultural climate in the city in
18 order to enhance its attractiveness as a firm location.” The interim zoning controls will help
19 preserve the entertainment, arts, and retail character of the area;

20 (c) Policy 8.1: “Guide the location of additional tourist related activities to
21 minimize their adverse impacts on existing residential, commercial, and industrial activities.”
22 Mid-Market, the SoMa NCT, and the Folsom NCT have a strong presence for entertainment
23 and commercial uses. The interim zoning controls will help retain these characteristics of the
24 area, in particular the entertainment and arts uses which draw visitors from the entire region
25 as well as nationally and internationally; and

1 WHEREAS, The Planning Department has determined that the actions contemplated in
2 this Resolution comply with the California Environmental Quality Act (Pub. Res. Code,
3 Sections 21000 *et seq.*), which determination is on file with the Clerk of the Board of
4 Supervisors in File No. _____ and is incorporated herein by reference, and the Board affirms
5 this determination; now, therefore, be it

6 RESOLVED, That, except as specified herein, any change of use from either an
7 Entertainment, Arts and Recreation use or a Retail Sales and Service use, as defined in
8 Section 102 of the Planning Code, to any use other than an Entertainment, Arts and
9 Recreation use or a Retail Sales and Service use, for any parcels in the C-3-G (Downtown
10 General Commercial) or C-3-R (Downtown Retail) zoning districts with frontage on Market
11 Street between 5th and 9th Streets, in the SoMa NCT, or in the Folsom Street NCT, shall
12 require conditional use authorization while these interim controls are in effect; and, be it

13 FURTHER RESOLVED, That in addition to the findings required under Planning Code,
14 Section 303, the City must make the following findings for any conditional use authorization
15 for a change of use from either an Entertainment, Arts and Recreation use or a Retail Sales
16 and Service use to any use other than an Entertainment, Arts and Recreation use or a Retail
17 Sales and Service use for parcels in the C-3-G or C-3-R zoning districts with frontage on
18 Market Street between 5th Street and 9th Street, in the Folsom Street NCT, or in the SoMa
19 NCT:

- 20 1) the change of use will not detract from the area’s function as a commercial corridor;
- 21 and
- 22 2) the change of use will not detract from the area’s nearby entertainment, arts, and
- 23 tourism uses; and, be it

24 FURTHER RESOLVED, That these interim controls shall not apply to: (a) any site that
25 has obtained a Planning Approval Letter, an issued site or building permit, or conditional use

1 authorization from the Planning Commission on or prior to July 30, 2024; and (b) any change
2 of use to a Residential use, as defined in Planning Code, Section 102; and, be it

3 FURTHER RESOLVED, That these interim zoning controls shall remain in effect for a
4 period of 18 months from the date of imposition, unless they are extended or otherwise
5 amended in accordance with the provisions of Planning Code, Section 306.7, or until the
6 adoption of permanent legislation regulating the conversion or preservation of Entertainment,
7 Arts and Recreation and Retail Sales and Service uses for parcels in the C-3-G or C-3-R
8 zoning districts with frontage on Market Street between 5th Street and 9th Street, in the
9 Folsom Street NCT, or in the SoMa NCT, whichever first occurs; and, be it

10 FURTHER RESOLVED, That the Planning Department shall provide reports to the
11 Board pursuant to Planning Code, Section 306.7(i).

12
13 APPROVED AS TO FORM:
14 DAVID CHIU, City Attorney

15 By: /s/ HEATHER GOODMAN
16 HEATHER GOODMAN
17 Deputy City Attorney

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Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

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 inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

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):

Subject:

The text is listed:

Signature of Sponsoring Supervisor: