



SAN FRANCISCO PLANNING DEPARTMENT

December 13, 2010

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

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San Francisco,
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Re: Transmittal of Planning Case Number 2010.0756T to the Board of Supervisors File No. 10-1053: Consistent Street Frontages II With Implications for BF 10-1536: Commercial Use Controls in RC Districts

Recommendation: Approval with Modifications

Dear Ms. Calvillo,

On December 9, 2010, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearings at a regularly scheduled meeting to consider the proposed Ordinance.

At the December 9 hearing, the Commission voted 6-0 to recommend approval a portion of a proposed ordinance that will amend the Planning Code Sections to regulate uses in the RC-3 and RC-4 Districts By Zoning Control Chart for the NCD-3 or NCT-3 District instead of the nearest NC District as the Code currently provides and to continue the remainder of the proposed Ordinance so that the Planning Commission can continue to coordinate with Supervisor Mirkarimi. Please find attached resolution and memorandum for more detail about the Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "AM-Rodgers".

AnMarie Rodgers
Manager of Legislative Affairs

Cc:
Attachments (one copy of the following):

Supervisor Ross Mirkarimi
Planning Commission Resolution No. 18235 and
Planning Commission Memorandum



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 18235

HEARING DATE: DECEMBER 9 2010

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Case Number: 2010.0756T [Board File No. 10-1053 & 10-1091]
Initiated by: Supervisor Mirkarimi
Introduced: August 3, 2010
Staff Contact: AnMarie Rodgers, Manager of Legislative Affairs
anmarie.rodgers@sfgov.org, 415.558.6395
Reviewed By: Scott Sanchez, Zoning Administrator
Daniel A. Sider, Assistant Zoning Administrator
Recommendation: **Recommend Approval with Modifications of a Portion of the Ordinance and Recommend Continuance of the Remainder of the Ordinance to January 13, 2011**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PORTION OF A PROPOSED ORDINANCE THAT WILL AMEND THE PLANNING CODE SECTIONS TO REGULATE USES IN THE RC-3 AND RC-4 DISTRICTS BY ZONING CONTROL CHART FOR THE NCD-3 OR NCT-3 DISTRICT INSTEAD OF THE NEAREST NC DISTRICT AS THE CODE CURRENTLY PROVIDES AND CONTINUE THE REMAINDER OF THE PROPOSED ORDINANCE SO THAT THE PLANNING COMMISSION CAN CONTINUE TO COORDINATE WITH SUPERVISOR MIRKARIMI.

PREAMBLE

Whereas, on August 3, 2010, Supervisor Mirkarimi introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 10-1053 which would clarify several aspects of the street frontage controls that was passed in Board File No. 09-1271, extend these controls to all residential, industrial, and small corner commercial use districts, as well as add additional requirements that will more comprehensively create a consistent set of street frontage controls in San Francisco; and

Whereas, on August 10, 2010, Supervisor Alioto-Pier introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 10-1091 that would amend Planning Code Section 243 to require a Conditional Use Authorization for "Other Entertainment" uses in the Van Ness Avenue Special Use District; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing to consider the proposed Ordinance Board File Number 10-1091 on December 2, 2010 and passed Resolution Number 18232 but abstained from commenting on the appropriate governing control for the RC districts;

Whereas, on December 9, 2010, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance Board File Number 10-1053 and;

Whereas, the proposed zoning changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

Whereas, the 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 the applicant, Department staff, and other interested parties; and

Whereas, the 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 Commission has reviewed the proposed Ordinance; and

MOVED, that the Commission hereby recommends that the Board of Supervisors recommends *adopt a portion of a proposed ordinance that will amend the Planning Code to regulate uses in the RC-3 and RC-4 Districts by Zoning Control Chart for the NCD-3 or NCT-3 district instead of the nearest NC district as the Code currently provides and as further articulated in the memorandum to the Planning Commission for the December 9th Hearing* and adopts the Resolution to that effect.

Be it further MOVED, as the Commission understands that Supervisor Mirkarimi, will forego calling the remainder of his Street Frontage II Ordinance [Board File Number 10-1053] before the Land Use Committee until after January 13, 2011, the Commission hereby *continues consideration of the remainder of proposed Street Frontage II Ordinance [Board File Number 10-1053] until the January 13, 2011 hearing.*

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. When the Van Ness SUD is silent on the regulation of uses, the underlying RC-4 controls apply. Further, the RC-3 and RC-4 controls, throughout the City, in turn refer to the controls of the nearest NC District.
2. For example, there are several nearby NC Districts which dictate the applicable controls for commercial establishments within the Van Ness SUD: Polk Street NCD to the east, an NC-3 Cluster to the southeast, and a pocket of NCT-3 zoning at the southeast perimeter of the SUD. These districts have different controls for Other Entertainment Uses.
3. The various controls create an inconsistent regulatory process and do not treat all applications in a similar fashion.

4. While the RC Districts previously deferred to the C-2 district controls, the Commission has reviewed these controls and feels that the more recent NCD-3 or NCT-3 controls are more appropriate for the RC Districts. See attached memorandum to the Commission for more details.
1. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

I. URBAN DESIGN ELEMENT

OBJECTIVE 3

MODERATION OF MAJOR NEW DEVELOPMENT TO COMPLEMENT THE CITY PATTERN, THE RESOURCES TO BE CONSERVED, AND THE NEIGHBORHOOD ENVIRONMENT.

POLICY 4.13

Improve pedestrian areas by providing human scale and interest.

II. VAN NESS AVENUE AREA PLAN

OBJECTIVE 1

CONTINUE EXISTING OF THE AVENUE AND ADD A SIGNIFICANT INCREMENT OF NEW HOUSING.

POLICY 1.1

Encourage development of high density housing above a podium of commercial uses in new construction or substantial expansion of existing buildings.

POLICY 1.4

Maximize the number of housing units.

OBJECTIVE 6

ENCOURAGE DISTINGUISHED ARCHITECTURE WHOSE SCALE, COMPOSITION AND DETAILING ENHANCES THE OVERALL DESIGN STRUCTURE OF THE AVENUE AND RELATES TO HUMAN SCALE.

POLICY 6.3

Incorporate setbacks and/or stepping down of building form on new developments — and major renovations when necessary — to increase sun exposure on sidewalks.

2. The proposed replacement project is consistent with the eight General Plan priority policies set forth in Section 101.1 in that:
 - A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

The proposed Ordinance will encourage neighborhood-serving retail uses by requiring active uses more consistently.

- B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

The proposed legislation will not burden existing neighborhood character and housing.

- C) The City's supply of affordable housing will be preserved and enhanced:

The proposed Ordinance will have no adverse effect on the City's supply of affordable housing.

- D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.

- G) That landmark and historic buildings will be preserved:

Landmarks and historic buildings would be unaffected by the proposed amendments as the Historic Resource Commission could disapprove a "Certificate of Appropriateness" for harmful actions. In addition, should a proposed use be located within a landmark or historic building, such site would be evaluated under typical Planning Code provisions and comprehensive Planning Department policies.

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed amendments. It is not anticipated that permits would be such that sunlight access, to public or private property, would be adversely impacted.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on December 9, 2010.



Linda Avery
Commission Secretary

AYES: Miguel, Olague, Antonini, Fong, Moore, and Sugaya

NAYS:

ABSENT: Borden

ADOPTED: December 9, 2010

Attachments:

Exhibit A: Planning Commission Memorandum Detailing Proposed Modifications to BOS File No. 10-1053



SAN FRANCISCO PLANNING DEPARTMENT

Memo to the Planning Commission

HEARING DATE: DECEMBER 9, 2010

Supplemental Memorandum and Revised Draft Resolution

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San Francisco,
CA 94103-2479

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Project Name: **Street Frontages II**
Case Number: 2010.0756T [Board File No. 10-1053]
Initiated by: Supervisor Mirkarimi
Introduced: August 3, 2010
Staff Contact: AnMarie Rodgers, Manager of Legislative Affairs
anmarie.rodgers@sfgov.org, 415.558.6395
Reviewed By: Scott Sanchez, Zoning Administrator
Daniel A. Sider, Assistant Zoning Administrator

Recommendation: **Recommend Approval with Modifications of a Portion of the
Proposed Ordinance and Recommend Continuance of the Remainder of
the Ordinance to January 13, 2011**

BACKGROUND

The Planning Commission (hereinafter the "Commission") has a complete and full case report for consideration of the draft Ordinance for Street Frontage Controls Part II [BF 10-1053] at the December 9, 2010 hearing. This memorandum is in supplement of that report and is intended to address only two of the sections of the Planning Code proposed for amendment by this draft Ordinance: Sections 209.8 and 243. These sections of the Planning Code were also considered for amendment at the previous hearing on December 2, 2010 of another proposed Ordinance [Board File number 10-1091] introduced by Supervisor Alioto-Pier that concerned Entertainment Uses within the Van Ness Avenue SUD.

During the December 2, 2010 hearing staff had recommended amending proposed Ordinance introduced by Supervisor Alioto-Pier so that the use controls of the C-2 District would apply to the RC-3 and R-4 Districts instead of the existing control that deferred to the controls of the nearest NC district. During the December 2nd hearing, the Planning Commission passed resolution number 18232. This resolution recommended approval of Supervisor Alioto-Pier's proposal for greater review of Entertainment Uses within the Van Ness Avenue SUD but did not incorporate the staff modification to switch the governing control for the RC districts to controls in the C-2 district instead of the nearest NC district. On this issue, the Commission requested additional review by staff and further information. Since the Commission hearing, Planning Department staff has reviewed the proposal; met with Tom Radulovich, Executive Director of Livable City; and revised the proposal. This memorandum discusses the revised staff proposal.

Further, the Department in coordination with Supervisor Mirkarimi's office, also requests that the hearing today, December 9, 2010, only concern Sections 209.8 and 243. The Department would like additional time to consider the remainder of Supervisor Mirkarimi's Ordinance and the Supervisor has indicated a willingness to grant a 60-day extension so that the remainder of the proposal could be considered at the Commission's January 13, 2010 hearing.

CURRENT PROPOSAL

The Department recommends that the Planning Code be amended so that the Residential Commercial Combined-3 and Residential Commercial Combined-4 (RC-3 and RC-4) districts generally refer to the use table in Neighborhood Commercial Transit (NCT-3*) instead of the nearest Commercial-2 (C-2) District.

Specifically, the Department recommends the following changes to the Planning Code:

Amend Section 209.8: Refine the Reference for Commercial Establishments in RC Districts

- Provide that any retail, personal service, or other commercial use which is principally permitted on the groundfloor of the NCT-3* district is principally permitted in an RC district on the ground floor or below, unless otherwise specified.
- Provide that any retail, personal service, or other commercial use which is conditionally permitted on the groundfloor of the NCT-3* district is conditionally permitted in an RC district on the Ground floor or below, unless otherwise specified.
- Provide that any retail, personal service, or other commercial use which is principally or conditionally permitted on the groundfloor in an NCT-3* district is conditionally permitted in an RC district above the ground floor, unless otherwise specified.
- Provide that any formula retail use, as defined in Section 703.3, is conditionally permitted in any RC districts.
- Provide that limited commercial uses, as defined in Section 231, are permitted only in RTO districts. To avoid internal Code conflict, this should be amended to remove RC districts.
- Provide that any non-residential use specified in Section 209.8 that exceeds 6000 gross square feet is conditionally permitted.
- Provide that a liquor store is principally permitted on the groundfloor in RC districts, unless otherwise specified such as in the North of Market Residential Special Use District.
- Provide that a drive-up facility is not permitted in RC districts.
- Provide that walk-up facility is principally permitted on the groundfloor in RC districts, if recessed 3 feet; conditionally permitted if not recessed.
- Provide that outdoor activity area is principally permitted if in front and conditionally permitted if elsewhere.

Section 243: Make Conforming Amendments to the Van Ness Special Use District

- Amended to remove controls for small self-service restaurant and large fast food restaurant uses and drive-up facilities, which are superseded by amended Section 209.8, as described above.

Additionally, the follow sections should be modified for consistency with above recommendations:

Amend Section 206.3:

- Amend descriptions of RC districts to remove reference to C-2 districts

Section 209.10: Make Conforming Amendments to the Formula Retail Controls in RC Districts

- Delete this Section permitting formula retail by Conditional Use authorization along Van Ness Avenue in its entirety, as it is superseded by new section 209.8 which would specify Conditional Use authorization in the RC-3 and RC-4 Districts.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

BASIS FOR RECOMMENDATION

Commercial uses in the RC Zoning Districts are currently subject to the regulations applicable in the nearest NC District. This creates great variances within the RC districts. Certain high density RC districts are subject to restrictions that are contrary to well established land use patterns in those areas. For example, the Van Ness Avenue corridor, for much of its length, and the North of Market Special Use District are nearest to the Polk Neighborhood Commercial District. For reasons unique to the Polk NCD, all restaurants, i.e. small and large self-service and full-service, are prohibited. By imposing the "nearest NCD" rule for RC districts means that no new restaurants are permitted along Van Ness Avenue or the North of Market Special Use District. These restrictions are excessive and inconsistent with the character and patterns of those districts.

The Department has been studying methods to streamline and regularize the use controls in the RC Districts and concludes that using the NCT-3* zoning controls will create certainty and uniformity in these Districts in a manner that is consistent with current planning practices. This is further evidenced by the City's experience with the previous zoning controls for commercial establishments in the RC Districts. Prior to December 2008 RC-3 and RC-4 Districts were subject to C-2 zoning controls – this was amended in BOS File No. 08-1260. C-2 controls are generally more commercial in nature than NC Districts, which tend to be smaller-scale and neighborhood oriented. However, the C-2 zoning controls were created years ago and are not in sync with current planning practice. The NCT-3* district allows for appropriate commercial development while also containing more contemporary views on auto-oriented uses. While the Van Ness area contains the Van Ness Automotive SUD, the larger Van Ness SUD itself does not permit drive-up uses since its inception as described in 243(c)(8)(G). There are additional modifications to the NCT-3* controls that should be articulated to more closely align with current planning practice and the intended controls of the Residential Commercial districts. For instance, the formula retail controls which apply only to portions of the Van Ness Avenue SUD should be applied to the RC-3 and RC-4 districts as this would be consistent with references to use controls as specified in the nearest NC. Under existing Section 703.4 all neighborhood commercial districts require a Conditional Use authorization for formula retail uses. Other proposed revisions to Section 209.8 that could be interpreted as policy changes include a conditional use requirement for commercial uses above 6000 gross square feet; the permitting of walk-up facilities as a principally permitted use; the provision of outdoor facilities as a principally permitted use if provided at the front of the site, and as a conditionally permitted use if provided elsewhere. These policy changes are consistent with controls provided in the NCT-3*. Therefore if the Commission believes the NCT-3* controls are appropriate, these modifications would also be appropriate. The Department position is that the change in controls is appropriate.

For the above reasons, the Department requests that Section 209.8 and Section 243 be amended as described above and that the remainder of the proposed Ordinance be continued for later consideration and that the Commission adopt the attached resolution to that effect.

RECOMMENDATION:	Recommend Approval with Modifications of a Portion of the Proposed Ordinance and Recommend Continuance of the Remainder of the Ordinance to January 13, 2011.
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***Note:** At the Planning Commission hearing, the Commission recommended use of either the NCD-3 or NCT-3 Zoning Control table as the use authorization are similar if not the same.