

BOARD of SUPERVISORS



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## MEMORANDUM

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

FROM: *ll for* Alisa Somera, Legislative Deputy Director  
Land Use and Transportation Committee

DATE: November 22, 2017

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. 171173**

**Ordinance amending the Planning Code to prohibit Non-Retail Professional Services uses, limit lot mergers, and allow Arts Activities and Catering uses within the Mission Street Neighborhood Commercial Transit District; affirming the Planning Commission's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making 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.

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

**No Comment**

**Recommendation Attached**

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

c: Menaka Mahajan, Small Business Commission

1 [Planning Code - Mission Street Neighborhood Commercial Transit District]

2  
3 **Ordinance amending the Planning Code to prohibit Non-Retail Professional Services**  
4 **uses, limit lot mergers, and allow Arts Activities and Catering uses within the Mission**  
5 **Street Neighborhood Commercial Transit District; affirming the Planning Commission's**  
6 **determination under the California Environmental Quality Act; making findings of**  
7 **consistency with the General Plan, and the eight priority policies of Planning Code,**  
8 **Section 101.1; and making findings of public necessity, convenience, and welfare**  
9 **under Planning Code, Section 302.**

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

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

18 Section 1. Findings and Purpose.

19 (a) The Planning Department has determined that the actions contemplated in this  
20 ordinance comply with the California Environmental Quality Act (California Public Resources  
21 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
22 Supervisors in File No. \_\_\_\_\_ and is incorporated herein by reference. The Board  
23 affirms this determination.

24 (b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_,  
25 adopted findings that the actions contemplated in this ordinance are consistent, on balance,  
with the City's General Plan and eight priority policies of Planning Code Section 101.1. The

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of  
2 the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code  
4 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth  
5 in Planning Commission Resolution No. \_\_\_\_\_ and the Board incorporates such  
6 reasons herein by reference.

7 (d) In 2008, the Board of Supervisors adopted the Eastern Neighborhoods Plan and  
8 related zoning, in part to reaffirm the Mission Street corridor, between Duboce Avenue and  
9 Cesar Chavez Street, as a Neighborhood Commercial Transit District to encourage vibrant  
10 commercial corridors supported by medium density housing, served by multiple transit  
11 options, and to protect their historic pedestrian orientation. Since the adoption of this Plan and  
12 its associated zoning, the City has determined that the continued establishment, evolution,  
13 and adaptation of these uses demands a more responsive set of zoning controls in the  
14 Planning Code.

15 (e) The zoning controls proposed in this legislation are intended to satisfy the  
16 following policy goals: (1) reduce land use pressures on retail and services uses from  
17 business-to-business office uses; (2) protect the fine-grain, pedestrian orientation of Mission  
18 Street, and; (3) expand opportunities for compatible PDR uses.

19  
20 Section 2. The Planning Code is hereby amended by revising Sections 121.2, 121.7,  
21 and 754, to read as follows:

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23 **SEC. 121.2. NON-RESIDENTIAL USE SIZE LIMITS IN NEIGHBORHOOD**  
24 **COMMERCIAL AND NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICTS.**

25 \* \* \* \*

1           (c) In order to protect the pedestrian scale of the Mission Street NCT and provide space for  
2 small businesses, the following control shall apply in the Mission Street NCT:

3           (1) **Applicability.** Lot mergers pursuant to Section 121.7(f) and any project located on  
4 a parcel that was created as a result of a lot merger pursuant to Section 121.7(f).

5           (2) **Control.** Any such project that does not include at least one non-residential space  
6 of no more than 2,500 square feet, located on the ground floor and fronting directly onto Mission  
7 Street, shall require a conditional use authorization. In considering whether to grant such conditional  
8 use authorization, the Commission shall consider the criteria in Sections 121.2(a) and 303(c).

9  
10           **SEC. 121.7. RESTRICTION OF LOT MERGERS IN CERTAIN DISTRICTS AND ON**  
11 **PEDESTRIAN-ORIENTED STREETS.**

12           In order to promote, protect, and maintain a fine-grain scale of development in  
13 residential districts and on important pedestrian-oriented commercial streets ~~which~~ that is  
14 appropriate to each district, compatible with adjacent buildings; provide for a diverse  
15 streetscape; ensure the maintenance and creation of multiple unique buildings and building  
16 frontages rather than large single structures superficially treated; promote diversity and  
17 multiplicity of land ownership and discourage consolidation of property under single  
18 ownership, merger of lots is regulated as follows:

19           (a) In RTO Districts, merger of lots creating a lot greater than 5,000 square feet shall  
20 not be permitted except according to the procedures and criteria in subsections (d) and (e)  
21 below.

22           (b) In those NCT, NC and Mixed Use Districts listed below, merger of lots resulting in a  
23 lot with a single street frontage greater than that stated in the table below on the specified  
24 streets or in the specified Districts is prohibited except according to the procedures and  
25 criteria in subsections (c) and (d) below.

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Street or District	Lot Frontage Limit
Hayes, from Franklin to Laguna	50 feet
RED and RED-MX	50 feet
Church Street, from Duboce to 16th Street	100 feet
Divisadero Street NCT except for the east and west blocks between Oak and Fell, Fillmore Street NCT, Folsom Street NCT, RCD, WMUG, WMUO, and SALI	100 feet
<u>Mission Street, within the Mission Street NCT</u>	<u>100 feet (see subsection (f) below)</u>
Market, from Octavia to Noe	150 feet
Ocean Avenue in the Ocean Avenue NCT	See subsection (e)
Inner and Outer Clement NCDs	50 feet
North Beach NCD and SUD, and Telegraph Hill - North Beach Residential SUD*	25 feet
NC-2 districts on Balboa Street between 2nd Avenue and 8th Avenue, and between 32nd Avenue and 38th Avenue	50 feet

\*For lots that do not have street frontage, the merger would not result in a lot with a width greater than 25 feet.

\* \* \* \*

(f) In the Mission Street NCT, projects that propose lot mergers resulting in street frontages on Mission Street greater than 50 feet shall provide at least one non-residential space of no more than 2,500 square feet on the ground floor fronting Mission Street.

1           **SEC. 754. MISSION STREET NEIGHBORHOOD COMMERCIAL TRANSIT**  
2 **DISTRICT.**

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

10           The District is extremely well-served by transit, including regional-serving BART  
11 stations at 16th Street and 24th Street, major buses running along Mission Street, and both  
12 cross-town and local-serving buses intersecting Mission along the length of this district. Given  
13 the area's central location and accessibility to the City's transit network, accessory parking for  
14 residential uses is not required. Any new parking is required to be set back or be below  
15 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 storefronts  
21 facing the street. While offices and general retail sales uses may locate at the second story of  
22 new buildings under certain circumstances, most commercial uses are prohibited above the  
23 second story. Continuous retail frontage is promoted by requiring ground floor commercial  
24 uses in new developments and prohibiting curb cuts. Housing development in new buildings is  
25 encouraged above the ground story. Housing density is not controlled by the size of the lot but

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

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

* * * *				
Zoning Category	§ References	Controls		
<b>NON-RESIDENTIAL STANDARDS AND USES</b>				
* * * *				
		Controls by Story		
		1st	2nd	3rd+
* * * *				
<b>Entertainment, Arts, and Recreation Use Category</b>				
<b>Entertainment, Arts, and Recreation Uses*</b>	§102	NP	NP	NP
<i>Arts Activities</i>	<u>§102</u>	<u>P(4)</u>	<u>P</u>	<u>P</u>
Amusement Game Arcade	§102	C	NP	NP
Entertainment, General	§102	P	P	NP
Entertainment, Nighttime	§102	P	P	NP
Movie Theater	§102	P	P	NP
Open Recreation Area	§102	C	C	C
Passive Outdoor Recreation	§102	C	C	C
* * * *				



<b>Sales and Service Use Category</b>				
<b>Retail Sales and Service Uses*</b>	§§102, 202.2(a)	P	P	P
* * * *				
Trade Shop	§102	P	<u>CP</u>	<u>CP</u>
<b>Non-Retail Sales and Service <u>Uses*</u></b>	§102	NP	NP	NP
<u>Catering</u>	<u>§102</u>	<u>P(4)</u>	<u>P</u>	<u>P</u>
Design Professional	§102	P	P	P
<i>Service, Non-Retail Professional</i>	<u>§102</u>	<u>C</u>	<u>C</u>	<u>C</u>
Trade Office	§102	P	P	P
<b>Utility and Infrastructure Use Category</b>				
<b>Utility and Infrastructure <u>Uses*</u></b>	§102	C(3)	C(3)	C(3)
* * * *				

\*Not listed below

\* \* \* \*

(4) Arts Activities and Catering uses located in the ground floor shall have active commercial activities facing Mission Street, per Section 145.4. These may be retail activities accessory to those uses or a separate business operating in the street-facing space.

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

1 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
5 additions, and Board amendment deletions in accordance with the "Note" that appears under  
6 the official title of the ordinance.

7  
8 APPROVED AS TO FORM:  
9 DENNIS J. HERRERA, City Attorney

10 By:   
11 KATE H. STACY  
Deputy City Attorney

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**LEGISLATIVE DIGEST**

[Planning Code - Mission Street Neighborhood Commercial Transit District]

**Ordinance amending the Planning Code to prohibit Non-Retail Professional Services uses, limit lot mergers, and allow Arts Activities and Catering uses within the Mission Street Neighborhood Commercial Transit District; affirming the Planning Commission's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare under Planning Code, Section 302.**

Existing Law

Currently, there is no lot width restriction on lot mergers on Mission Street between Duboce Street and Cesar Chavez Street. Certain Production, Distribution, and Repair (PDR) uses are currently restricted in the Mission Street Neighborhood Commercial Transit (NCT) District, which runs along Mission Street between 15th Street and Cesar Chavez Street and includes adjacent portions of 17th Street, 21 Street, 22 Street, and Cesar Chavez Street, and in the 24th Street-Mission NCT District, which runs along 24th Street between Bartlett Street and San Bruno Avenue.

Amendments to Current Law

The proposed legislation would restrict lot mergers on Mission Street between Duboce Street and Cesar Chavez Street by requiring lots along Mission Street to be at least 150 feet wide. The proposed ordinance would also amend the Mission Street NCT District to permit certain PDR uses, including Light Manufacturing, Animal Hospitals, and Catering, which either are currently not permitted or conditionally permitted and prohibit Non-Retail Professional Services, which is currently conditionally permitted. Finally, the proposed legislation would amend the 24th Street-Mission NCT District to permit certain PDR uses, including Arts Activities and Light Manufacturing, which are currently not permitted.

Background Information

This proposed ordinance is consistent with and implements the policy goals of the Planning Department's Mission Action Plan, also referred to as MAP 2020.

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