



EXECUTIVE SUMMARY

PLANNING CODE TEXT AMENDMENT

HEARING DATE: May 12, 2022

90-Day Deadline: July 7, 2022

Project Name: Fire-Damaged Liquor Stores in North Beach Neighborhood Commercial District
Case Number: 2022-003219PCA [Board File No. 220342]
Initiated by: Supervisor Peskin / Introduced April 5, 2022
Staff Contact: Aaron Starr, Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

Recommendation: Approval

Planning Code Amendment

Ordinance amending the Planning Code to extend the time, from three to six years, for a temporary closure of a liquor store in the North Beach NCD because of fire to not result in an abandonment of such use, and for the relocation of such use to another location in the North Beach NCD to not require a new Conditional Use permit.

The Way It Is Now:

A temporary closures of an existing Liquor Stores in the North Beach NCD for reconstruction or repair after a fire, is not considered an abandonment of such use for up to three years.

The Way It Would Be:

A temporary closures of an existing Liquor Stores in the North Beach NCD for reconstruction or repair after a fire, would not be considered an abandonment of such use for up to six years.

Background

On March 17, 2018, a four-alarm fire engulfed the building at 659 Union Street¹. The building contained residential units above street level retail tenants. These retail tenants included three restaurants, a brewpub, and a liquor store. Coit Liquor, the displaced liquor store, has been in North Beach for over 50 years. Owing to its

¹ St. Patrick's Day Fire Displaces North Beach Businesses, Residents. Caleb Pershan. 18 March 2018. Accessed May 3, 2022 [St. Patrick's Day Fire Displaces North Beach Businesses, Residents - Eater SF](#)

unique selection of spirits, wines, and beers, it is destination for neighborhood residents and patrons from outside North Beach.

The fire damage was so extensive that the San Francisco Department of Building Inspection red-tagged the building. This indicates that the building is in a hazardous condition and unfit for habitation or use. Renovations to buildings in this state often take years to complete. Investigations into the cause of the fire, the processing of insurance claims, the preparation and review of building plans, and actual construction all lend to a protracted timeline for reoccupying the building.

Generally, conditionally authorized uses cannot be discontinued for more than three years without the City ceasing to recognize the right to operate at that location; however, in the North Beach Neighborhood Commercial District, the Planning Code limits this nonuse period to 18 months. In the case of the Coit Liquor Store, which is a conditionally permitted use, it would not be able to reoccupy its original location because the reconstruction of the building would certainly take more than 18 months to complete.

In response to this situation, Supervisor Peskin introduced BF 180861, which allowed the liquor store to relocate temporarily within the district and would allow the business to move back to its original location within 3 years; however, due to the pandemic, the restoration project at the store's original location could not be completed within that three-year period. As such, Supervisor Peskin has introduced this new ordinance to extend that period another three years for a total of six years. Because this is a new ordinance with a new board file number, the Planning Commission is required to have a hearing on it.

Issues and Considerations

General Plan Compliance

The proposed ordinance is consistent with the Commerce and Industry Element's Policy 2.1 and 3.1 in that the ordinance will help retain existing commercial activity in the City, and Policy 6.1 because it will encourage the retention of existing neighborhood-serving businesses.

Racial and Social Equity Analysis

Given the ordinance's limited scope and impact, the proposed amendments cannot be directly tied to a negative or positive impact in advancing the City's racial and social equity.

Implementation

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

Recommendation

The Department recommends that the Commission *approve* the proposed Ordinance and adopt the attached Draft Resolution to that effect.

Basis for Recommendation

The Department supports the proposed ordinance because it will allow a long-standing retail use displaced by fire to continue operation in the North Beach NCD. When the original ordinance was passed, no one could have predicted the COVID 19 pandemic or how it would have impacted every aspect of our lives. This ordinance will simply extend the period from three to six years to account for delays caused by the pandemic.

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: Board of Supervisors File No. 220342



PLANNING COMMISSION DRAFT RESOLUTION

HEARING DATE: May 12, 2022

Project Name: Fire-Damaged Liquor Stores in North Beach Neighborhood Commercial District
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Initiated by: Supervisor Peskin / Introduced April 5, 2022
Staff Contact: Aaron Starr, Legislative Affairs
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RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO EXTEND THE TIME, FROM THREE TO SIX YEARS, FOR A TEMPORARY CLOSURE OF A LIQUOR STORE IN THE NORTH BEACH NCD BECAUSE OF FIRE TO NOT RESULT IN AN ABANDONMENT OF SUCH USE, AND FOR THE RELOCATION OF SUCH USE TO ANOTHER LOCATION IN THE NORTH BEACH NCD TO NOT REQUIRE A NEW CONDITIONAL USE PERMIT; 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 April 5, 2022 Supervisors Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 220342, which would amend the Planning Code to extend the time, from three to six years, for a temporary closure of a liquor store in the North Beach NCD because of fire to not result in an abandonment of such use, and for the relocation of such use to another location in the North Beach NCD to not require a new Conditional Use permit;

WHEREAS, The Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on May 12, 2022 and,

WHEREAS, 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; 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 49 South Van Ness Avenue, Suite 1400, 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** the proposed ordinance.

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:

The Planning Commission supports the proposed ordinance because it will allow a long-standing retail use displaced by fire to continue operation in the North Beach NCD.

General Plan Compliance

The proposed Ordinance is 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 would allow a long-standing retail use to remain in the North Beach neighborhood. This has net benefits to the neighborhood as the retail use is a source of fiscal and employment benefits.

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.

The proposed amendments to the Planning Code help retain a long-standing retail use in the City's North Beach neighborhood by easing regulations on relocation in the North Beach Neighborhood Commercial District.

OBJECTIVE 3

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

Policy 3.1

Promote the attraction, retention, and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

The Ordinance proposes modifications to the North Beach Neighborhood Commercial District land use controls that would help retain a long-standing retail use in the City. The retail use, by its nature, provides employment opportunities for unskilled and semi-skilled workers.

OBJECTIVE 6

PROVIDE 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.

The Planning Code amendments in the proposed Ordinance help to retain a retail use that provides neighborhood-serving goods to the North Beach community

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 proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

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 not have a negative effect on housing, but would help preserve

neighborhood character by allowing a long-established business to remain.

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.

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

The proposed Ordinance 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.

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.

7. That the landmarks and historic buildings be preserved;

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.

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.

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

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on May 12, 2022

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: May 12, 2022

Exhibit B

1 [Planning Code - Fire-Damaged Liquor Stores in North Beach Neighborhood Commercial
2 District]

3 **Ordinance amending the Planning Code to extend the time, from three to six years from**
4 **the date of a fire, for a temporary closure of a liquor store in the North Beach**
5 **Neighborhood Commercial District (NCD) as a result of the fire to not result in an**
6 **abandonment of such use, and for the relocation of such use to another location in the**
7 **North Beach NCD to not require a new Conditional Use permit; affirming the Planning**
8 **Department's determination under the California Environmental Quality Act; and**
9 **making findings of consistency with the General Plan, and the eight priority policies of**
10 **Planning Code, Section 101.1, and findings of public necessity, convenience, and**
11 **welfare under Planning Code, Section 302.**

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

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

20 Section 1. Environmental and Land Use Findings.

21 (a) The Planning Department has determined that the actions contemplated in this
22 ordinance comply with the California Environmental Quality Act (California Public Resources
23 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
24 Supervisors in File No. 220342 and is incorporated herein by reference. The Board affirms
25 this determination.

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

6 (c) On _____, the Planning Commission, in Resolution No. _____,
7 approved this ordinance, recommended it for adoption by the Board of Supervisors, and
8 adopted findings that it will serve the public necessity, convenience, and welfare. Pursuant to
9 Planning Code Section 302, the Board adopts these findings as its own. A copy of said
10 Resolution is on file with the Clerk of the Board of Supervisors in File No. _____, and is
11 incorporated herein by reference.

12
13 Section 2. Article 7 of the Planning Code is hereby amended by revising Section 722,
14 to read as follows:

15 **SEC. 722. NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT.**

16 * * * *

17 **Table 722. NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT**
18 **ZONING CONTROL TABLE**

19 * * * *

20

Zoning Category	§ References	Controls
NON-RESIDENTIAL STANDARDS AND USES		
* * * *		
Sales and Service Use Category		

21
22
23
24
25

1	Retail Sales and Service	§§ 102, 202.2(a), 202.3	P(10)	P(10)	NP
2	Uses*				
3	* * * *				
4	Liquor Store	§102	C(12)	NP	NP
5	* * * *				

6

7 * Not listed below

8 * * * *

9 (12) Temporary closures ~~of up to three years~~ of existing liquor stores located in the
10 North Beach Neighborhood Commercial District, for reconstruction or repair after a fire, shall
11 not be considered an abandonment of such use pursuant to Section 178 of this Code, for up to
12 six years from the date of the fire, unless the original liquor store elects to relocate somewhere
13 else permanently. Temporary relocation of liquor stores in the North Beach Neighborhood
14 Commercial District that have been closed as a result of a fire to another location in the North
15 Beach Neighborhood Commercial District shall not require a new Conditional Use Permit for
16 the duration of up to ~~three~~ six years of interim relocation, from the date of the fire.

17

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

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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 DAVID CHIU, City Attorney

10 By: /s/ Andrea Ruiz-Esquide
11 ANDREA RUIZ-ESQUIDE
12 Deputy City Attorney

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