

File No. 101091

Committee Item No. 6

Board Item No. 36

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date December 6, 2010

Board of Supervisors Meeting Date December 14, 2010

Cmte Board

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OTHER

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Environmental Review Determination</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Small Business Commission Recommendation Letter</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Planning Commission Resolution No. R-18232</u> |
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Completed by: Alisa Somera Date December 3, 2010

Completed by: Alisa Somera Date December 9, 2010

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.



1 [Planning Code - Notice Requirement for "Other Entertainment Uses" in the Van Ness Avenue
2 Special Use District]

3
4 **Ordinance amending the San Francisco Planning Code by amending Section 243 to**
5 **require notice for "Other Entertainment Uses" in the Van Ness Avenue Special Use**
6 **District; adopting findings, including findings under Section 302 of the Planning Code,**
7 **environmental findings and findings of consistency with the General Plan and the**
8 **Priority Policies of Planning Code Section 101.1.**

9 NOTE: Additions are single-underline italics Times New Roman;
10 deletions are ~~strike-through italics Times New Roman~~.
11 Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough-normal~~.

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

13 Section 1. Findings.

14 A. On December 2, 2010 at a duly noticed public hearing, the Planning
15 Commission in Resolution No. R-18232 found that the proposed Planning Code amendments
16 were consistent with the City's General Plan and with Planning Code Section 101.1(b). In
17 addition, the Planning Commission, in Resolution No. R-18232, recommended that the Board
18 of Supervisors adopt the amendments. Copies of said Resolution are on file with the Clerk of
19 the Board of Supervisors in File No. 101091 and are incorporated herein by reference. The
20 Board finds that the proposed Planning Code amendments are consistent with the City's
21 General Plan and with Planning Code Section 101.1(b) for the reasons set forth in said
22 Motion.

23 B. Pursuant to Planning Code Section 302, the Board finds that the proposed
24 Planning Code Amendments will serve the public necessity, convenience and welfare for the
25

1 reasons set forth in Planning Commission Resolution No. R-18232, which reasons are
2 incorporated herein by reference as though fully set forth.

3 C. Environmental Findings. The Planning Department has determined that the
4 actions contemplated in this Ordinance are in compliance with the California Environmental
5 Quality Act (California Public Resources Code section 21000 et seq.). Said determination is
6 on file with the Clerk of the Board of Supervisors in File No. 101091 and is incorporated herein
7 by reference.

8
9 Section 2. The San Francisco Planning Code is hereby amended by amending
10 Section 243, to read as follows:

11
12 **SEC. 243. VAN NESS SPECIAL USE DISTRICT.**

13 (a) General. A Special Use District entitled the Van Ness Special Use District, the
14 boundaries of which are shown on Sectional Map No. 2SU of the Zoning Map, is hereby
15 established for the purposes set forth below.

16 (b) Purposes. In order to implement the objectives and policies of the Van Ness
17 Avenue Plan, a part of the Master Plan, which includes (i) creation of a mix of residential and
18 commercial uses on the boulevard, (ii) preservation and enhancement of the pedestrian
19 environment, (iii) encouragement of the retention and appropriate alteration of architecturally
20 and historically significant and contributory buildings, (iv) conservation of the existing housing
21 stock, and (v) enhancement of the visual and urban design quality of the street, the following
22 controls are imposed in the Van Ness Special Use District.

23 (c) Controls. All provisions of the City Planning Code applicable to an RC-4 District
24 shall apply except as otherwise provided in this Section.

1 (1) Basic Floor Area Ratio. The basic floor area ratio limit shall be 7.0 to 1 in the
2 130-foot height district and 4.5:1 in the 80-foot height district. These limits shall apply to
3 dwellings notwithstanding Section 124(b) of this Code, but shall not apply to floor space used
4 for nonaccessory off-street parking and driveways and maneuvering areas incidental thereto
5 provided such parking is located entirely below curb level at the centerline of the building
6 containing such parking and replaces parking spaces displaced by the building or buildings.
7 For definitions of floor area ratio and gross floor area, see Sections 102.11 and 102.9,
8 respectively. The provisions allowing a floor area premium set forth in Section 125(a) shall not
9 apply in the Van Ness Special Use District.

10 (2) Housing Density. The restrictions on density set forth in Sections 207, 207.1,
11 208, 209.1 and 209.2 of this Code shall not apply.

12 (3) Height and Bulk Restrictions. See Height and Bulk Map No. 2H. See Section
13 270 of this Code for bulk limits.

14 (4) Awnings, canopies and marquees, as defined in Sections 790.20, 790.26 and
15 790.58 of this Code, and further regulated by the Building Code and Sections 243(c)(5), 136.2
16 and 607.3 of this Code, are permitted.

17 (5) Signs.

18 (A) Signs located within the Van Ness Special Use District, with the exception of the
19 Civic Center Special Sign District as described in Section 608.3 of this Code and as shown in
20 Sectional Map SSD, shall be regulated as provided in Article 6, including Section 607.3 which
21 governs signs located in the Van Ness Special Sign District.

22 (B) Signs on structures designated as landmarks under the provisions of Section
23 1004 shall be regulated as provided in Section 607.3(d).

1 (6) Rear Yards. The requirements of this Code applicable to rear yards may be
2 modified or waived by the Zoning Administrator pursuant to Section 307(g) if all of the
3 following conditions are met:

4 (A) The interior block open space formed by the rear yards of abutting properties will
5 not be adversely affected; and

6 (B) A comparable amount of usable open space is provided elsewhere on the lot or
7 within the development where it is more accessible to residents; and

8 (C) The access of light and air to abutting properties will not be significantly
9 impeded.

10 This provision shall be administered pursuant to the procedures which are applicable to
11 variances, as set forth in Sections 306.1 through 306.5 and 308.2 of this Code.

12 (7) Required Setbacks. Setbacks for buildings exceeding a height of 40 feet shall be
13 regulated as provided in Section 253.2 of this Code.

14 (8) Limitation of Nonresidential Uses.

15 (A) Residential Uses; Ratio Established. In newly constructed structures,
16 nonresidential uses shall only be permitted if the ratio between the amount of net additional
17 occupied floor area for residential uses, as defined in this paragraph below, to the amount of
18 occupied floor area for nonresidential uses in excess of the occupied floor area of structures
19 existing on the site at the time the project is approved is 3 to 1 or greater. In additions to
20 existing structures which exceed 20 percent of the gross floor area of the existing structure,
21 nonresidential uses shall be permitted in the addition in excess of 20 percent only if the ratio
22 between the amount of occupied floor area for residential use, as defined in this paragraph
23 below, to the area of occupied floor area for nonresidential use is 3 to 1 or greater. This
24 residential use ratio shall not apply to development sites in the Van Ness Special Use District
25 which have less than 60 feet of street frontage on Van Ness Avenue and have no street

1 frontage other than the Van Ness Avenue frontage. For purposes of this Section,
 2 "nonresidential uses" shall mean those uses described in Sections 209.2(d) and (e) (hotel,
 3 inn, hostel), 209.3(a) (hospital, medical center or other medical institution with in-patient care
 4 facilities), 209.4 (community facilities), 209.6 (public facilities and utilities), 209.7 (vehicle
 5 storage and access) and 209.8 (commercial establishments); in the Automotive Special Use
 6 District nonresidential uses include automotive uses as described in Section 237; "residential
 7 use" shall mean those uses described in Sections 209.1 and 209.2(a), (b) and (c) (dwelling
 8 units and group housing).

9 (B) Reduction of Ratio of Residential Uses for Affordable Housing. The City
 10 Planning Commission may modify the Van Ness Special Use District residential to
 11 nonresidential use ratio between Golden Gate Avenue and California Street as a conditional
 12 use in one of the following ways:

13 (i) In-Lieu Fee. By conditional use, the developer may elect to fulfill the obligation to
 14 build housing by paying an in-lieu fee to the Affordable Housing Fund as provided in Section
 15 313 of this Code. No more than a 50 percent reduction of the required housing for a specific
 16 project can be fulfilled by paying an in-lieu fee. Use of these funds shall provide affordable
 17 housing within 2,000 feet of the Van Ness Special Use District. The in-lieu fee shall be
 18 determined by the following formula:

19 (1)

$$20 \quad \frac{((\text{Lot Area} \times \text{FAR}) / 4) \times 3}{\text{Residential}} = \text{SQ. FT. Requirement}$$

23 (2)

$$24 \quad \frac{\text{Residential SQ. FT.}}{\text{Residential SQ. FT.}} = \text{LOSS}$$

1 *Requirement* *Developed*

2 (3)

3 *LOSS X \$15 = In-Lieu Fee*

4 (ii) Providing Affordable Housing. By conditional use, the developer may reduce up
5 to 50 percent of the required amount of on-site housing by maintaining a portion of that
6 housing as permanently affordable for the life of the project. Affordable units shall be
7 managed by a nonprofit housing agency through a duly executed agreement between the
8 project sponsor, the nonprofit agency and the Planning Department. The mix of affordable
9 units retained in the project shall conform to the overall dwelling unit size mix of the project.
10 The portion of retained residential which shall be affordable will be determined by calculating
11 the number of market rate units which could be subsidized by the amount of "in-lieu fee"
12 calculated in Paragraph (i) above. The number of square feet of affordable housing shall be
13 calculated in the following manner:

14 (1)

$$\begin{array}{rcc} 15 & \textit{In-Lieu Fee} & \\ 16 & \hline 17 & \textit{\$30/square foot subsidy} & \end{array} = \begin{array}{l} \textit{Square Feet of} \\ \textit{Affordable Housing} \\ \textit{Retained in the Project} \end{array}$$

18
19 (iii) Annual Reporting, Evaluation and Adjustments to Affordability and Fee
20 Calculations. The Department shall report annually to the Planning Commission on the activity
21 and utilization of Section 243(c)(8)(B). Based on an evaluation of this report, the Planning
22 Commission may initiate a modification or deletion of Section 243(c)(8)(B).

23 The dollar amounts used in the calculation for Paragraphs (i) and (ii) of this Subsection
24 shall be subject to annual adjustments in accord with Section 313.6(1) of this Code.

1 Affordability shall be defined by rents or sale prices affordable by households with no more
2 than 80 percent of median income standards developed by HUD.

3 (iv) If the Commission finds that taking into consideration projects constructed since
4 the effective date of the Van Ness Special Use District and the housing development potential
5 remaining in the District the overall objective of adding a substantial increment of new housing
6 on Van Ness Avenue will not be significantly compromised, the Commission may by
7 conditional use modify the 3:1 housing ratio or may modify the rules regarding the timing and
8 location of linked projects if in addition to Section 303(c) standards of this Code it finds that:

9 (1) The project is to provide space for expansion of an established business from an
10 adjacent site (for this purpose two sites separated by an alley shall be deemed to be adjacent)
11 or,

12 (2) The project is to provide space for an institutional, hotel, medical, cultural or
13 social service use meeting an important public need which cannot reasonably be met
14 elsewhere in the area, and

15 (3) Housing cannot reasonably be included in the project referred to in (1) and (2)
16 above.

17 The Commission shall consider the feasibility of requiring the project to be constructed
18 in such a manner that it can support the addition of housing at some later time.

19 (C) Off-Site Provision of Required Residential Space. For the purpose of calculating
20 the 3 to 1 ratio between residential and nonresidential use, two or more projects for new
21 construction within the Van Ness Special Use District may be considered and approved
22 together as linked projects. The requirements of Paragraph (A) above may be satisfied if the
23 aggregate amount of occupied floor area for residential use in two or more linked projects is at
24 least three times greater than the aggregate amount of occupied floor area for nonresidential
25 use.

1 (i) Those building permit applicants who wish to link two or more projects for the
2 purpose of meeting the 3 to 1 residential to nonresidential ratio shall file with the Department
3 of City Planning a statement of intent identifying the applications covering the projects that are
4 to be considered and approved together;

5 (ii) When the Department of City Planning approves an application for a project
6 containing only nonresidential use and the project is linked to one or more other projects
7 pursuant to the statement of intent filed with the Department, it shall include as a condition of
8 approval a requirement prohibiting the project sponsor from commencing any work on the site
9 until the Zoning Administrator issues a written determination that such work may proceed. The
10 Zoning Administrator shall not issue such a determination until those permits authorizing the
11 projects containing residential use have been issued and foundations have been completed at
12 each such site;

13 (iii) If a permit for a project containing nonresidential use expires because of delays
14 in the completion of foundations for linked projects containing residential uses, new permits
15 may be approved for the nonresidential project within three years of such expiration without
16 regard to the 3 to 1 residential ratio requirement if a Temporary Certificate of Occupancy or a
17 Permit of Occupancy has been issued for each project containing residential use;

18 (iv) No building or portion of a building approved as a linked project that contains
19 residential use required to meet the 3 to 1 residential to nonresidential ratio requirement shall
20 be used for any nonresidential purposes; provided, however, that this restriction shall no
21 longer apply if 50 percent or more of the non-residential occupied floor area in the linked
22 projects has been converted to residential use, or has been demolished, or has been
23 destroyed by fire or other act of God;

24 (v) The Zoning Administrator shall impose as a condition of approval of a permit
25 authorizing the residential uses of linked projects the requirement that the owner record in the

1 land records of the property a notice of restrictions, approved as to form by the Zoning
2 Administrator, placed on the use of the property by this Section.

3 (D) Nonconforming Uses. A use which existed lawfully at the effective date of this
4 Section and which fails to conform to the use limitation of Section 243(c)(8)(A) above, shall be
5 considered a nonconforming use and subject to the provisions of Sections 180 through 188 of
6 this Code, including the provisions of Section 182 regarding change of use, except as follows:

7 (i) In calculating the cost of structural alterations pursuant to Section 181(b)(4), the
8 cost of reinforcing the building to meet the standards for seismic loads and forces of the 1975
9 Building Code shall not be included; and

10 (ii) Notwithstanding the provisions of Section 181(b), the structure occupied by the
11 nonconforming use may be enlarged by an amount equal to 20 percent of the gross floor area
12 of the existing structure.

13 (E) Street Frontages. Street frontages and parking setbacks shall conform to
14 Section 145.1 of this Code. Ground floor non-residential uses shall have a minimum floor-to-
15 floor height of 14 feet.

16 (F) Fast Food Uses. A large fast food restaurant as defined in Section 790.90 of this
17 Code shall be permitted only as a conditional use.

18 A small self-service restaurant, as defined in Section 790.91 of this Code, shall be permitted
19 only as a conditional use unless such restaurant is a related minor use which is either
20 necessary to the operation or enjoyment of a lawful principal use or conditional use, or is
21 appropriate, incidental and subordinate to any such use, in which case it shall be permitted as
22 an accessory use.

23 (G) Drive-Up Facilities. Drive-up facilities are not permitted. For the purposes of this
24 Section, "drive-up facilities" shall be defined as structures designed primarily for drive-to or
25 drive-through trade which provides service to patrons while in private motor vehicles.

1 (H) Demolitions. All demolitions of buildings containing residential use and all
2 conversions from residential uses to nonresidential uses above the ground floor shall be
3 permitted only if authorized as a conditional use under Section 303 of this Code, unless the
4 Superintendent of the Bureau of Building Inspection or the Chief of the Bureau of Fire
5 Prevention and Public Safety determines that the building is unsafe or dangerous and that
6 demolition is the only feasible means to secure the public safety. When considering whether
7 to grant a conditional use permit for the demolition or conversion, in lieu of the criteria set forth
8 in Planning Code Section 303, consideration shall be given to the adverse impact on the
9 public health, safety and general welfare of the loss of housing stock in the district and to any
10 unreasonable hardship to the applicant if the permit is denied. The definition of residential use
11 shall be as set forth in Section 243(c)(8)(A), but shall not include any guest room in a building
12 classified as a residential hotel subject to the Residential Hotel Unit Conversion and
13 Demolition Ordinance.

14 A conditional use permit shall not be required if the demolition permit is sought in order
15 to comply with a court order directing or permitting the owner to demolish a building because it
16 is unsafe. No person shall be permitted to construct anything on the site of a demolished
17 building subject to such an order for a period of two years unless (a) the proposal is for at
18 least the same number and size of dwelling units and guest rooms and the same amount of
19 nonresidential floor area as that which was demolished or (b) the applicant requests and is
20 granted an exemption from this requirement on the ground that the applicant has
21 demonstrated that (1) the need for demolition did not arise because of the deliberate or
22 unreasonable neglect of the maintenance of the building, or that (2) the restrictions would
23 cause undue hardship to the property owner or that (3) the restrictions would leave the
24 property without any substantial remaining market value or reasonable use.
25

1 (I) Parking. Pursuant to Table 151 in Article 1.5 of this Code, the residential parking
2 requirement shall be one space for each dwelling unit; provided, however, that the parking
3 requirement may be reduced to not less than one space for each four dwelling units, if the
4 Zoning Administrator determines that the reduced parking requirement is sufficient to serve
5 the reasonably anticipated auto usage by residents and visitors to the project. The procedures
6 and fee for such review shall be the same as those which are applicable to variances, as set
7 forth in Sections 306.1 through 306.5 and 308.2.

8 (J) Adult Entertainment Enterprises. The uses described in Section 221(k) of this
9 Code are not permitted.

10 (K) Other Entertainment Uses. Other Entertainment Uses as defined in Section 790.38 of
11 this Code shall be permitted only as a conditional use under Section 303 of this Code require
12 notification as set forth in Section 312 of this Code.

13 (9) Reduction of Ground Level Wind Currents.

14 (A) New buildings and additions to existing buildings shall be shaped, or other wind
15 baffling measures shall be adopted, so that the development will not cause year-round ground
16 level wind currents to exceed, more than 10 percent of the time, between 7:00 a.m. and 6:00
17 p.m., the comfort level of 11 m.p.h. equivalent wind speed in areas of pedestrian use and
18 seven m.p.h. equivalent wind speed in public seating areas. When pre-existing ambient wind
19 speeds exceed the comfort levels specified above, the building shall be designed to reduce
20 the ambient wind speeds in efforts to meet the goals of this requirement.

21 (B) An exception to this requirement may be permitted but only if and to the extent
22 that the project sponsor demonstrates that the building or addition cannot be shaped or wind
23 baffling measures cannot be adopted without unduly restricting the development potential of
24 the building site in question.

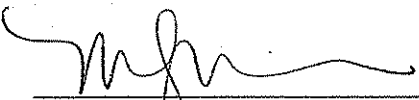
1 (i) The exception may permit the building or addition to increase the time that the
2 comfort level is exceeded, but only to the extent necessary to avoid undue restriction of the
3 development potential of the site.

4 (ii) Notwithstanding the above, no exception shall be allowed and no building or
5 addition shall be permitted that causes equivalent wind speeds to reach or exceed the hazard
6 level of 26 m.p.h. for a single hour of the year.

7 (C) For the purposes of this Section, the term "equivalent wind speed" shall mean
8 an hourly wind speed adjusted to incorporate the effects of gustiness or turbulence on
9 pedestrians.

10
11 APPROVED AS TO FORM:
12 DENNIS J. HERRERA, City Attorney

13
14 By:


15 Marlena G. Byrne
16 Deputy City Attorney

REVISED LEGISLATIVE DIGEST
(Amended in Committee: 12/6/2010)

[Planning Code - Notice Requirement for "Other Entertainment Uses" in the Van Ness Avenue Special Use District]

Ordinance amending the San Francisco Planning Code by amending Section 243 to require notice for "Other Entertainment Uses" in the Van Ness Avenue Special Use District; adopting findings, including findings under Section 302 of the Planning Code, environmental findings and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

Existing Law

The Van Ness Avenue Special Use District (SUD) runs along Van Ness Avenue and is generally bounded by Broadway Street in the north and Golden Gate Street to the south. Its boundaries can be found on Zoning Map SU02 of the City and County of San Francisco. Currently, there are no special requirements for "Other Entertainment Uses," as defined by Planning Code Section 790.38, within this SUD. Section 790.38 generally defines "Other Entertainment Uses" as retail uses, other than adult entertainment, that provide live entertainment, including dramatic and musical performances, and/or operate as a dance hall.

Amendments to Current Law

The proposed legislation would require all new "Other Entertainment Uses", as defined in Planning Code Section 790.38, to provide notification under Planning Code Section 312 before such use could be approved.

Background

As originally introduced, this proposed legislation required all new Other Entertainment Uses to obtain a Conditional Use Authorization under Section 303 of the Planning Code. An amendment was made at the Board of Supervisors Land Use Committee hearing on December 6, 2010 to instead require notification under Section 312 of the Planning Code.

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

September 3, 2010

File No. 101091

Bill Wycko
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Mr. Wycko:

On September 10, 2010, Supervisor Alioto-Pier introduced the following proposed legislation:

File No. 101091

Ordinance amending Section 243 of the San Francisco Planning Code to require conditional use authorization for "Other Entertainment Uses" in the Van Ness Avenue Special Use District; adopting findings, including findings under Section 302 of the Planning Code, environmental findings and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

The legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board

Handwritten signature of Alisa Somera in cursive.

By: Alisa Somera, Committee Clerk
Land Use & Economic Development Committee

Attachment

- c: Nannie Turrell, Major Environmental Analysis
- Brett Bollinger, Major Environmental Analysis

*Non-physical per CEQA
Guidelines Section 15069(a)(2).*

Brett Bollinger 9/20/10
Approved Planning Dept. Brett Bollinger
2010.0835E



SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS



CITY AND COUNTY OF SAN FRANCISCO
GAVIN NEWSOM, MAYOR

December 1, 2010

Ms. Angela Calvillo, Clerk of the Board
Board of Supervisors
City Hall room 244
1 Carlton B. Goodlett Place
San Francisco, CA 94102-4694

Re: File No. 101091 [Planning Code - Conditional Use Authorization for "Other Entertainment Uses" in the Van Ness Avenue Special Use District and Commercial Establishment Use Controls in RC Districts]

Small Business Commission Legislation and Policy Committee Recommendation: Dual Recommendation

Dear Ms. Calvillo:

On November 22, 2010, the Small Business Commission's Legislation and Policy Committee voted to recommend approval of Board of Supervisors File No. 101091 as introduced on November 9, 2010. The Committee supports requiring Conditional Use Authorization for "Other Entertainment Uses" in the Van Ness SUD. The full Small Business Commission will meet on December 13, 2010 to consider a full SBC recommendation.

Substitute legislation was introduced on November 23, 2010 to incorporate Planning Department staff recommendations which will amend the planning code to use C-2 use controls in RC-3 and RC-4 Districts instead of the nearest neighborhood commercial district controls. Although the Committee did not consider this amendment at the November 22 meeting, in keeping with established Commission policy, staff recommends that the ordinance be amended to require Conditional Use Authorization for Formula Retail Establishments in RC-3 and RC-4 Districts. Since a CU is currently required under the current neighborhood commercial district controls, this would only maintain existing Formula Retail requirements in these districts.

Sincerely,

Regina Dick-Endrizzi
Director, Office of Small Business

cc. Supervisors Alioto-Pier, Chiu, Mar, Maxwell
Starr Terrell, Mayor's Office
Alisa Somera, Clerk of the Land Use and Economic Development Committee

SMALL BUSINESS ASSISTANCE CENTER/ SMALL BUSINESS COMMISSION
1 DR. CARLTON B. GOODLETT PLACE, ROOM 110 SAN FRANCISCO, CALIFORNIA 94102-4681
(415) 554-6408



SAN FRANCISCO PLANNING DEPARTMENT

December 6, 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

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Re: Transmittal of Planning Case Number CASE NO. 2010.0965T to the Board of Supervisors File No. 10-1091: Van Ness Avenue SUD: Other Entertainment

Recommendation: Approval

Dear Ms. Calvillo,

On December 2, 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 hearing, the Commission voted 5-0 to recommend approval.

Please find attached resolution which provides more detail about the Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

AnMarie Rodgers
Manager of Legislative Affairs

Cc: Supervisor Alioto-Pier

Attachments (one copy of the following):
Planning Commission Resolution No. 18232

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2010 DEC - 6 AM 11:05
BY DR



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 18232 Planning Code Text Changes HEARING DATE: DECEMBER 2, 2010

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Project Name: Van Ness Avenue SUD "Entertainment Uses"
Case Number: 2010.0965T
Initiated by: Supervisor Alioto-Pier (BOS File No. 10-1091)
Initiated: August 10, 2010
Staff Contact: Tara Sullivan, Legislative Affairs
tara.sullivan@sfgov.org, 415-558-6257
Reviewed by: David Lindsay, Team Leader, NW Quadrant
david.lindsay@sfgov.org, 415-558-6393
90-day Deadline: December 2, 2010

Recommendation: Approval

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT AN ORDINANCE THAT WOULD AMEND THE PLANNING CODE SECTION 243 TO REQUIRE A CONDITIONAL USE AUTHORIZATION FOR "OTHER ENTERTAINMENT" USES IN THE VAN NESS AVENUE SPECIAL USE DISTRICT; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS AND PLANNING CODE SECTION 101.1 FINDINGS.

PREAMBLE

Whereas, on August 10, 2010, Supervisor Alioto-Pier introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 10-1091; and

Whereas, the proposed Ordinance 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 on December 2, 2010; 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

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, 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 Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors *approve* 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:

1. The Van Ness SUD is silent on the regulation of Other Entertainment uses and the underlying RC-4 controls apply. Those controls in turn refer to the controls of the nearest NC District.
2. 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 for this use within the Van Ness SUD create an inconsistent regulatory process and do not treat all applications in a similar fashion. Given the relatively uniform character of development within the Van Ness SUD, one standard control should apply throughout.
4. A Conditional Use Authorization not only affords a reasonable level of scrutiny given the potential for impacts associated with Other Entertainment uses but is also the dominant *current* land use control in the SUD.
5. A Conditional Use Authorization will allow the Planning Commission to determine, on a case-by-case basis, whether a particular Other Entertainment Use is necessary and desirable for the neighborhood, and it allows for community input. The Department supports the proposed amendment.
6. Therefore, the Commission recommends *approval of the proposed Ordinance*.
7. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

I. COMMERCE & INDUSTRY ELEMENT

THE COMMERCE & INDUSTRY ELEMENT SETS FORTH OBJECTIVES AND POLICES THAT ADDRESS THE BROAD RANGE OF ECONOMIC ACTIVITIES, FACILITIES AND SUPPORT SYSTEMS THAT CONSTITUTE SAN FRANCISCO'S EMPLOYMENT AND SERVICE BASE. THE PLAN SERVES AS A COMPREHENSIVE GUIDE FOR BOTH THE PUBLIC AND PRIVATE SECTORS WHEN MAKING DECISIONS RELATED TO ECONOMIC GROWTH AND CHANGE.

GOALS

The objectives and policies are based on the premise that economic development activities in San Francisco must be designed to achieve three overall goals: 1) Economic Vitality - the first goal is to maintain and expand a healthy, vital and diverse economy which will provide jobs essential to personal well-being and revenues to pay for the services essential to the quality of life in the city; 2) Social Equity - the second goal is to assure that all segments of the San Francisco labor force benefit from economic growth. This will require that particular attention be given to reducing the level of unemployment, particularly among the chronically unemployed and those excluded from full participation by race, language or lack of formal occupational training; and 3) Environmental Quality - the third goal is to maintain and enhance the environment. San Francisco's unique and attractive environment is one of the principal reasons San Francisco is a desirable place for residents to live, businesses to locate, and tourists to visit. The pursuit of employment opportunities and economic expansion must not be at the expense of the environment appreciated by all.

OBJECTIVE 1

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

POLICY 1.3

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan

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.

POLICY 6.3

Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

POLICY 6.8

Preserve historically and/or architecturally important buildings or groups of buildings in neighborhood commercial districts.

8. The proposed replacement project is generally 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 would help neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses by applying consistent zoning use controls throughout the RC Districts and the Van Ness SUD.

- 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 Ordinance will not impact existing housing and will help preserve neighborhood character by requiring a Conditional Use Authorization for Other Entertainment Uses

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

The proposed Ordinance will not impact the 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.

Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments.

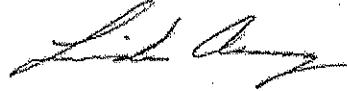
- G) That landmark and historic buildings will be preserved:

The proposed Ordinance will not impact historic buildings.

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

The proposed Ordinance will not impact the City's parks and open space.

I hereby certify that the foregoing Resolution was ADOPTED by the San Francisco Planning Commission on December 2, 2010.



Linda D. Avery
Commission Secretary

AYES: Miguel, Olague, Antonini, Borden, Sugaya

NOES:

ABSENT: Moore

ADOPTED: December 2, 2010

