

BOARD of SUPERVISORS



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MEMORANDUM

Date: June 30, 2023
To: Planning Department / Commission
From: Erica Major, Clerk of the Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 230767
Administrative Code - Treatment of Seating Area at Taraval Street and 46th Avenue as Sidewalk for Shared Spaces Program

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

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

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

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

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

Please send the Planning Department/Commission recommendation/determination to Erica Major at Erica.Major@sfgov.org.

1 [Administrative Code - Treatment of Seating Area at Taraval Street and 46th Avenue as
2 Sidewalk for Shared Spaces Program]

3 **Ordinance waiving specified requirements in the Administrative Code to allow seating**
4 **area designated as a curbside traffic island on Taraval Street at 46th Avenue to be**
5 **defined as two sidewalk shared spaces, subject to certain requirements; and affirming**
6 **the Planning Department’s determination under the California Environmental Quality**
7 **Act.**

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

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

16 Section 1.

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

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25 (b) General Findings.

1 (1) The two areas that are the subject of this ordinance are located at the
2 northeast corner of Taraval Street and 46th Avenue, generally in front of 3600 through 3608
3 Taraval Street (“Taraval Hybrid Spaces”).

4 (2) During the COVID-19 emergency, one business associated with 3608
5 Taraval Street installed seating for patrons on a portion of the Taraval Hybrid Spaces as a
6 shared space in accordance with Public Works Code Article 5.2 (Sections 176, et seq.),
7 applicable Public Works Orders, and Permit No. 20TC-01181.

8 (3) The area occupied by the Taraval Hybrid Spaces was constructed by the
9 San Francisco Municipal Transportation Authority (“SFMTA”), through the Public Works
10 Department, as part of the Taraval Streetscape Improvement Project (“Streetscape Project”) in or around 2015. The Streetscape Project spanned the two westernmost blocks of Taraval
11 Street and included public art, landscaping, roadway improvements, and sidewalk
12 improvements.
13

14 (4) The Streetscape Project included eight raised landscaped areas along the
15 sidewalk that are separated from the driving and parking lanes by a curb. These areas are or
16 resemble “bulb-outs,” or, extensions of the sidewalk into the vehicular travelway, often used
17 for traffic calming and street beautification. Seven of the bulb-outs are essentially landscaping
18 enclosed by a curb and are situated a few inches from the sidewalk curb, separated by a
19 gutter. The eighth bulb-out is different.

20 (5) The eighth bulb-out — which is the site of the Taraval Hybrid Spaces — was
21 designed and built as a community gathering and seating area, and includes a deck-like
22 walking surface and decorative boulders designed for public seating. The ground surface
23 portion of the Taraval Hybrid Spaces is flush with and immediately adjacent to the existing
24 sidewalk and curb; this preserves an Americans with Disabilities Act (“ADA”) compliant
25 pedestrian path of travel width on the sidewalk. The Taraval Hybrid Spaces are functionally

1 two seating areas next to each other on a single bulb-out, each seating area visually and
2 physically separated from the other by landscaping. One of the Taraval Hybrid Spaces is
3 generally in front of 3600 Taraval Street and the other is generally in front of 3606 - 3608
4 Taraval Street. The Taraval Hybrid Spaces are enclosed by a continuous curb that separates
5 the area from the travelway (the portion of the street for driving, transit, and parking).
6 Decorative boulders and landscaping provide further visual and physical separation between
7 the travelway and the seating areas.

8 (6) SFMTA designated all eight bulb-outs, including the Taraval Hybrid Spaces,
9 as “Traffic Islands (Curbside)” by Resolution No. 13-210, adopted on September 17, 2013. As
10 built, the Taraval Hybrid Spaces — unlike the other seven bulb-outs — are physically and
11 visually connected to the sidewalk, and were designed and built to function as seating areas.

12 (7) The sidewalks on Taraval Street were not formally widened to encompass
13 the Taraval Hybrid Spaces or the other seven bulb-outs or “Traffic Islands (Curbside).”
14 Accordingly, the Taraval Hybrid Spaces are not officially designated as “sidewalks,” despite
15 the fact that they visually appear to be and functionally operate as extensions of the sidewalk.

16 (8) The Shared Spaces Program authorizes designated City departments to
17 authorize Shared Spaces only on the sidewalk, in the curbside lane (usually the parking lane),
18 or on City-owned lots. The Taraval Hybrid Spaces are not officially on the sidewalk, although
19 they visually appear to be sidewalk extensions; they are not clearly part of the curbside lane
20 since they are not in a parking space and are separated from the travelway by a curb; and
21 they are not on a City-owned lot.

22 (9) Notwithstanding the visual and functional similarity between the Taraval
23 Hybrid Spaces and the sidewalk, the spaces are not located within the designated sidewalk
24 area but rather are located in a portion of the right-of-way SFMTA described as “Traffic
25 Islands (Curbside).” The Taraval Hybrid Spaces share few if any similarities with traditional

1 traffic islands; they were not designed as pedestrian refuges for crossing multi-lane roadways
2 and they are immediately adjacent to the sidewalk, not located in the middle of the street.

3 (10) A Curbside Shared Space under Administrative Code Section 94A.2 is “a
4 Shared Space occurring in a portion of the curbside lane of a City street.” The Taraval Hybrid
5 Spaces are outside of the sidewalk zone, but they are also outside of any “lane,” as they are
6 not within either a vehicular travel lane or parking lane. They were designed and designated
7 to be separate from the travelway. A Curbside Shared Space also requires SFMTA approval
8 of the curbside lane closure pursuant to Section 204 of Division II of the Transportation Code.
9 No such “closure of the curbside lane” would be required or applicable to the Taraval Hybrid
10 Spaces since they are not in a travel lane. Additionally, if the Taraval Hybrid Spaces were
11 treated as Curbside Shared Spaces, they would need to be activated as more structurally
12 substantial “parklets,” including safety features designed to separate patrons from passing
13 vehicles. Such a deployment would be redundant for the Taraval Hybrid Spaces which are
14 already physically separated from the travelway by a curb, landscaping, and boulders, and
15 include recent public streetscape improvements that could be obscured by parklet
16 construction.

17 (11) Consequently, the Taraval Hybrid Spaces are Shared Spaces that do not
18 fall within the definitions or permitting scheme of the existing categories of Shared Spaces.

19 (12) In recognition of the economic, health, safety, and recreational
20 contributions that Shared Spaces have provided to commercial enterprises, neighborhood
21 businesses, and City residents and visitors, the Board of Supervisors intends to allow the
22 Taraval Hybrid Spaces to operate as viable extensions of the associated businesses in the
23 same manner as similarly situated Sidewalk Spaces. To accomplish this objective, this
24 ordinance waives specific provisions of the Administrative Code governing Shared Spaces
25 that otherwise would be applicable to the Taraval Hybrid Spaces, conditioned on the Taraval

1 Hybrid Spaces undergoing minor physical modifications to make them compliant with
2 applicable laws and similarly situated Shared Spaces.

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5 Section 2. Waiver of Certain Administrative Code Provisions.

6 (a) Notwithstanding Administrative Code Sections 94A.2, 94A.4, and 94A.5, the
7 Taraval Spaces shall be treated as sidewalks for purposes of eligibility for a Shared Spaces
8 permit. Administrative Code Sections 94A.2, 94A.4, and 94A.5 are hereby waived to the
9 extent they would otherwise require an application for Taraval Hybrid Spaces to be processed
10 as a Curbside Shared Space or denied for failure to meet the definition of a Sidewalk Shared
11 Space.

12 (b) In implementing these waivers, the Public Works Director shall process permits for
13 the Taraval Hybrid Spaces in accordance with the other requirements of Administrative Code
14 Sections 94A et seq., Public Works Code Sections 793 et seq., and Public Works regulations
15 for Sidewalk Shared Spaces and shall ensure that the Taraval Hybrid Spaces are compliant
16 with these laws and regulations. To the extent that implementation of these waivers presents
17 a conflict with Public Works Code Sections 176 et seq. or Sections 793 et seq., the provisions
18 of this ordinance shall prevail, and the Public Works Director is authorized to exercise
19 discretion to amend or waive any design guidelines or other regulations in conflict with this
20 ordinance; provided, however, that the Taraval Hybrid Spaces shall comply with all
21 regulations, as may be modified by the Public Works Director, regarding public health and
22 safety design features for Shared Spaces.

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

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6 APPROVED AS TO FORM:
7 DAVID CHIU, City Attorney

8 By: /s/ HEATHER L. GOODMAN
9 HEATHER L. GOODMAN
Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Treatment of Seating Area at Taraval Street and 46th Avenue as Sidewalk for Shared Spaces Program]

Ordinance waiving specified requirements in the Administrative Code to allow seating area designated as a curbside traffic island on Taraval Street at 46th Avenue to be defined as two sidewalk shared spaces, subject to certain requirements; and affirming the Planning Department’s determination under the California Environmental Quality Act

Existing Law

Restaurants, bars, and other establishments may place outdoor seating on public sidewalks and streets under the Shared Spaces Program, regulated by Chapter 94A of the Administrative Code. Tables and chairs placed on sidewalks must be brought indoors overnight. For curbside lanes, usually in parking spots, more substantial “parklets” may be constructed.

An existing business on Taraval Street at 46th Avenue has tables and chairs outside in an area that looks and functions more like a sidewalk than a curbside lane. The area is directly next to and flush with the sidewalk, and contains two seating areas and landscaping. This area was designated as a “Traffic Island (Curbside)” and therefore it is not clear whether it qualifies as either a sidewalk or curbside lane under the Shared Spaces program.

Amendments to Current Law

This ordinance would waive provisions of the Administrative Code to allow treatment of the seating areas on Taraval Street at 46th Avenue as “sidewalk” areas for purposes of the Shared Spaces Program. This would allow the nearby businesses to apply for Shared Spaces permits to place tables and chairs outside of their businesses. It would not allow the businesses to build “parklets.”

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Introduction Form

(by a Member of the Board of Supervisors or the Mayor)

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)
(Routine, non-controversial and/or commendatory matters only)
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor _____ inquires..."
- 5. City Attorney Request
- 6. Call File No. _____ from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No. _____
- 9. Reactivate File No. _____
- 10. Topic submitted for Mayoral Appearance before the Board on _____

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Engardio

Subject:

[Administrative Code - Treatment of Seating Area at Taraval Street and 46th Avenue as Sidewalk for Shared Spaces Program]

Long Title or text listed:

Ordinance waiving specified requirements in the Administrative Code to allow seating area designated as a curbside traffic island on Taraval Street at 46th Avenue to be defined as two sidewalk shared spaces, subject to certain requirements; and affirming the Planning Department's determination under the California Environmental Quality Act

Signature of Sponsoring Supervisor:

