

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

MEMORANDUM

LAND USE AND ECONOMIC DEVELOPMENT COMMITTEE SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Scott Wiener, Chair
Land Use and Economic Development Committee

FROM: Alisa Somera, Assistant Clerk

DATE: January 13, 2015

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, January 13, 2015

The following file should be presented as a **COMMITTEE REPORT** at the Board meeting, Tuesday, January 13, 2015. This item was acted upon at the Committee Meeting on January 12, 2015, at 1:30 p.m., by the votes indicated.

Item No. 31 File No. 141231

Resolution imposing interim zoning controls requiring conditional use authorization for any new massage establishments, for eighteen months; and making findings, including environmental findings, and findings of consistency with the eight priority policies of Planning Code, Section 101.1.

RECOMMENDED AS A COMMITTEE REPORT

Vote: Supervisor Scott Wiener - Aye
Supervisor Jane Kim - Aye
Supervisor Malia Cohen - Aye

c: Board of Supervisors
Angela Calvillo, Clerk of the Board
Rick Caldeira, Deputy Legislative Clerk
Jon Givner, Deputy City Attorney

File No. 141231

Committee Item No. 2
Board Item No. 31

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Land Use & Development

Date Jan. 12, 2015

Board of Supervisors Meeting

Date January 13, 2015

Cmte Board

- | | | |
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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
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| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
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| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
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OTHER (Use back side if additional space is needed)

- | | | |
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| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>CEQA Determination, dtd 12/10/14</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Notice of Public Hearing</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |

Completed by: Andrea Ausberry Date Jan. 7, 2015
Completed by: Alisa Somera Date January 13, 2015

1 [Interim Zoning Controls - New Massage Establishments]

2
3 **Resolution imposing interim zoning controls requiring conditional use authorization for**
4 **any new massage establishments, for eighteen months; and making findings, including**
5 **environmental findings, and findings of consistency with the eight priority policies of**
6 **Planning Code, Section 101.1.**

7
8 WHEREAS, Planning Code, Section 306.7 provides for the imposition of interim zoning
9 controls to temporarily suspend the processing of certain applications for land use
10 authorizations which may be in conflict with a contemplated zoning proposal which the City is
11 studying, or intends to study within a reasonable time. This allows time for the orderly
12 completion of a planning study and for the adoption of appropriate legislation, ensuring that
13 the legislative scheme which may be ultimately adopted is not undermined during the planning
14 and legislative process by the approval or issuance of permits or the establishment or change
15 of uses which will conflict with that legislative scheme; and

16 WHEREAS, Under Planning Code, Section 306.7, the Board of Supervisors considers
17 the impact on the public health, safety, peace and general welfare if the proposed controls are
18 not imposed; and

19 WHEREAS, One of the factors that this Board considers is the preservation of
20 neighborhoods and areas of mixed residential and commercial uses, to protect the existing
21 character of such neighborhoods and areas; and

22 WHEREAS, Another factor to be considered is the development and conservation of
23 the commerce and industry of the City, to maintain the economic vitality of the City, provide
24 its citizens with adequate jobs and business opportunities, and maintain adequate services
25 for its residents, visitors, businesses, and institutions; and

1 WHEREAS, In recent years, state law has had a preemptive effect on the ability of
2 cities and counties to use their zoning power to regulate massage establishments; and

3 WHEREAS, The lack of local regulation has led to a marked increase in the number of
4 massage establishments that have opened in San Francisco, especially in some areas of the
5 City that now exhibit a significant concentration of such establishments; and

6 WHEREAS, This increased number of massage establishments and their concentration
7 in some areas appears to negatively affect the character and vitality of the City's
8 neighborhoods; and

9 WHEREAS, Often the exterior of these massage establishments includes features
10 such as window coverings, locked doors, and video cameras, which are uninviting and have a
11 negative impact on the pedestrian experience and the neighborhood fabric; and

12 WHEREAS, The lack of regulation has allowed many illicit massage establishments to
13 open. These establishments are often involved in or related to criminal acts such as human
14 trafficking, and other human rights violations; and

15 WHEREAS, These illicit massage establishments are detrimental to the health and
16 safety of the community and harm the local economy, as they drive legitimate business away,
17 potentially affecting the vitality of neighborhoods and the provision of adequate services for
18 residents and visitors alike; and

19 WHEREAS, In September 2014, the Legislature passed, and Governor Brown signed,
20 Assembly Bill No. 1147 ("A.B. 1147"), which, among other things, amended state regulation of
21 massage practitioners to remove restrictions on local land use authority and enable local
22 governments to more effectively zone and regulate massage establishments; and

23 WHEREAS, In light of A.B. 1147, the City is studying how to best amend its local laws
24 to regulate massage establishments under the new state law provisions, both to prevent illicit
25 establishments from opening up and operating, and to better ensure that lawful massage

1 establishments develop in harmony with the City's neighborhoods, character, and commercial
2 base; and

3 WHEREAS, These interim controls are intended and designed to ensure that the City
4 approves no new massage establishments without full consideration by the Planning
5 Commission, as part of a conditional use requirement, while the City is considering how to
6 amend its local laws; and

7 WHEREAS, This Board has considered the impact on the public health, safety, peace,
8 and general welfare if the interim controls proposed herein are not imposed; and

9 WHEREAS, This Board has determined that the public interest will be best served by
10 imposition of these interim controls at this time, to ensure that the planning and legislative
11 scheme which may be ultimately adopted is not undermined during the planning and
12 legislative process for permanent controls; and

13 WHEREAS, The Planning Department has determined that the actions contemplated in
14 this Resolution are in compliance with the California Environmental Quality Act (California
15 Public Resources Code Section 21000 et. seq.). Said determination is on file with the Clerk of
16 the Board of Supervisors in File No. 141231 and is incorporated herein by reference; now,
17 therefore, be it

18 RESOLVED, Pursuant to Planning Code Section 306.7, the Board of Supervisors, by
19 this Resolution, hereby prohibits any City agency, board, commission, officer or employee
20 from approving any site permit, building permit, or any other permit or license authorizing the
21 establishment of any new massage establishments, as defined herein, in the City, unless the
22 action would conform both to the existing provisions of the Planning Code and this resolution
23 imposing interim controls; and, be it

24 FURTHER RESOLVED, That for the purpose of these interim controls, "massage" shall
25 mean, as defined in Section 29.1 of the Health Code, "any method of pressure on or friction

1 against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the
2 external soft pads of the body with the hands or with the aid of any mechanical electrical
3 apparatus or appliances, with or without such supplementary aids as rubbing alcohol,
4 liniments, antiseptics, oils, powder, lotions, ointments, or other similar preparations;" and be it

5 FURTHER RESOLVED, That for the purpose of these interim controls, "massage
6 establishment" shall mean, as defined in Section 29.1 of the Health Code, "a fixed place of
7 business where more than one person engages in or carries on, or permits to be engaged in
8 or carried on, the practice of massage;" whether it is categorized as a "massage
9 establishment" (under Sections 218.1, 790.60 and 890.60 of the Planning Code) or as a
10 "medical service" (under Sections 790.14 and 890.14 of such Code); and be it

11 FURTHER RESOLVED, That as of the effective date of this Resolution, the
12 establishment of any massage establishments in the City shall be subject to a conditional use
13 authorization; and, be it

14 FURTHER RESOLVED, That in addition to the criteria listed in Section 303 of the
15 Planning Code, when reviewing a conditional use application for a new massage
16 establishment, the Planning Commission shall consider the concentration of such
17 establishments in the surrounding area and neighborhood; and, be it

18 FURTHER RESOLVED, That any massage establishment lawfully operating prior to
19 the effective date of this Resolution is exempt from these interim controls, unless such
20 enterprise ceases to operate or discontinues operation for 90 days or longer, in which event
21 the use shall be deemed abandoned; and, be it

22 FURTHER RESOLVED, That these interim controls shall not apply to accessory
23 massage uses, provided that the massage use is accessory to a principal use, the massage
24 use is accessed by the principal use, and the principal use is either (a) a tourist hotel, as
25 defined in Section 790.46 of the Planning Code, that contains 100 or more rooms; (b) a large

1 institution as defined in Section 790.50 of the Planning Code; or (c) a hospital or medical
2 center, as defined in Section 790.44 of the Planning Code; and, be it

3 FURTHER RESOLVED, That these interim controls shall remain in effect for eighteen
4 months from the effective date of this Resolution, or until the adoption of permanent legislation
5 regarding regulation of massage establishments in the City, whichever first occurs; and, be it

6 FURTHER RESOLVED, That these interim zoning controls advance and are consistent
7 with Priority Policies established in Planning Code Section 101.1(b), particularly Policies 1
8 and 2, in that they attempt to preserve and enhance the character and vitality of one of the
9 City's neighborhoods. With respect to Priority Policies 3, 4, 5, 6, 7, and 8, the Board finds that
10 these interim zoning controls do not, at this time, have an effect upon, and thus will not conflict
11 with those policies.

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

14
15 By: _____

16 ANDREA RUIZ-ESQUIDE
Deputy City Attorney

17 n:\legana\as2014\1500236\00973754.doc

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
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December 16, 2014

File No. 141231

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

Dear Ms. Jones:

On November 25, 2014, Supervisor Tang introduced the following legislation:

File No. 141231

Resolution imposing interim zoning controls requiring conditional use authorization for any new massage establishments, for eighteen months; and making findings, including environmental findings, and findings of consistency with the eight priority policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A Ausberry".

By: Andrea Ausberry, Assistant Clerk
Land Use & Economic Development Committee

Attachment

c: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

Not defined as a project under C15060(c)(2) because it does not result in a physical change in the environment.

Joy Navarrete

Digitally signed by Joy Navarrete
DN: cn=Joy Navarrete, o=Planning,
ou=Environmental Planning,
email=joy.navarrete@sfgov.org, c=US
Date: 2014.12.18 17:04:53 -08'00'

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MEMORANDUM

TO: Barbara A. Garcia, Director, Department of Public Health

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Economic Development Committee, Board of Supervisors

DATE: December 17, 2014

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, introduced by Supervisor Tang on November 25, 2014:

File No. 141231

Resolution imposing interim zoning controls requiring conditional use authorization for any new massage establishments, for eighteen months; and making findings, including environmental findings, and findings of consistency with the eight priority policies of Planning Code, Section 101.1.

If you have any additional comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Greg Wagner, Department of Public Health
Colleen Chawla, Department of Public Health

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MEMORANDUM

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

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Economic Development
Committee, Board of Supervisors

DATE: December 16, 2014

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use and Economic Development Committee

The Board of Supervisors' Land Use and Economic Development 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. 141231

Resolution imposing interim zoning controls requiring conditional use authorization for any new massage establishments, for eighteen months; and making findings, including environmental findings, and findings of consistency with the eight priority policies of Planning Code, Section 101.1.

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.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

_____ **No Comment**

_____ **Recommendation Attached**

Chairperson, Small Business Commission

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1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO LAND USE AND ECONOMIC DEVELOPMENT COMMITTEE

NOTICE IS HEREBY GIVEN THAT the Land Use and Economic Development Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: Monday, January 12, 2015

Time: 1:30 p.m.

Location: Committee Room 263, located at City Hall
1 Dr. Carlton B. Goodlett Place, San Francisco, CA

Subject: File No. 141231. Resolution imposing interim zoning controls requiring conditional use authorization for any new massage establishments, for eighteen months; and making findings, including environmental findings, and findings of consistency with the eight priority policies of Planning Code, Section 101.1.

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made as part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, January 9, 2015.

A handwritten signature in black ink, appearing to read "Angela Calvillo".

Angela Calvillo, Clerk of the Board

DATED/POSTED: December 29, 2014
PUBLISHED: January 3, 2015

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Andrea A.
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SAN FRANCISCO, CA 94102

COPY OF NOTICE

Notice Type: GPN GOVT PUBLIC NOTICE
Ad Description 141192 Interim Zoning Control Ext

To the right is a copy of the notice you sent to us for publication in the SAN FRANCISCO EXAMINER. Thank you for using our newspaper. Please read this notice carefully and call us with ny corrections. The Proof of Publication will be filed with the County Clerk, if required, and mailed to you after the last date below. Publication date(s) for this notice is (are):

01/02/2015

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EXM 2700842

NOTICE OF PUBLIC HEARING LAND USE AND ECONOMIC DEVELOPMENT COMMITTEE SF BOARD OF SUPERVISORS JANUARY 12, 2015 - 1:30 PM COMMITTEE ROOM 263, CITY HALL 1 DR. CARLTON B. GOODLETT PLACE, SF, CA

NOTICE IS HEREBY GIVEN THAT the Land Use and Economic Development Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard: File No. 141192. Resolution extending, for an additional six-month period, interim controls that require Conditional Use authorization for Limited Financial Service and Business or Professional Service uses in the Upper Market Neighborhood Commercial Transit District; and affirming the Planning Department's California Environmental Quality Act determination. In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made as part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, January 9, 2015. Angela Calvillo, Clerk of the Board



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Member, Board of Supervisors
District 8




City and County of San Francisco

SCOTT WIENER
威善高

DATE: January 7, 2015

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Scott Wiener 
Chairperson

RE: Land Use and Economic Development Committee
COMMITTEE REPORT

Pursuant to Board Rule 4.20, as Chair of the Land Use and Economic Development Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on January 13, 2015, as a Committee Report:

141231 Interim Zoning Controls - New Massage Establishments

Resolution imposing interim zoning controls requiring conditional use authorization for any new massage establishments, for eighteen months; and making findings, including environmental findings, and findings of consistency with the eight priority policies of Planning Code, Section 101.1.

This matter will be heard in the Land Use and Economic Development Committee on January 12, 2015, at 1:30 p.m.

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

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

- 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor inquires"
- 5. City Attorney request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No.
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):


Katy Tang

Subject:

Resolution imposing interim zoning controls requiring conditional use authorization for new massage establishments

The text is listed below or attached:

Attached

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

191231