



SAN FRANCISCO PLANNING DEPARTMENT

April 28, 2015

Ms. Angela Calvillo, Clerk
Honorable Supervisor Wiener
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

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San Francisco,
CA 94103-2479

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Planning
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415.558.6377

**Re: Transmittal of Planning Department Case Number 2015-000673PCA:
Conditional Use for Certain Uses in the Castro St NCD, 24th Street – Noe Valley
NCD, Upper Market Street NCT and Parcels Zoned NCT on Market Street West
of Octavia
Board File No. 150017
Planning Commission Recommendation: Approval with Modification**

Dear Ms. Calvillo and Supervisor Wiener,

On April 23, 2015, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider a proposed ordinance that amends the Planning Code to require Conditional Use authorization for certain uses in the Castro St NCD, 24th Street – Noe Valley NCD, Upper Market Street NCT and Parcels Zoned NCT on Market Street, introduced by Supervisor Wiener. At the hearing, the Planning Commission recommended approval with modification.

The Commission recommended modification is:

- 1. To further study principally permitting Business or Professional Service uses on the third story and above in the Castro St NCD, 24th Street – Noe Valley NCD, Upper Market Street NCT and Parcels Zoned NCT on Market Street West of Octavia.**

The Department determined that the proposed amendments are not defined as a project under CEQA Guidelines Section 15378 and 15060(c) (2) because they do not result in a physical change in the environment.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Planning Commission.

Please find attached documents relating to the actions of the Planning Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,



Aaron D. Starr
Manager of Legislative Affairs

cc:

Judith A. Boyajian, Deputy City Attorney
Andres Power, Aide to Supervisor Wiener
Andrea Ausberry, Board of Supervisors

Attachments:

Planning Commission Resolution
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution 19359

HEARING DATE APRIL 23, 2015

Project Name: Conditional Use required for certain uses in the Castro Street NCD, 24th Street-Noe Valley NCD, Upper Market Street NCT and parcels zoned NCT-3 on Market Street west of Octavia Boulevard

Case Number: 2015-000673PCA [Board File No. 150017]

Initiated by: Supervisor Weiner / Re-Introduced March 24, 2015

Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082

Reviewed by: Aaron Starr, Manager Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTIONS 715.53, 728.51, 728.53, 731.50, 731.53, 733.50 AND 733.53 TO REQUIRE CONDITIONAL USE AUTHORIZATION FOR CERTAIN USES IN THE CASTRO STREET NCD, 24TH STREET – NOE VALLEY NCD, UPPER MARKET STREET NCT AND PARCELS ZONED NCT-3 ON MARKET STREET WEST OF OCTAVIA BOULEVARD; TO FURTHER STUDY PRINCIPALLY PERMITTING BUSINESS OR PROFESSIONAL SERVICES AT THE THIRD STORY AND ABOVE IN THE CASTRO STREET NCD, 24TH STREET – NOE VALLEY NCD, UPPER MARKET STREET NCT AND PARCELS ZONED NCT-3 ON MARKET STREET WEST OF OCTAVIA BOULEVARD; AND 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 March 24, 2015, Supervisors Weiner introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 150017, which would amend Planning Code Sections 715.53, 728.51, 728.53, 731.50, 731.53, 733.50 and 733.53 to require Conditional Use authorization for certain uses in the Castro NCD, 24th Street – Noe Valley NCD, Upper Market Street NCT and parcels zoned NCT-3 on Market Street West of Octavia Boulevard;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on April 23, 2015; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c)(2) and 15378; 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 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, with modification**, the proposed ordinance.

The Commission recommended modification is:

To further study principally permitting Business or Professional Service uses on the third story and above in the Castro St NCD, 24th Street – Noe Valley NCD, Upper Market Street NCT and Parcels Zoned NCT on Market Street West of Octavia.

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 economic viability of certain retail uses depends disproportionately on pedestrian activity and having patrons. This necessitates their having a presence at the street level where they have a direct interface with the public.
2. Other retail uses, having similarities to office uses, can sustain themselves irrespective of having a street level storefront. These uses do not depend on having patrons walk into their establishments given that much of their business is arranged on an appointment basis. These types of uses may fair equally as well on stories above the ground floor as they would on the first story.
3. Overconcentration of any one use or type of uses in a neighborhood commercial district can have potentially negative effects upon the neighborhood's well-being and allure.
4. Public processes that help determine desirable and compatible mixes of retail uses in a neighborhood commercial district can be of great use for maintaining economic vitality and diversity.
5. The Conditional Use authorization process affords a public analysis of the necessity or desirability and compatibility of a use in context of its surrounding neighborhood or community. This is can serve as an effective means to assure a healthy mix of retail offerings are located within the neighborhood commercial district as well as at the street level.
6. **General Plan Compliance.** The proposed amendments to the Planning Code are not addressed in the General Plan; the Commission finds that the proposed Ordinance is not inconsistent with the 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.

Requiring Conditional Use authorization for certain quasi-office uses such as Business or Professional Service, Limited Financial Service and Medical Service uses seeking to establish at the first story will provide a public process to determine whether those uses at those location are necessary or desirable and compatible with the surrounding neighborhood. This will encourage beneficial development to locate in the appropriate locations.

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.

The Conditional Use authorization process will facilitate neighborhood-serving goods and services to locate in the City's neighborhood commercial districts. It will also provide a public process to help determine appropriate concentrations of particular retail uses, thereby encouraging diversity among the City's neighborhood commercial districts.

7. **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 will help preserve and enhance existing neighborhood serving retail uses by requiring Conditional Use authorization for certain retail uses seeking to locate at the first story. The Conditional Use authorization process will provide a public process to help determine the appropriate mix and concentration of retail uses.

The proposed Ordinance will help to preserve and enhance existing neighborhood-serving retail uses by requiring Conditional Use authorization for certain retail uses seeking to locate at the first story of identified neighborhood commercial districts. The proposed Ordinance also relaxes restriction on certain retail uses seeking to locate at the second story of those identified neighborhood commercial districts. In this manner, the proposed Ordinance will help direct those uses that are economically

viable above the first story away from the street level and allow retail uses dependent upon foot traffic to locate at the ground level.

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 help conserve and protect existing neighborhood character and preserve the economic diversity of San Francisco's neighborhoods by providing the Planning Commission an opportunity to consider the concentration of specified retail uses within the City's neighborhoods.

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 because the Ordinance concerns itself with the regulation of retail uses.

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 because the Ordinance concerns itself with the regulation of retail uses.

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 because the Ordinance is concerned with the regulation of retail uses. The proposed Ordinance does not have an effect on future opportunities for resident employment or ownership in these sectors.

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 effect on City's preparedness against injury and loss of life in an earthquake as the Ordinance is concerned with the regulation of retail uses.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an effect on the City's Landmarks and historic buildings as the Ordinance is concerned with the regulation of retail uses.

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 effect on the City's parks and open space and their access to sunlight and vistas as the Ordinance is concerned with the regulation of retail uses.

8. **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 recommends that the Board ADOPT the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on April 23, 2015.

Jonas P. Ionin
Commission Secretary

AYES: Commissioners Antonini, Hillis, Johnson, Moore, and Wu

NOES:

ABSENT: Commissioner Fong

RECUSED: Commissioner Richards

ADOPTED: April 23, 2015



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change

HEARING DATE: APRIL 23, 2015

Project Name: **Conditional Use required for certain uses in the Castro Street NCD, 24th Street-Noe Valley NCD, Upper Market Street NCT and parcels zoned NCT-3 on Market Street west of Octavia Boulevard**

Case Number: 2015-000673PCA [Board File No. 150017]

Initiated by: Supervisor Weiner / Re-Introduced March 24, 2015

Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082

Reviewed by: Aaron Starr, Manager Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

Recommendation: **Recommend Approval**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend (1) Planning Code Section 715.53 to require Conditional Use authorization for a Business or Professional Service on the first story in the Castro Street Neighborhood Commercial District (NCD); (2) Planning Code Section 728.51 to require Conditional Use authorization for a Medical Service on the 1st story and principally permitting them on the 2nd story in the 24th Street-Noe NCD; (3) Planning Code Section 728.53 to require Conditional Use authorization for a Business or Professional Service on the 1st story and 3rd story or above and principally permitting them on the 2nd story in the 24th Street-Noe NCD; (4) Planning Code Section 731.50 to add a specific provision to the Moderate Scale Neighborhood Commercial Transit District (NCT-3) Zoning Control Table requiring Conditional Use authorization for a Limited Financial Service on the 1st story for parcels in the NCT-3 on Market Street west of Octavia Boulevard; (5) Planning Code Section 731.53 to add a specific provision to the NCT-3 Zoning Control Table requiring Conditional Use authorization for a Business or Professional Service on the 1st story for parcels in the NCT-3 on Market Street west of Octavia Boulevard; (6) Planning Code Section 733.50 to require Conditional Use authorization for a Limited Financial Service on the 1st story in the Upper Market Street Neighborhood Commercial Transit (NCT) District; and (7) Planning Code Section 733.53 to require Conditional Use authorization for a Business or Professional Service on the 1st story in the Upper Market NCT.

The Way It Is Now:

1. The Castro Street NCD principally permits Business or Professional Services on the 1st story.
2. The 24th Street-Noe NCD principally permits Medical Services and Business or Professional Services on the 1st story, requires Conditional Use authorization for these uses at the 2nd story and does not permit them at the 3rd story or above.
3. The NCT-3 does not require Conditional Use authorization for Limited Financial Services or Business or Professional Services at the 1st story for parcels on Market Street west of Octavia Boulevard.

4. The Upper Market Street NCT principally permits Limited Financial Services and Business or Professional Services at the 1st story.

The Way It Would Be:

1. The Castro Street NCD would require Conditional Use authorization for Business or Professional Services at the 1st story.
2. The 24th Street-Noe NCD would require Conditional Use authorization for Medical Services and Business or Professional Services at the 1st story, principally permit these uses at the 2nd story and require Conditional Use authorization for Business or Professional Services at the 3rd story.
3. The NCT-3 would require Conditional Use authorization for Limited Financial Services and Business or Professional Services at the 1st story for parcels on Market Street west of Octavia Boulevard
4. The Upper Market Street NCT would require Conditional Use authorization for Limited Financial Services and Business or Professional Services at the 1st story.

ISSUES AND CONSIDERATIONS

History and Intent of Neighborhood Commercial District Controls

During the mid-1970's the Planning Department received heightened public input about the significance, function and trends in the City's retail corridors. That input frequently focused on the changes to the mix of goods and services offered in these retail corridors. In response to the public's concerns, the Planning Department explored the existing conditions and zoning controls for the retail corridors. This effort culminated in published land use and economic studies.¹ These studies focused on the feasibility and effect of creating new zoning districts tailored to the particularities of the neighborhood retail corridors. By 1985 interim controls, based on the studies' findings and the public's review, were in place across the City. These interim controls served as the basis for the permanent controls that were adopted in 1987. The permanent controls established Article 7 (Neighborhood Commercial Districts) of the Planning Code and 20 new Neighborhood Commercial Districts (NCDs).²

The overarching goal of Article 7 is to achieve balanced growth of and in the NCDs. Of particular concern is striking a balance between the different types of commercial uses in the NCDs.³ This concern for balance between different commercial uses extends beyond the storefront level to include the building stories above. Story controls, an important innovation of Article 7, allow the application of zoning controls to particular building floors. These controls help direct specific sets of uses to locations where they make the most sense given an existing corridor's retail mix. While the initial motivation for story

¹ The Planning Department studies included "Proposed Zoning Framework" (March 1982), "Proposed Article of the Planning Code for Neighborhood Commercial Districts" (January 1983) and "24th-Noe Valley Neighborhood Commercial District" (March 1983). Recht Hausrath and Associates prepared "Economic Assessment and Impact Methodology" (February 1983).

² Ordinance 69-87.

³ Report on Neighborhood Commercial Rezoning. San Francisco Planning Department. 1987.

controls was concern over the loss of residential units at upper building stories, the concept can be extended to incentivize an array of uses at the street level.

Another purpose of Article 7 is to allow the application of particular controls to each NCD to address their specific land use issues.⁴ This is illustrated by the wide variety of allowed floor area ratios in the NCDs. It is also evident in the how the NCDs control retail uses; some NCDs have strict controls for particular retail uses, while other are more permissive.

Of the 20 new NCDs created by Article 7, four were general districts covering most of the City's retail corridors and 16 were individually named. These individually named districts covered some of the most active retail corridors including Broadway, Inner Clement and Valencia Street. Today there are 39 NCDs across the City, 32 of which are individually named NCDs. The growth in number of named NCDs is largely due to neighborhoods desiring more input regarding the scale and composition of their unique retail corridors.

Retail Corridors and their Adjacent Neighborhoods

San Francisco's neighborhoods are generally delineated by or centered along one or more retail corridors. These retail corridors often reflect the adjacent neighborhood's social character as well as its physical scale and architectural style. Neighborhood residents and visitors use these retail corridors as marketplaces to patronize an array of shops and partake in cultural and leisure activities. In this way, adjacent residents and merchants are connected to one another. Residents acquire daily goods and services from local retail establishments and these establishments' patrons are largely the adjacent residents. The viability of this connection depends to a great extent upon the retail corridor providing a variety of essential goods and services.

When a retail corridor does provide a wide variety of goods and services, residents living in adjacent, densely populated neighborhoods are likely to walk to the the corridor.⁵ The retail variety encourages residents to walk from shop to shop through the corridor, browsing and purchasing essential and desired goods and services. This retail variety can also contribute to around-the-clock pedestrian activity, providing "eyes on the street." Comfort and the perception of safety are subsequently improved, making the corridor alluring and desirable.⁶ Under these circumstances a positive feedback loop arises.

⁴ Planning Code Section 701.1(c).

⁵ A Study of Land Use, Transportation, Air Quality, and Health (LUTAQH) in King County, WA
Lawrence Frank and Company, Inc.
http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CB4QFjAA&url=http%3A%2F%2Fkingcounty.gov%2F~%2Fmedia%2Ftransportation%2FHealthScape%2FPublications%2Fexec_summary_092705.ashx&ei=tecdVfKvNsL8oOS8hoDQAw&usg=AFQjCNHhht3rJDxIwdhGXJMXTzFaoyOlyA&bvm=bv.89947451,d.cGU. Accessed April 2, 2015.

⁶ Frequently asked questions about Pedestrian Zones.
http://www.seattle.gov/dpd/cs/groups/pan/@pan/documents/web_informational/p2111535.pdf

Accessed April 2, 2015.

New mixed use development can also play a part in this dynamic. These developments provide new retail patrons, in the form of new residents, and shops and services in its lower level commercial spaces. When these new commercial uses serve area resident's daily needs, they contribute to the overall viability of the retail corridor, including its walkability.

Zoning controls play a significant role in maintaining the tie between residents and their retail corridors. They establish the framework for conditions conducive to pedestrian activity. Controls that direct retail uses dependent upon foot traffic to the street level are particularly useful. These can be combined with controls that incentivize locating "quasi-office" uses to commercial spaces above the street level, where such uses are economically viable. Zoning controls that allow for an analysis of the concentration of identified uses are also useful to the health of a retail corridor. These may assure that a balance of commercial uses exist within a corridor. These retail controls are equally applicable to existing and newly developed commercial spaces.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department recommends that the Commission recommend *approval* of the proposed Ordinance as currently drafted, and adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

The Department supports the proposed Ordinance because it helps assure that the subject NCDs enjoy a healthy mix of retail uses at the street level. This variety in retail uses at the street level will help spur pedestrian activity within the subject NCDs. And while the proposed Ordinance will increase restrictions on the first floor for certain "quasi-office" uses, it encourages their location at the second story by allowing them by right. This may also help direct commercial activity to underutilized non-residential spaces above the ground floor.

The Purpose of Neighborhood Commercial District Controls

The proposed controls requiring Conditional Use authorization for use Business or Professional Services, Limited Financial Services and Medical Services at the first story in the subject NCDs aligns with the intent of Article 7. Article 7 explicitly allows tailored land use controls to address particular concerns in the NCDs, including the desire to encourage active and assorted commercial uses on the ground floor. The controls proposed in this Ordinance address community concerns about the mix of retail uses on the ground floor as well as levels of pedestrian activity in the various districts. It also utilizes vertical zoning controls, a tool common to all zoning districts in Article 7.

Retail Concentration Analyses

Conditional Use authorization provides a public process for determining among other things, whether or not a use is appropriately located. The Planning Commission must find that the proposed use at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or

desirable for, and compatible with, the neighborhood or the community. This public process allows the Planning Commission to consider the community's concerns when evaluating a proposed use for a particular NCD, in conjunction with the Department's analysis of the subject site and surrounding uses. In some instances it may be necessary or desirable to have Business or Professional Service, Limited Financial or Medical Service uses on the ground floor. However they are often better suited on the upper floors of a building where they remain economically viable. The Conditional Use process will allow for that evaluation and consideration to occur.

In the Castro and Upper Market corridors there is concern about the number and concentration of Business or Professional Services and Limited Financial Services at the ground floor. The Conditional Use process will afford the opportunity to evaluate subsequent proposals with the aim of maintaining these corridors' vibrancy and retail balance. Further, because the Castro Street NCD intersects with and abuts the Upper Market Street corridor, many consider this one commercial district. In this context, similar controls for Business or Professional Services and Limited Financial Services rightfully encompass the NCT-3 Zoning Districts west of Octavia Boulevard.

Similarly, in the 24th Street-Noe NCD there is concern about the number Medical Service and Business or Professional Services uses. The requirement that subsequent proposals be found necessary or desirable can help maintain the vibrancy of this NCD and avoid any unnecessary overconcentration of these uses.

ENVIRONMENTAL REVIEW

The proposed Ordinance is not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it does 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 in regard to the proposed Ordinance.

RECOMMENDATION:	Recommendation of Approval
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 150017