



SAN FRANCISCO PLANNING DEPARTMENT

November 1, 2016

Ms. Angela Calvillo, Clerk
Honorable Supervisor Kim
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
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**Re: Transmittal of Planning Department Case Number 2016-008768PCA
Amusement Game Arcades in SoMa and Eastern Neighborhoods and Mixed
Use Districts
Board File No. 160748
Planning Commission Recommendation: Approval with Modification**

Dear Ms. Calvillo and Supervisor Kim,

On September 29, 2016, the Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed ordinance that amends the Planning Code to allow amusement arcades in all South of Market and Eastern Neighborhoods Mixed Use Districts except for the Residential Enclave Districts, introduced by Supervisor Kim. At the hearing the Planning Commission recommended approval with modification.

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron D. Starr", with a horizontal line extending to the right.

Aaron D. Starr
Manager of Legislative Affairs

cc:

Judith A Boyajian, Deputy City Attorney
April Ang, Aide to Supervisor Kim
Alisa Somera, Office of the Clerk of the Board

Attachments:

Planning Commission Resolution
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: SEPTEMBER 29, 2016

EXPIRATION DATE: OCTOBER 4, 2016

Project Name: Amusement Arcades in SoMa and EN Mixed Use Districts
Case Number: 2016-008768PCA [Board File No. 160748]
Initiated by: Supervisor Kim / Introduced June 28, 2016
Staff Contact: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Recommend Approval with Modifications**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to allow Amusement Game Arcades in the South of Market (SoMa) and Eastern Neighborhoods Mixed Use Districts (MUDs) except for the Residential Enclave Districts.

The Way It Is Now:

The land use *Amusement Game Arcades* is not permitted in the SoMa and Eastern Neighborhoods MUDs.

The Way It Would Be:

The land use *Amusement Game Arcades* would be permitted in SoMa and Eastern Neighborhoods MUDs, except for the Residential Enclave Districts.

BACKGROUND

The Ordinance is being proposed because a "barcade" (*Bar with an Amusement Game Arcade*) called Coin-Op Game Room is seeking to located within the at 508 Fourth Street, which is zoned SLI (Service Light Industrial). This is the business's third location with two others in Sacramento and San Diego. The current regulations will not allow the *Amusement Game Arcade* portion of this business to open as *Amusement Game Arcades* are prohibited in this zoning district.

ISSUES AND CONSIDERATIONS

Amusement Game Arcade Definition

Per Planning Code Section 890.4, *Amusement Game Arcade* is defined as: A retail use which provides 11 or more amusement games such as video games, pinball machines, or other such similar mechanical and electronic amusement devices, as regulated in Sections 1036 through 1036.35 of the Police Code.

South of Market and Eastern Neighborhood’s Mixed Use Districts

| South of Market Use Mixed Use Districts (Also see Sec. 802.5) | |
|---|--|
| RSD | Residential Service District (Defined in Sec. 815) |
| SLR | Service/Light Industrial/Residential District (Defined in Sec. 816) |
| SLI | Service/Light Industrial District (Defined in Sec. 817) |
| SSO | Service/Secondary Office District (Defined in Sec. 818) |

| Eastern Neighborhoods Mixed Use Districts (Also see Sec. 802.4) | |
|---|---|
| SPD | South Park District (Defined in Sec. 814) |
| MUG | Mixed Use – General (Defined in Sec. 840) |
| MUO | Mixed Use – Office (Defined in Sec. 842) |
| MUR | Mixed Use – Residential (Defined in Sec. 841) |
| UMU | Urban Mixed Use (Defined in Sec. 843) |
| RED* | Residential Enclave District (Defined in Sec. 813) |
| RED-MX* | Residential Enclave District – Mixed (Defined in Sec. 847) |
| WMUG | Western SoMa Mixed Use – General (Defined in Sec. 844) |
| WMUO | Western SoMa Mixed Use – Office (Defined in Sec. 845) |
| SALI | Service/Arts/Light Industrial (Defined in Sec. 846) |

*not included in this Ordinance

Existing Regulatory Environment

The existing controls on *Amusement Game Arcades* and Mechanical Amusement Devices (MADs) date back to the early 1980’s. In that era there was concern about the rapid proliferation of *Amusement Game Arcades* and the potential nuisances created by the use including the number of mechanical amusement game devices in any one location, increased congestion on sidewalks around arcades, the accessibility to arcades by minors during school hours and the occurrence of crime and other anti-social behavior in areas near Arcades.

Controls in the Planning Code and the Police Code exist to address these concerns around nuisance. For example, the Planning Code considers a use with up to 10 MADs an Other Entertainment Use and is allowed in the vast majority of NCDs.¹ However, a use with 11 or more MADs is considered an

¹ Only five NCDs (West Portal, Pacific Avenue, SOMA, Folsom and RCD) prohibit Other Entertainment uses. In all other NCDs Other Entertainment is allowed either as of right with Section 312 Notification or by Conditional Use Authorization.

Amusement Game Arcade and is not typically allowed in the NCDs.² Further, all NCDs prohibit *Amusement Game Arcades* on the second story.

The Police Code regulates MADs chiefly through Section 1036. Section 1036 controls the number of MADs allowed in a location is based on the square foot area of retail floor area, and also prohibits establishments in neighborhood commercial districts from having 11 or more mechanical amusement devices. These controls date back further, when pinball and other MADs were looked on as games of chance and extensions of gambling.

Pinball Resurgence

In recent years, pinball has enjoyed a resurgence of interest, as evidenced by the opening of new pinball venues, a pinball museum and new commercial pinball manufacturers of varying sizes. The demographic groups leading this resurgence are not adolescents. This current wave of popularity is driven by Baby Boomer and Gen-X hobbyists, collectors and nostalgists.³ These are groups that have the disposable income to purchase vintage and new machines and the desire to form peer networks spanning metropolitan regions.

In the US, the interest in pinball is supported by the Professional and Amateur Pinball Association (an industry trade organization), by multiple local, national and international pinball tournaments and by, as mentioned above, the reemergence of arcades and other locations to play pinball.

In the Bay Area, there are five competitive pinball leagues including one that meets at the Free Gold Watch (1767 Waller Street), an establishment in the Haight Street Neighborhood Commercial District.

Similar Ordinances

Within the past two years, two ordinances have been passed by the Board to allow *Amusement Game Arcades* in zoning district where they were previously prohibited; one introduced by Supervisor Breed (BF 140804/Enactment No. 223-14) that allowed *Amusement Game Arcades* in the Haight Street NC District, and one introduced by Supervisor Wiener (BF140982/Enactment No. 013-15) that allowed *Amusement Game Arcades* in the Upper Market NCT District. In both instances, the Supervisors were reacting to an existing business that sought to add vintage video game consoles and pinball machines to another business. In the Haight, the business is Free Gold Watch, which has pinball machines and vintage video game consoles and is also a T-shirt printing store. In The Upper Market NCT, the business is Brewcade, which is a beer and wine bar with a large selection of vintage video game consoles. Both of these ordinances were recommended for approval by the Planning Commission.

Entertainment Uses South of Market and Eastern Neighborhood's Mixed Use Districts

Other Entertainment is not listed as a use in the zoning control tables for the subject zoning districts. This means that *Other Entertainment* is not a permitted use within these zoning districts. However, certain uses

² Only five NCDs (NC-3, NC-S, Broadway, Mission St and Excelsior) allow *Amusement Game Arcades* with Conditional Use Authorization.

³The following internet sites and articles document the pinball resurgence: <http://loriengreen.com/portfolio/pinball-documentary/>, <http://keepingmycool.blogspot.com/2012/10/the-case-for-pinball-resurgence.html>, <http://pinballbayarea.com/>, <http://www.sfgate.com/bayarea/article/Enthusiasm-over-pinball-at-full-tilt-in-Bay-Area-2477358.php>

such as *Nighttime Entertainment* and *Pool Hall*, which are included in definition of *Other Entertainment*, are listed in the tables and indicated as permitted or not permitted.

In speaking with Planning Department staff who worked on the establishment of these zoning districts, it wasn't clear as why *Other Entertainment* was prohibited. Entertainment uses were not a topic of conversation with the community, and the land use impacts of a pool hall, which is generally permitted in these districts, would seem to be similar to a bowling alley or skating rink, which is included in the definition of *Other Entertainment* and not permitted in these zoning districts. One theory is this prohibition is a holdover from before these areas were rezoned.

The Central SoMa Plan

The Department is currently engaged in the Central SoMa Plan, which consists of the rectangle bounded by Market Street, Townsend Street, 2nd Street, and 6th Street. The vision of the Central SoMa Plan is for the creation of a sustainable neighborhood by 2040, in that the neighborhood meets the needs of the present without compromising the ability of future generations to meet their own needs.

The SoMa MUDs, which are being amended by this ordinance, are within the Central SoMa plan. When the plan is adopted, the SoMa MUDs will be deleted from the Planning Code. Those properties that had a SoMa MUD zoning designation will be rezoned to an Eastern Neighborhood MUD, most of which will be rezoned to Mixed Use Office (MUO). The proposed change to allow *Amusement Game Arcades* in these districts is consistent with the plans philosophy of creating a sustainable neighborhood by preserving and enhancing the neighborhood's asset as a recent hub of cultural and nightlife amenities that make it a regional and worldwide destination.⁴

Planning Code Reorganization Project

Staff is currently engaged in a project to reorganize the Planning Code so that it is more consistent and easier to use. One major aspect of this project is consolidating all use definitions into Section 102 of the Planning Code. At the end of this project, the intention is to have all zoning districts reference these definitions. The other use definitions listed specifically for Neighborhood Commercial Districts (Section 790) and South of Market MUDs (Section 890) will be deleted.

The vast majority of definitions are being maintained, and in fact some existing definitions are being split up into more discrete definitions to maintain existing use controls and a greater degree of flexibility. However, the Department is proposing to remove the definition of *Amusement Game Arcade* and fold the use into *General Entertainment* (currently called *Other Entertainment*). As discussed above, *Amusement Game Arcade* was added as a separate use to the Planning Code in the 1980s because of concerns over the proliferation of video game arcades in the City, and the perceived impact that they had on the City's teenage population. While arcades are making a small comeback as a novelty use, Staff finds that the land use impacts associated with arcades is similar to other *General Entertainment* uses making it unnecessary to callout as a separate use in the Planning Code. Further, most of these new arcades are associate bars or other retail uses.

⁴ Central SoMa Plan. "Plan Philosophy", page 4.
http://default.sfplanning.org/Citywide/Central_Corridor/Central_SoMa_Plan_Part01-Central_SoMa_Plan_FINAL.pdf

Staff is currently working on Phase 2 of the Planning Code Reorganization ordinance, which is scheduled to come to the Planning Commission for adoption on October 13, 2016. Phase 2 will reformat Article 7 of the Planning Code and remove the use definitions from Section 790, which covers Neighborhood Commercial Districts. After that ordinance passes, Staff will then begin to work on reformatting Article 8 and deleting the definitions in Section 890 as Phase 3 of the Planning Code Reorganization project. Phase 3 would impact the districts being amended in this ordinance.

RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

1. Amend the Definition of *Other Entertainment* in Section 890.37 as follows (underlined and *italicized* text is proposed for addition, ~~strike through~~ and *italicized* text is proposed for deletion):

Other Entertainment: In the Chinatown Mixed Use Districts, a retail use, other than adult entertainment, as defined in Section 890.36 of this Code, which provides live entertainment, including dramatic and musical performances, and/or provides amplified taped music for dancing on the premises, including but not limited to Places of Entertainment and Limited Live Performance Locales, as defined in Section 1060 of the Police Code. *In the Chinatown Mixed Use Districts and in the South of Market and Easter Neighborhood's Mixed Use Districts,* Other entertainment also includes a bowling alley, billiard parlor, shooting gallery, skating rink and other commercial recreational activity, but it excludes Amusement Game Arcades, as defined in Section 890.4 of this Code and regulated in Section 1036 of the Police Code. ~~*For South of Market Districts, see Section 102.17.*~~

2. Add *Other Entertainment* use to the South of Market and Easter Neighborhood's MUD zoning control table, and permit the use with Conditional Use authorization.
3. Add *Amusement Game Arcade* to all the zoning control tables for the zoning districts subject to this Ordinance and indicated that this use is permitted.

BASIS FOR RECOMMENDATION

The Department supports the proposed Ordinance because it updates regulations on mechanical amusement devices to correspond to how the devices are currently perceived and used, and allows for new compatible commercial uses in the South of Market and Eastern Neighborhoods MUDs. Existing controls on *Amusement Game Arcades* are based on older notions of pinball and other MADs as games of chance and extensions of gambling, and arcades as magnets for vandalism, petty crime and drug use. Today MADs complement home video game consoles as well the games available on personal mobile devices. This context places MADs and the *Amusement Game Arcade* within a purely recreational niche.

Recommendation 1: Amend the Definition of *Other Entertainment* in Section 890.37

The Department is recommending this change in anticipation of Phase 3 of the Planning Code Reorganization project. The proposed change would allow the less impactful uses listed under *Other Entertainment* to be permitted with Conditional Use authorization in the SoMa and Eastern

Neighborhood's MUDs. Staff also finds that this use designation has similar impacts to *Amusement Game Arcades* and is consistent with the character of these districts. *Pool Halls* and in some cases *Nighttime Entertainment* uses are currently permitted in these districts.

Recommendation 2: Add Other Entertainment to the Easter Neighborhood's MUD zoning control table, and permit the use with conditional use authorization.

This recommendation is complementary to Recommendation 1; however it would also add more clarity to the existing SoMa and Eastern Neighborhood's MUDs zoning control tables by explicitly permitting a listed use in Section 890. Currently, it requires some interpretation of the Planning Code to determine if the use is permitted or not.

Recommendation 3: Add Amusement Game Arcade to all the zoning control tables for the zoning districts subject to this Ordinance and indicated that this use is permitted.

This is a clerical correction to the proposed Ordinance. One reason the Department embarked on the Code reorganization process is because there is not a consistent format for all zoning districts, creating confusion as to how to interpret the controls for some zoning district. In Article 7 districts, the tables are fairly consistent, but they are organized differently than the Article 8 zoning control tables, which also have significant variety. For instance, *Amusement Game Arcade* is only called out as a prohibited use in four of the zoning districts subject to this ordinance, yet it is prohibited in all of them: as a general rule if a use is not called out in the table it is prohibited. When the ordinance was drafted, it was not clear how to interpret the Article 8 tables and which use category *Amusement Game Arcade* fit under, which is why only four of the districts are being modified in the text of the ordinance. The Code Reorganization Project will clear up this confusion.

As the title of the ordinance states, the intention was to allow *Amusement Game Arcades* in all SoMa and Eastern Neighborhood's MUDs (except for the RED districts), not just the four districts that are called out in the body of the ordinance. In order to allow *Amusement Game Arcades* in each zoning District, the use has to be listed in the table with a corresponding "P" to indicate permitted or "C" to indicate Conditional Use authorization is required.

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.

IMPLEMENTATION

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

ENVIRONMENTAL REVIEW

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

PUBLIC COMMENT

The Department received a letter from the Small Business Commission which indicated that on August 8, 2016, the Small Business Commission voted unanimously (6-0, 1 absent) to recommend approval of the

legislation. A copy of the letter is included in this report for your reference. Other than that, the Planning Department has not received any public comment regarding the proposed Ordinance.

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|--|
| RECOMMENDATION: Recommendation of Approval with Modification |
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Letter from Small Business Commission
- Exhibit C: Board of Supervisors File No. 160748



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19750 HEARING DATE SEPTEMBER 29, 2019

Project Name: Amusement Arcades in Eastern Neighborhoods Mixed Use Districts
Case Number: 2016-008768PCA [Board File No. 160748]
Initiated by: Supervisor Kim / Introduced June 28, 2016
Staff Contact: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO ALLOW AMUSEMENT ARCADES IN ALL EASTERN NEIGHBORHOODS MIXED USE DISTRICTS EXCEPT FOR THE RESIDENTIAL ENCLAVE DISTRICTS; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1; AND ADOPTING FINDINGS OF PUBLIC CONVENIENCE, NECESSITY, AND WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on June 28, 2016 Supervisors Kim introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 160748, which would amend the Planning Code to allow amusement arcades in all Eastern Neighborhoods Mixed Use Districts except for the Residential Enclave Districts;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on September 29, 2016; and,

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

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 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 **modifications** the proposed ordinance. The proposed modifications are as follows:

1. Per Supervisor Kim's proposed changes that were provided to the Planning Commission at the September 29 hearing, the Commission recommends limiting the proposed zoning amendments to just the SLI (Service Light Industrial) zoning district.

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 Commission supports the proposed Ordinance because it updates regulations on mechanical amusement devices (MADs) to correspond to how the devices are currently perceived and used, and allows for new compatible commercial uses in the SLI zoning district.
2. The Commission finds that existing controls on Amusement Game Arcades are based on older notions of pinball and other MADs as games of chance and extensions of gambling and arcades as magnets for vandalism, petty crime and drug use. Today MADs complement home video game consoles as well the games available on personal mobile devices.
3. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 1

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

Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

The proposed Ordinance will allow the establishment of a retail use that provides net benefits in the form recreational and community gathering spaces. Any potential undesirable consequences may be addressed through existing regulatory controls.

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

Policy 2.3

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

The proposed Ordinance allows new commercial activity in districts where it once was largely prohibited. This added commercial activity will help maintain a favorable social and cultural climate in San Francisco as it adds to the number of recreational activities available to employees. This enhances San Francisco as a location for firms.

4. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

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

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

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

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

5. **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 with modifications as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on September 29, 2016

Jonas P. Ionin
Commission Secretary

AYES: Fong, Hillis, Johnson, Koppel, Melgar, Moore, and Richards

NOES: None

ABSENT: None

ADOPTED: September 29, 2016