



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary General Plan Text Amendment

HEARING DATE: DECEMBER 1, 2016
CONTINUED FROM OCTOBER 6, 2016

Date: November 23, 2016
Case No. 2015-017206GPA
Project Name: **Updating the Commerce and Industry Element on Eating and Drinking Establishments**
Staff Contact: Aaron Starr, Manager Legislative Affairs
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Recommendation: **Recommend Approval**

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GENERAL PLAN AMENDMENT

The proposal would amend the General Plan's Commerce and Industry Element's Guidelines for Specific Uses on Eating and Drinking Establishments. The proposed changes are designed to reflect a general policy statement by removing the specific percentages of eating and drinking establishments that can occupy total occupied commercial frontages in a single zoning district. The specific percentage calculations for eating and drinking use concentrations will remain unchanged in Planning Code Section 303 (o).

The Way It Is Now:

1. The Commerce and Industry Element of the General Plan states that the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage of a single zoning district. Additionally, eating and drinking establishments should not occupy more than 25% of the total commercially-occupied frontage in "zoning districts with an established pattern of service to a broad market, such as North Beach."
2. The Commerce and Industry Element of the General Plan includes the following language: *"Except in districts with an established pattern of service to a broad market, such as North Beach, such establishments should not occupy more than 25% of the total commercially-occupied frontage in a district. To minimize the problems they can create, eating and drinking uses should generally be at least 100 feet apart from each other, unless there are factors making clustering of uses appropriate. For example, a configuration of clustered eating and drinking uses where off-street parking is shared might be more appropriate than an even distribution of such establishments."*
3. Planning Code section 303, which governs Conditional Uses, also establishes a specific percentage limit for eating and drinking uses when such uses are seeking Conditional Use Authorization. Section 303(o) states that such proposed uses should not exceed 25% of the total commercial frontage in the same zoning district within 300 feet of the establishment.

The Way It Would Be:

1. The specific percentages of eating and drinking establishments that can occupy total occupied commercial frontages in a single zoning district would be removed in the General Plan. The language in the Guidelines for Eating and Drinking Establishments would be amended to reflect a general policy statement.
2. The language identified in “The Way It Is Now” section above under item #2 would be deleted.
3. There will be no change in the current Planning Code calculations in Section 303(o). Planning staff would continue to calculate the percentage of total commercial frontage within 300 feet of the proposed establishment. Planners would no longer have to calculate the percentage in the General Plan, which requires that eating and drinking establishments should not occupy more than 20 percent of the total occupied commercial frontage.

BACKGROUND

This item was continued from the October 6, 2016 hearing. The Commission asked Staff to work with the Telegraph Hill Dwellers (THD) who had some concerns around the proposed General Plan Amendment, specifically the following language:

The balance of commercial uses may be threatened when eating and drinking establishments occupy ~~more than 20% of the total occupied~~ a high percentage of commercial frontage.

Except in districts with an established pattern of service to a broad market, such as North Beach, such establishments could occupy a higher percentage than other commercial districts ~~should not occupy more than 25% of the total commercially occupied frontage in a district.~~

Staff met with the Stan Hayes on October 24, 2016 to discuss THD's concerns regarding the proposed language. In response to THD's concerns, Staff suggested changing “a high percentage” to “an overconcentration of” since that better reflects what the intention behind what this section of the General Plan is trying to address. Staff also suggested removing the paragraph that described North Beach in detail rather than including the language “could occupy a higher percentage than other commercial districts.” This was done so that no individual NCD was singled out, and allows North Beach to adjust their controls in the future as the neighborhood's needs change. While not stating support or opposition to the proposed language, Mr. Hayes reiterated that it was important to THD that a percentage remains in the General Plan. Staff reiterated that the General Plan should state an overall vision for the City, and that the details and specific numeric controls should only reside in the Planning Code.

The language below is based on Staff's meeting with Mr. Hayes and has been integrated in to the Ordinance before the Commissions today. The new edits to the General Plan cue the public to an overall vision for neighborhood commercial districts: that Eating and Drinking establishments do not reduce the variety of neighborhood serving uses or create substantial noise, traffic, or other nuisances in a district or neighborhood. Furthermore, the edits to the ordinance reference the Planning Code, which does have a specific percentage detailed in Section 303(o).

The establishment should not add to an overconcentration of eating and drinking establishments in a single district. The balance of commercial uses may be threatened when eating and drinking establishments occupy ~~more than 20% of the total occupied~~ *an overconcentration of* commercial frontage. Proposals for eating and drinking establishments which would increase the proportion of total occupied commercial frontage above ~~20%~~ *what is prescribed in the Planning Code* should be reviewed to ensure that they would not reduce the variety of neighborhood-serving uses; nor create substantial noise, traffic, parking problems, or other nuisances in the district or surrounding neighborhood. Those establishments that would do the above should not be permitted. *Except in districts with an established pattern of service to a broad market, such as North Beach, such establishments should not occupy more than 25% of the total commercially occupied frontage in a district. To minimize the problems they can create, eating and drinking uses should generally be at least 100 feet apart from each other, unless there are factors making clustering of uses appropriate. For example, a configuration of clustered eating and drinking uses where off-street parking is shared might be more appropriate than an even distribution of such establishments.*

The General Plan

San Francisco's General Plan is a guiding document that is designed to attain the following goals:

- Protection, preservation, and enhancement of the economic, social, cultural, and esthetic values that establish the desirable quality and unique character of the city;
- Improvement of the city as a place for living, by aiding in making it more healthful, safe, pleasant, and satisfying, with housing representing good standards for all residents and by providing adequate open spaces and appropriate community facilities;
- Improvement of the city as a place for commerce and industry by making it more efficient, orderly, and satisfactory for the production, exchange and distribution of goods and services, with adequate space for each type of economic activity and improved facilities for the loading and movement of goods;
- Coordination of the varied pattern of land use with public and semi-public service facilities required for efficient functioning of the city, and for the convenience and well-being of its residents, workers, and visitors; and
- Coordination of the varied pattern of land use with circulation routes and facilities required for the efficient movement of people and goods within the city, and to and from the city.

The General Plan is as a broad policy document that the Planning Code interprets. As such specific numerical limits should not be located within the General Plan; they should be located within the Planning Code. Currently the language in the Commerce and Industry Element is very specific by requiring that establishments do not occupy more than 20% of the total occupied commercial frontage in a single district. The Commerce and Industry Element describes the percentage as a method to mitigate the proliferation of eating and drinking establishments in any one district. The element also describes characteristics of eating and drinking establishments namely, that they should not impose undue traffic or noise impacts.

The Conditional Use Authorization (CUA) in section 303 also includes specific findings around noise, traffic patterns, and neighborhood compatibility which interpret the language in the General Plan.

The 2011 Restaurant Ordinance

In 2012 the Board passed The Restaurant Rationalization ordinance (Board File 120084), which among things rationalized the City's restaurant definitions and controls. Prior to this ordinance there were 13 separate eating and drinking definition in the Planning Code. The Restaurant Rationalization ordinance

reduced this number down to three definitions based on level of alcohol service: Bars, Restaurants, Limited Restaurants. Also as part of this ordinance, the Planning Department added Planning Code Section 303(p) - now Section 303(o) - which imported the concentration controls for eating and drinking uses from the General Plan into the Planning Code. The higher percentage - 25% - was used and instead of the entire NC District a radius of 300 feet was used to address NCDs that can stretch for several miles. At the time, it was anticipated that the Restaurant Rationalization ordinance would be followed-up with a General Plan amendment to remove the concentration controls in the General Plan. While several years late, this ordinance accomplishes this goal.

The controls that were put into Planning Code Section 303 in 2012 and which exist today are as follows:

Eating and Drinking Uses. With regard to a Conditional Use authorization application for a Restaurant, Limited-Restaurant and Bar uses the Planning Commission shall consider, in addition to the criteria set forth in Subsection (c) above, the existing concentration of eating and drinking uses in the area. Such concentration should not exceed 25 percent of the total commercial frontage as measured in linear feet within the immediate area of the subject site. For the purposes of this Section of the Code, the immediate area shall be defined as all properties located within 300' of the subject property and also located within the same zoning district.

Note that the 25% threshold in section 303(o) is a finding that the Planning Commission considers. Some Conditional Use applications for Eating and Drinking Uses exceed the 25% threshold described in the Code due to site circumstances, neighborhood support, or other reasons.

ISSUES AND CONSIDERATIONS

Duplicative Controls

Currently, two similar but distinct calculations for General Plan and Planning Code Compliance for proposed Eating and Drinking Uses that are subject to a Conditional Use Authorization are required of Planning Staff.

Calculation One:

The Planning Code calculation is explicitly done within 300 feet of the proposed site. This calculation can easily be done by Planning Staff by way of a simple survey of the immediate area of the proposed establishment. As such, this calculation meets the intent of the General Plan, ensuring there is not an overconcentration of such uses within the immediate vicinity.

Calculation Two

The General Plan calculation establishes that the proposed establishment will not add more than 20% (or 25% "in districts with an established pattern of service to a broad market") of eating and drinking establishments to the overall occupied commercial frontages of the *entire* zoning district.

The two calculations can be onerous on staff and the calculation that is the most informative resides in the Planning Code.

One Metric

The Planning Code implements the intent of the General Plan using a narrower geography. In using the entire district the General Plan calculation disregards the immediate blocks of the site-unlike the Planning Code calculation-and can in fact be less restrictive since there could be a cluster of eating and drinking establishments of greater than 20-25% near a proposed site, but district-wide be less than a 20% concentration. It is not clear in the General Plan guideline how to interpret a district with an “established pattern of service to a broad market,” which uses a 25% threshold. The Planning Code simplifies and standardizes the use concentration threshold to 25% within 300 feet if the proposed establishment city-wide.

RECOMMENDATION

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

BASIS FOR RECOMMENDATION

The Planning Department supports the proposed amendments because they will remove specific numeric controls from the General Plan and maintain similar, but more effective controls in the Planning Code. As the main policy document for the City’s land use, the General Plan should focus on general policy statements, while the Planning Code should provide the tools for implementing those goals and policies.

The current language confuses the roll of the two documents by having specific numerical controls in the General Plan and requires planners to make two similar but distinct calculations. Additionally, the calculation prescribed in the General Plan does not meet the intent of the language, which is to look at the surround area for a concentration of eating and drinking uses.

Simplifying the language in the General Plan ensures that the intent is still being met because no changes are proposed regarding the Conditional Use. This will ensure a more effective and consistent evaluation of eating and drinking uses in the future.

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.

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

On May 9, 2016 the Planning Department hosted a meeting regarding the proposed change to the General Plan, attendance was low. Since the initiation hearing on June 30th, the Department presented at the July 19 meeting of the Coalition of San Francisco Neighborhoods to describe the changes to the General Plan, and they provided no substantial comments. Additionally, the Department presented the proposed changes to the Small Business Commission on August 22, 2016; commission members had no substantial

comments. Staff has also met with the Golden Gate Restaurant Association which is supportive of the change.

At the October 6, 2016 hearing the Commission heard public comment from THD, who stated concern about the proposed language in the General Plan Amendment, and that proposed amendments to the General Plan should be continued and considered along with pending changes to Article 7 of the Planning Code. In response to the first concern, Staff met with Stan Hayes of the THD on October 24, 2016. The result of that meeting is discussed under the Background section found on Page 2 of this report. In response to the second concern, the Article 7 Reorganization Project is a separate piece of legislation that has no impact on the General Plan because it is in fact a reorganization of the Planning Code. It also has no impact on the Conditional Use findings in 303 (o) for Eating and Drinking Establishments. These are two separate efforts and need not be considered together.

RECOMMENDATION: Recommend Approval

Attachments:

1. Exhibit A: Draft Resolution
2. Exhibit B: Public Comment
3. Exhibit C: Ordinance Adopting General Plan Amendments



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19803

HEARING DATE: DECEMBER 1, 2016

Case No. 2015-017206GPA
Project Name: **Updating the Commerce and Industry Element on Eating and
Drinking Establishments**
Adoption Hearing
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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE GENERAL PLAN TO UPDATE THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN TO UPDATE THE GUIDELINES REGARDING OVERCONCENTRATION OF EATING AND DRINKING ESTABLISHMENTS IN A SINGLE AREA; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE SECTION 101.1.

WHEREAS, Section 4.105 of the Charter of the City and County of San Francisco mandates that the Planning Department shall periodically recommend to the Board of Supervisors for approval or rejection proposed amendments to the General Plan; and

WHEREAS, on June 30, 2016 the Planning Commission voted to initiate the proposed Ordinance; and

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on December 1, 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 Commission's proposed Modification is as follows:

- Remove the following sentence from the General Plan's Commerce and Industry Element's Guidelines for Specific Uses on Eating and Drinking Establishments, found on Page 4, Lines 23-24: "Those establishments that would do the above should not be permitted."

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 Planning Commission finds that as the main policy document for the City's land use, the General Plan should focus on general policy statements, while the Planning Code should provide the tools for implementing those goals and policies. The Planning Commission supports the proposed amendments because they will remove specific numeric controls from the General Plan and maintain similar, but more effective controls in the Planning Code.
2. The Planning Commission finds that the current language confuses the roll of the two documents by having specific numerical controls in the General Plan and requires planners to make two similar but distinct calculations. Additionally, the calculation prescribed in the General Plan does not meet the intent of the language, which is to look at the surround area for a concentration of eating and drinking uses.
3. The Planning Commission finds that simplifying the language in the General Plan ensures that the intent is still being met because no changes are proposed regarding the Conditional Use. This will ensure a more effective and consistent evaluation of eating and drinking uses in the future.
4. **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 1.2

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

The General Plan Amendments will continue to provide guidance on the balance of eating and drinking uses for neighborhood commerce.

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 General Plan Amendments will continue to provide guidance on the balance of eating and drinking uses for neighborhood commerce.

HOUSING ELEMENT

OBJECTIVE 11

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

Policy 11.8

Consider a neighborhood's character when integrating new uses, and minimize disruption caused by expansion of institutions into residential areas.

The General Plan Amendments will provide guidance on the balance of eating and drinking uses for neighborhood commerce.

5. **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 General Plan Amendments to the Commerce and Industry Element would continue preserve and enhance existing neighborhood retail opportunities.

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

The General Plan Amendments to the Commerce and Industry Element would continue preserve and enhance existing neighborhood retail opportunities.

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

The General Plan Amendments would not impact the City's supply of affordable housing be preserved and enhanced.

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

The General Plan Amendments would not impede MUNI transit service or overburden our 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 General Plan Amendments would not adversely affect the industrial or service sectors or impede future opportunities for resident employment and ownership in the industrial or service sectors.

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

The General Plan Amendments would not adversely impact the City's ability to achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The General Plan Amendments would no impact the preservation of landmarks and historic buildings.

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

The General Plan Amendments would not impact the City's parks and open space and their access to sunlight and vistas from development.

6. **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 described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on December 1, 2016.



Jonas P. Ionin
Commission Secretary

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

NOES: Moore

ABSENT: None

ADOPTED: December 1, 2016