



SAN FRANCISCO PLANNING DEPARTMENT

January 10, 2017

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

**Re: Transmittal of Planning Department Case Number 2016-013419PCA:
New Hotels and Motels near Places of Entertainment
Board File No. 161064
Planning Commission Recommendation: Approval with Modification**

Dear Ms. Calvillo and Supervisor Breed,

On January 5, 2017, the Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed Ordinance that would amend the Administrative and Planning Codes to authorize the Entertainment Commission to hold a hearing on noise issues related to proposed projects for construction of new hotels and motels or conversions of existing structures to hotel or motel uses, to be located within 300 feet of a Place of Entertainment and to provide recommendations to the Planning Department and/or Department of Building Inspection regarding such projects and require the Planning Department and Planning Commission to consider noise issues when reviewing proposed hotel and motel projects, introduced by Supervisor Breed. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modifications were as follows:

1. Modify the grandfathering clause in the Administrative Code Section 116.11 to exclude hotel and motel projects that have secured an approval from the Planning Commission by October 4, 2016. The modification would read as follows:

(f) This Section 116.11 shall not apply to Hotel or Motel projects that have received a Planning Commission approval by October 4, 2016.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 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 Commission.

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

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". The signature is fluid and cursive, with a large loop at the end.

Aaron D. Starr
Manager of Legislative Affairs

cc:

Francesca Gessner, Deputy City Attorney
Conor Johnston, Aide to Supervisor Breed
Alisa Somera, Office of the Clerk of the Board

Attachments:

Planning Commission Resolution
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19826 HEARING DATE JANUARY 5, 2017

Project Name: New Hotels and Motels Near Places of Entertainment
Case Number: 2016-013419PCA [Board File No. 161064]
Initiated by: Supervisor Breed / Introduced October 4, 2016
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron D Starr, Manager of 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 THE ADMINISTRATIVE AND PLANNING CODES TO AUTHORIZE THE ENTERTAINMENT COMMISSION TO HOLD A HEARING ON NOISE ISSUES RELATED TO PROPOSED PROJECTS FOR CONSTRUCTION OF NEW HOTELS AND MOTELS, OR CONVERSIONS OF EXISTING STRUCTURES TO HOTEL OR MOTEL USES, TO BE LOCATED WITHIN 300 FEET OF A PLACE OF ENTERTAINMENT, AND TO PROVIDE RECOMMENDATIONS TO THE PLANNING DEPARTMENT AND/OR DEPARTMENT OF BUILDING INSPECTION REGARDING SUCH PROJECTS, AND REQUIRE THE PLANNING DEPARTMENT AND PLANNING COMMISSION TO CONSIDER NOISE ISSUES WHEN REVIEWING PROPOSED HOTEL AND MOTEL PROJECTS; 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 October 4, 2016 Supervisor Breed introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 161064, which would amend the Administrative and Planning Codes to authorize the Entertainment Commission to hold a hearing on noise issues related to proposed projects for construction of new hotels and motel, or conversions of existing structures to hotel or motel uses, to be located within 300 feet of a Place of Entertainment, and to provide recommendations to the Planning Department and/or Department of Building Inspection regarding such projects, and require the Planning Department and Planning Commission to consider noise issues when reviewing proposed hotel and motel projects;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on January 5, 2017; 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 modifications the proposed ordinance.

Those modifications include:

1. Modify the grandfathering clause in the Administrative Code Section 116.11 to exclude hotel and motel projects that have secured an approval from the Planning Commission by October 4, 2016. The modification would read as follows:

(f) This Section 116.11 shall not apply to Hotel or Motel projects that have received a Planning Commission approval by October 4, 2016.

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 nighttime entertainment industry is a significant contributor to the economic well-being of the City. The San Francisco Office of the Controller-Office of Economic Analysis reports that live music venues and nightclubs alone contributed \$220,000,000 in spending in 2010.
2. It is common that nighttime entertainment venues produce noise heard outside the venue from performances and from exiting patrons. When hotel and motel uses locate in close proximity to existing nighttime entertainment venues noise complaints and conflicts may arise.
3. One method for potentially lessening noise complaints and conflicts is an outreach and notification process. Informing prospective hotel and motel developers that they are adjacent to an existing nighttime entertainment venue can help shape the design of the project and persuade them to include additional noise mitigating features. Informing venue operators of a hotel or motel development would provide them with an opportunity to fine tune their crowd control and community relations policies as well.
4. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are 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 outreach process between hotel and motel developers and adjacent Places of Entertainment will help identify potentially undesirable aspects of new developments, create a route to discuss improvements and result in development that is sensitive to its context.

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.

Through an early outreach process, owners and operators of Places of Entertainment will become aware of new hotel and motel development. The outreach process will allow these owners and operators to meet with hotel and motel developers and discuss community context. Through this process it is expected that future conflicts, including those related to noise, would be avoided. This would allow competing land uses – hotel/motel and nighttime entertainment- to coexist. This business climate is favorable to the City and helps it attract and retain commercial activity.

OBJECTIVE 4

IMPROVE THE VIABILITY OF EXISTING INDUSTRY IN THE CITY AND THE ATTRACTIVENESS OF THE CITY AS A LOCATION FOR NEW INDUSTRY.

Policy 4.1

Maintain and enhance a favorable business climate in the city.

The outreach process will help create a favorable business climate by connecting owners and operators of Places of Entertainment with hotel developers at a public commission hearing. This public venue offers the opportunity for the all members of the business community to feel that they have a "receptive ear" when they approach City government.

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 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.

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 with modifications as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on January 5, 2017.



Jonas P. Ionin
Commission Secretary

AYES: Koppel, Melgar, Moore, Richards, Fong

NOES: None

ABSENT: Hillis, Johnson

ADOPTED: January 5, 2017



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: JANUARY 5, 2017

EXPIRATION DATE: JANUARY 11, 2017

Project Name: New Hotels and Motels Near Places of Entertainment
Case Number: 2016-013419PCS [Board File No. 161064]
Initiated by: Supervisor Breed / Introduced October 4, 2016
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: 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 Administrative and Planning Codes to authorize the Entertainment Commission to hold a hearing on noise issues related to proposed projects for construction of new hotels and motels, or conversions of existing structures to hotel or motel uses, to be located within 300 feet of a Place of Entertainment, and to provide recommendations to the Planning Department and/or Department of Building Inspection regarding such projects, and require the Planning Department and Planning Commission to consider noise issues when reviewing proposed hotel and motel projects.

The Way It Is Now:

1. The Planning Department notices Project Sponsors of residential projects of their proximity to a Place of Entertainment (POE). However it does not notice Project Sponsors of hotel or motel developments of their proximity to a Place of Entertainment (POE), nor are Project Sponsors of hotel or motel developments required to contact the Entertainment Commission (EC) of their hotel or motel projects.
2. There is a formal process for the Planning Department or Planning Commission to consider comments and recommendations from the EC about proposed residential projects located within 300 feet of existing POEs. However there is no similar process for hotel or motel projects.
3. Planning Code Section 314 requires the Planning Department and/or Planning Commission to consider EC comments or recommendations about proposed residential projects within 300 feet of existing POEs. However Section 314 does not require similar consideration for hotel or motel projects.

The Way It Would Be:

1. The Administrative Code would be amended to require the Planning Department to notice Project Sponsors of hotel or motel development that their project is within 300 feet of a POE. Project Sponsors would be required to contact the EC of their hotel or motel projects when they are within 300 feet of a POE.

2. The Administrative Code would be amended to provide a formal process for the Planning Department or the Planning Commission to consider comments and recommendations from the EC about proposed hotel or motel projects located within 300 feet of existing POEs. The process would occur as follows:
 - a. After the EC is noticed of the hotel or motel project, the Planning Department would hold the application until the EC provides notice to the Planning Department of whether it has held a hearing on the hotel or motel project.
 - b. Should the EC hold a hearing, it will provide the Planning Department with written comments and recommendations arising from that hearing. Comments would include, but not be limited to, a report on any acoustical measurements taken by EC Staff. Recommendations would include whether project approvals should be granted or whether noise attenuation measures should be imposed.
 - c. The EC would also notify the Planning Department if it does not hold a hearing on the hotel or motel project.
3. Planning Code Section 314 would be amended to require the Planning Department or the Planning Commission to consider comments and recommendations from the EC about proposed hotel or motel projects located within 300 feet of an existing POE during its review.

BACKGROUND

Ensuring Compatibility between Places of Entertainment and Residential Uses

In May 2015 Mayor Lee signed into law Ordinance 70-15, Noise Regulations Relating to Residential Uses near Places of Entertainment.¹ This Ordinance, amending the Administrative, Planning, and Police Codes, declared the City's policy of protecting code complying POEs from potential conflicts with residential uses. It also encouraged residential developers to utilize noise control technologies and management practices that reduce the potential for conflict with POEs.

The declared policy is realized through an EC outreach and hearing process. This process requires a residential developer and the Planning Department to contact the EC about proposed residential projects within 300 feet of a POE. Once contacted the EC determines if noise from the POE is likely to create a significant disturbance to the residents of the proposed residential project. If the EC determines a disturbance is likely it requires a hearing to be held. The EC invites any POE within 300 feet of the proposed residential project as well as the residential project sponsor to the hearing. Both parties provide testimony regarding noise levels in the area or at the POE. The residential project sponsor discusses their proposed noise attenuation features, data on the projected level of interior noise for the residential units and plans for engagement with any nearby POEs. After the hearing the EC provides the Planning Department written comments and recommendations regarding noise issues for the proposed residential project. The residential project sponsor also includes these comments and recommendations on plan sets submitted to the Planning Department and the Department of Building Inspection. The Planning Department and/or Planning Commission then consider these comments and recommendations during its review of the residential project.

¹ <http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances15/o0070-15.pdf>

ISSUES AND CONSIDERATIONS

Economic Impact of the Nightlife and Entertainment Industry in San Francisco

The nightlife and entertainment industry is a significant and growing contributor to the City's economy. Recent studies by the Office of the Controller confirm the sector's economic contributions and growth.² For instance, the Office of the Controller reports that in 2010 entertainment venues/nightclubs hosted over 3,200,000 guests who spent \$220,000,000. This report notes that tourists from outside of San Francisco made patronizing entertainment venues/nightclubs the reason for their visit one third of the time. They also spent, on average, three times what a San Francisco resident would spend on a similar visit. A 2016 Controller's Office study also notes the sector's growth as a source of employment in the City. Employment in entertainment venues/nightclubs grew by 40% between 2010 and 2015, as did the number of entertainment venues/nightclubs.

These figures support the notion that the nightlife and entertainment sector is integral to the City's economy. In this light, it is reasonable that the City take measures to assure the continued success of this sector. These measures may include making procedural amendments to existing permitting processes to reduce potential conflicts with other competing land uses.

Forthcoming Hotel and Motel Development

In October 2016 the Planning Department surveyed submitted hotel and motel applications and found 26 applications in various stages of review. These stages range from Preliminary Project Assessment (PPA) to CEQA review to entitlement submission. The median sized project contains 156 hotel units and projects range from 2 to 500 hotel units. The map in Exhibit B shows where these proposals are located.

The map also shows the location of existing POEs. There are 17 hotel or motel development applications within 300 feet of an existing POE. Given this magnitude, it is important to be cognizant of compatibility considerations between these competing land uses during project review and approval.

Compatibility of Entertainment and Hotel uses

San Francisco is a land constrained and built out city surrounded by bodies of water on three sides. This fact dictates that new development will locate into existing and occupied neighborhoods. The introduction of new land uses or activities into a neighborhood has the potential to create disturbances for the existing uses or activities. Likewise, existing uses or activities may, by the nature of their operation, prove disagreeable to the new land use or activity. This can be the case between nighttime entertainment and hotel or motel uses.

² The Economic Impact of San Francisco's Nightlife Businesses. Office of the Control- Office of Economic Analysis. March 5, 2012

<http://sfcontroller.org/sites/default/files/FileCenter/Documents/2953-Economic%20Impact%20of%20San%20Francisco%27s%20Nightlife%20Businesses.pdf>

Nightlife Industries in San Francisco: 2016 Update. Office of the Control- Office of Economic Analysis. September 8, 2016

<http://nightlifesf.org/wp-content/uploads/2016/09/2016-Nightlife-Update.pdf>

As a guest of a hotel, it is reasonable to expect a certain level of quiet, especially during sleeping hours. It is also reasonable for established nighttime entertainment operators in good standing to expect to continue in business despite the arrival of new hotels uses. Under these circumstances it is important that the City has a process to lessen the potential concerns and complaints of both parties. A notification process to alert hotel and motel developers of their proximity to a nighttime entertainment venue is one way to achieve this. Through discussions with stakeholders and the Entertainment Commission, design changes may come about that involve the addition of noise attenuation features or the reorientation of entries. This would serve the interests of both hotel operator and guest by ensuring a more pleasant guest stay. This is also in the interest of the nighttime entertainment venue operator because it could potentially reduce complaints and improve neighbor relations.

Hotel/Motel Permit Process Benefits

A related benefit of an early outreach and notification process is the saved time during the entitlement review. In certain instances time spent resolving community concerns with new development can be extensive. Creating a process and forum to meet earlier in the development stage can help speed review times later on. This may also result in garnering community support for the project, which is a consideration for project approval.

Exempting Projects Far Along in the Review Process

Other than projects with an issued building permit, new land use regulations apply to all applications under review upon their effective date. This means that even development projects holding an entitlement for multiple years are required to comply with the new land use regulation. For projects in the earlier stages of post-entitlement review this may not be difficult. In earlier development phases programmatic changes may be more easily accommodated. For example, pedestrian and automobile entries or windows may be relocated or different exterior materials specified and budgeted; however, for projects much further along complying with new regulations may be impractical and overly burdensome. This is the case for projects far along the Department of Building Inspection (DBI) or Fire Department review and/or close to having a building permit issued. In these cases, relocating hotel ingress and egress may be near impossible, for example. Special consideration for these types of projects seems reasonable and could include an exemption from the proposed ordinance based on the introduction date of this proposed Ordinance, October 4, 2016.

Basing the exemption on the introduction date makes sense for a couple of reasons. The first reason is that the introduction date is public record and provides a measure of notice to hotel and motel project sponsors of impending regulatory changes. The second reason is that the time between the introduction date and the Ordinance's effective date is approximately six to seven months. Projects with entitlements older than six to seven months are likely far enough along permit review that making design changes becomes increasingly burdensome. Conversely, changes to projects just having received an entitlement are much more easily accommodated.

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. Modify the grandfathering clause in the Administrative Code Section 116.11 to exclude hotel and motel projects that have secured an approval from the Planning Commission by October 4, 2016. The modification would read as follows:

(f) This Section 116.11 shall not apply to Hotel or Motel projects that have received a Planning Commission approval by October 4, 2016.

BASIS FOR RECOMMENDATION

The Department is in support of the proposed Ordinance as it furthers the aim of increasing communication and compatibility between competing land uses. Initiating conversations between project sponsors and operators of Places of Entertainment can help identify and resolve potential compatibility issues. This can help result in an agreeable entitlement process as well. Staff believes that including hotel and motel projects into the existing outreach and notification process for residential developments near Places of Entertainment can be done almost seamlessly; however, projects having secured a Commission approval should have special consideration given their progress through the development process and the difficulties accompanying last minute design changes.

Recommendation 1: Modify Administrative Code Section 116.11 to exclude hotel and motel projects that have secured a Planning Commission approval by October 4, 2016. Staff recommends this modification because requiring design changes of projects in the earlier stages of post-entitlement review is less onerous than those further along. Projects in early stages of review can accommodate design changes more easily than a project that is weeks away from having a building permit issued, for example. There is also a certain expectation on the part of project sponsors rapidly nearing building permit issuance that the City will not require significant design changes to their proposal.

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 impact our current implementation procedures; however the proposed changes can be implemented without increasing permit costs or review time.

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

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

RECOMMENDATION: Recommendation of Approval with Modification
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Map of Pipeline Hotel and Motel Developments and Adjacent POEs
- Exhibit C: Board of Supervisors File No. 161064