



SAN FRANCISCO PLANNING DEPARTMENT

July 10, 2018

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

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

**Re: Transmittal of Planning Department Case Number 2018-005553PCA:
Catering as an Accessory Use in Neighborhood Commercial Districts
Board File No. 180320-2
Planning Commission Recommendation: Approval with Modification**

Dear Ms. Calvillo and Supervisor Safai,

On June 21, 2018, the Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed Ordinance, introduced by Supervisor Ahsha Safai that would amend the Planning Code to allow catering as an accessory use to Limited Restaurants in Neighborhood Commercial Districts under certain conditions. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modification was as follows:

- Amend the Ordinance to make the new accessory provision apply citywide.

The proposed amendment is not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because it does 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 change recommended by the Commission.

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".

Aaron D. Starr
Manager of Legislative Affairs

cc:

Austin M. Yang, Deputy City Attorney

Suhagey G. Sandoval, Aide to Supervisor Safai

Erica Major, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution No. 20214

Planning Department Executive Summary for Case No. 2018-005553PCA



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 20214

HEARING DATE JUNE 21, 2018

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Project Name: Catering as an Accessory Use in Neighborhood Commercial Districts
Case Number: 2018-005553PCA [Board File No. 180320-2]
Initiated by: Supervisor Safai / Introduced May 1, 2018
Staff Contact: Eugenio Salcedo, Legislative Affairs
Eugenio.Salcedo@sfgov.org, 415-575 -9139
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTION 703 TO ALLOW CATERING AS AN ACCESSORY USE TO LIMITED RESTAURANTS IN NEIGHBORHOOD COMMERCIAL DISTRICTS; 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 May 1, 2018 Supervisor Safai introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 180320, which would amend Section 703 of the Planning Code to allow catering as an accessory use to limited restaurants in Neighborhood Commercial Districts under certain conditions;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on June 21, 2018; and,

WHEREAS, 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; 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

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance.

The modification includes:

Amend the Ordinance to make the new accessory use provision apply citywide.

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. Due to the lack of ample commissary kitchen spaces in the City, catering uses have few options but to look for available and affordable spaces in outlying areas. The Commission finds that this ordinance would mitigate this issue by expanding the potentially available commissary kitchen space that the City is lacking.
2. The Commission finds that allowing Limited Restaurant kitchens to be leased and used by accessory catering uses with the proposed conditions will have little to no negative effect on NCDs.
3. The Commission finds that the proposed Ordinance ensures an active commercial use remains the principal use, and will prevent individual meal delivery from third-party delivery services that could cause negative effects to neighbors.
4. The Commission finds that the proposed Ordinance allows Limited Restaurants to have more flexibility in business expansion with fewer restrictions on accessory uses.
5. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are 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 would allow catering businesses access to more kitchen options in our NCDs' Limited Restaurants, benefitting our local businesses without causing any physical changes to the urban environment.

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.

The proposed ordinance would allow small businesses to remain competitive in leasing their kitchens to other users when they are underutilized; likewise, the proposed ordinance would allow more catering businesses and their employees to remain in San Francisco.

OBJECTIVE 3

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

Policy 3.1

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

The proposed ordinance would allow the opportunity for more kitchen spaces that the City lacks for catering uses in San Francisco, keeping unskilled and semi-skilled workers from having to relocate jobs to farther, outlying locations.

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 proposed ordinance will allow certain struggling limited restaurants to remain open in NCDs, allowing their kitchens during low-productivity hours to be leased by catering businesses.

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 proposed ordinance will allow existing Limited Restaurants to thrive and future limited restaurants to be economically competitive by allowing their kitchens during low-productivity hours to be used by catering business; the proposed ordinance in turn helps catering businesses with newly potential commissary kitchen spaces that are lacking in the City.

Under the Guidelines for Specific Uses under Policy 6.1, "expanding uses should not impose significant adverse impacts on traffic and transit volumes and circulation and parking congestion. If such impacts are anticipated, especially on transit-preferential streets, the proposed use should be redesigned to mitigate such impacts, such as being reduced in size or providing off-street parking or the use should be prohibited." This proposed ordinance has a condition in place that would not allow for individual delivery of meals from the accessory catering use. This proposed ordinance's intention is to allow kitchen spaces to be used by catering uses for normal business operations in the preparation and delivery of goods, but not the individual delivery of meals by third-party delivery services that could potentially increase traffic congestion.

Policy 6.2

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society.

This proposed ordinance will support our local businesses within the catering and limited restaurant use industries by allowing more flexibility in allowable accessory uses to limited restaurants.

6. **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.

7. **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 APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on June 21, 2018.



Jonas P. Ionin
Commission Secretary

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

NOES: None

ABSENT: Fong

ADOPTED: June 21, 2018



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: JUNE 21, 2018
90-DAY DEADLINE: JULY 10, 2018

1650 Mission St.
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Project Name: **Catering as an Accessory Use in Neighborhood Commercial Districts**
Case Number: **2018-005553PCA [Board File No. 180320-2]**
Initiated by: Supervisor Safai / Introduced May 1, 2018
Staff Contact: Eugenio Salcedo, Legislative Affairs
Eugenio.Salcedo@sfgov.org, 415-575-9139
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Approval with Modifications**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Neighborhood Commercial District Requirements Section 703 to allow catering as an accessory use to limited restaurants in Neighborhood Commercial Districts under certain conditions.

The Way It Is Now:

- As a Non-Retail Sales and Service Use, catering uses are not permitted in Neighborhood Commercial Districts (NCDs)
- Catering uses are not considered an accessory use in NCDs unless said catering uses also provide their products for retail sale at the same location where the catering use takes place

The Way It Would Be:

- Catering uses will be allowed in NCDs as an accessory use to Limited Restaurants under the following conditions:
 1. The catering use does not operate more than 75% of the total time within the Limited Restaurant's hours of operations on any given day
 2. The catering use does not distribute or deliver individual meals to customers directly from the subject lot, either by its own means, or through a third-party delivery service
- As an accessory use to Limited Restaurants, catering uses will not have to provide their products for retail sale at the same location where the catering use were to take place

BACKGROUND

This issue came to the attention of the sponsoring Supervisor's office when the owner of La Victoria bakery reached out to his office for help addressing some permitting issue with the City. La Victoria Bakery, located in the 24th – Mission Neighborhood Commercial Transit District, currently operates as a Limited Restaurant. To make use of its large, underutilized kitchen during certain times of the day, the

bakery has been using its kitchen as a commissary for a catering use. The bakery currently leases its kitchen to a third party catering company that produces tamales.

As it stands, La Victoria Bakery is required to display the catering's products for retail sale on site. However, tamales, or other products from an unrelated catering company, are not necessarily appropriate to be sold at the same location where they are produced. La Victoria, and thus other Limited Restaurants, would like the ability to have accessory catering uses without the requirement of selling their products on site.

ISSUES AND CONSIDERATIONS

Lack of Commissary Spaces

According to the Office of Economic Workforce Development, there is a lack of commissary space in the City, which catering uses rely on for their food production. Allowing catering uses to operate within existing Limited Restaurants would expand potential commissary space without disrupting NCDs' vibrant corridors with the conditions such as are proposed.

Certain Limited Restaurants (which include coffee houses, bakeries, sandwich shops, etc.) located within NCDs have relatively low-productivity hours during regular business hours. Limited Restaurants often times have large kitchens that can remain underutilized, which otherwise could be accessed and utilized by catering uses. Restaurants, however, were not proposed to be included in this proposed accessory use provision. The sponsoring Supervisor chose not to include Restaurants as to not give them incentives to limit their hours, which could negatively affect active commercial uses along our NCD corridors.

Maintaining Active Commercial Uses

Currently, if a Limited Restaurant leases its kitchen for accessory catering purposes, it is required to display and provide for sale the catering use's products onsite. Without the requirement of selling their products on-site, a potential consequence could be a non-active commercial storefront where a Limited Restaurant is closed for a portion of the day dedicated to catering production. Thus, this requirement was previously put in place to ensure that active commercial uses remain in our NCDs.

However, the proposed ordinance would change that by allowing an accessory catering use to use a Limited Restaurant's kitchen for the production and processing of its foods without the requirement to sell its products on site. To mitigate the potential consequence of a non-active commercial use, the catering use cannot operate more than 75% of the total time of the Limited Restaurant's hours of operation on any given day. This condition is proposed to ensure that the accessory catering use does not affect the Limited Restaurant as the principal, active commercial use.

Delivery Restrictions

The proposed ordinance would prohibit the catering use from distributing or delivering its products directly to customers as *individual meals* from the limited use restaurant's subject lot. This condition was proposed to prevent individual meals from being delivered by third-party delivery services (such as Uber Eats, Sprig, et al.) that could potentially cause an undesired increase of traffic congestion and noise that goes against the intention of this proposed ordinance.

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 would allow catering businesses access to more kitchen options in our NCDs' Limited Restaurants, benefitting our local businesses without causing any physical changes to the urban environment.

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.

The proposed ordinance would allow small businesses to remain competitive in leasing their kitchens to other users when they are underutilized; likewise, the proposed ordinance would allow more catering businesses and their employees to remain in San Francisco.

OBJECTIVE 3

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

Policy 3.1

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

The proposed ordinance would allow the opportunity for more kitchen spaces that the City lacks for catering uses in San Francisco, keeping unskilled and semi-skilled workers from having to relocate jobs to farther, outlying locations.

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 proposed ordinance will allow certain struggling Limited Restaurants to remain open in NCDs, allowing their kitchens during low-productivity hours to be leased by catering businesses.

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 proposed ordinance will allow existing Limited Restaurants to thrive and future Limited Restaurants to be economically competitive by allowing their kitchens during low-productivity hours to be used by catering business; the proposed ordinance in turn helps catering businesses with newly potential commissary kitchen spaces that are lacking in the City.

Under the Guidelines for Specific Uses under Policy 6.1, "expanding uses should not impose significant adverse impacts on traffic and transit volumes and circulation and parking congestion. If such impacts are anticipated, especially on transit-preferential streets, the proposed use should be redesigned to mitigate such impacts, such as being reduced in size or providing off-street parking or the use should be prohibited." This proposed ordinance has a condition in place that would not allow for individual delivery of meals from the accessory catering use. This proposed ordinance's intention is to allow kitchen spaces to be used by catering uses for normal business operations in the preparation and delivery of goods, but not the individual delivery of meals by third-party delivery services that could potentially increase traffic congestion.

Policy 6.2

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society.

This proposed ordinance will support our local businesses within the catering and Limited Restaurant use industries by allowing more flexibility in allowable accessory uses to Limited Restaurants.

Implementation

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

RECOMMENDATION

The Department recommends that the Commission *approve with modifications* the proposed Ordinance and adopt the attached Draft Resolution to that effect.

- Amend the Ordinance to make the new accessory use provision apply citywide

BASIS FOR RECOMMENDATION

Due to the lack of ample commissary kitchen spaces in the City, catering businesses have few options but to look for available and affordable spaces in outlying areas. This ordinance would mitigate this issue by expanding the potentially available commissary kitchen space that the City is lacking. Allowing Limited Restaurant kitchens to be leased and used by accessory catering uses with the proposed conditions will have little to no negative effect on NCDs. Furthermore, the proposed ordinance: 1) ensures an active commercial use remains the principal use; 2) prevents individual meal delivery from third-party delivery

services that could cause negative effects to neighbors; and 3) allows Limited Restaurants to have more flexibility in business expansion with fewer restrictions on accessory uses.

The proposed legislation is aligned with numerous policy objectives within the Commerce and Industry Element of the General Plan that will:

- Seek to retain existing commercial and industrial activity and to attract new such activity to the city
- Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.
- Maintain and enhance a favorable business climate in the city
- 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
- Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society

Recommendation 1: Amend the Ordinance to make the new accessory use provision apply citywide.

Limited Restaurants, regardless of the zoning district, would be allowed to have accessory catering uses. This will prevent Limited Restaurants not located in NCDs from dealing with the same issues that La Victoria bakery dealt with in the first place. Thus, allowing the new provision in Limited Restaurants in all zoning districts will bring consistency citywide.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

ENVIRONMENTAL REVIEW

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.

PUBLIC COMMENT

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

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 180320-2



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution

HEARING DATE JUNE 21, 2018

Project Name: Catering as an Accessory Use in Neighborhood Commercial Districts
Case Number: 2018-005553PCA [Board File No. 180320-2]
Initiated by: Supervisor Safai / Introduced May 1, 2018
Staff Contact: Eugenio Salcedo, Legislative Affairs
Eugenio.Salcedo@sfgov.org, 415-575 -9139
Reviewed by: Aaron Starr, Manager of Legislative Affairs
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RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTION 703 TO ALLOW CATERING AS AN ACCESSORY USE TO LIMITED RESTAURANTS IN NEIGHBORHOOD COMMERCIAL DISTRICTS; 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 May 1, 2018 Supervisor Safai introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 180320, which would amend Section 703 of the Planning Code to allow catering as an accessory use to limited restaurants in Neighborhood Commercial Districts under certain conditions;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on June 21, 2018; and,

WHEREAS, 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; 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

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance.

The modification includes:

Amend the Ordinance to make the new accessory use provision apply citywide.

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. Due to the lack of ample commissary kitchen spaces in the City, catering uses have few options but to look for available and affordable spaces in outlying areas. The Commission finds that this ordinance would mitigate this issue by expanding the potentially available commissary kitchen space that the City is lacking.
2. The Commission finds that allowing Limited Restaurant kitchens to be leased and used by accessory catering uses with the proposed conditions will have little to no negative effect on NCDs.
3. The Commission finds that the proposed Ordinance ensures an active commercial use remains the principal use, and will prevent individual meal delivery from third-party delivery services that could cause negative effects to neighbors.
4. The Commission finds that the proposed Ordinance allows Limited Restaurants to have more flexibility in business expansion with fewer restrictions on accessory uses.
5. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are 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.

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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 would allow catering businesses access to more kitchen options in our NCDs' Limited Restaurants, benefitting our local businesses without causing any physical changes to the urban environment.

OBJECTIVE 2

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

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

The proposed ordinance would allow small businesses to remain competitive in leasing their kitchens to other users when they are underutilized; likewise, the proposed ordinance would allow more catering businesses and their employees to remain in San Francisco.

OBJECTIVE 3

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The proposed ordinance would allow the opportunity for more kitchen spaces that the City lacks for catering uses in San Francisco, keeping unskilled and semi-skilled workers from having to relocate jobs to farther, outlying locations.

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 proposed ordinance will allow certain struggling limited restaurants to remain open in NCDs, allowing their kitchens during low-productivity hours to be leased by catering businesses.

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 proposed ordinance will allow existing Limited Restaurants to thrive and future limited restaurants to be economically competitive by allowing their kitchens during low-productivity hours to be used by catering business; the proposed ordinance in turn helps catering businesses with newly potential commissary kitchen spaces that are lacking in the City.

Under the Guidelines for Specific Uses under Policy 6.1, “expanding uses should not impose significant adverse impacts on traffic and transit volumes and circulation and parking congestion. If such impacts are anticipated, especially on transit-preferential streets, the proposed use should be redesigned to mitigate such impacts, such as being reduced in size or providing off-street parking or the use should be prohibited.” This proposed ordinance has a condition in place that would not allow for individual delivery of meals from the accessory catering use. This proposed ordinance’s intention is to allow kitchen spaces to be used by catering uses for normal business operations in the preparation and delivery of goods, but not the individual delivery of meals by third-party delivery services that could potentially increase traffic congestion.

Policy 6.2

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society.

This proposed ordinance will support our local businesses within the catering and limited restaurant use industries by allowing more flexibility in allowable accessory uses to limited restaurants.

6. **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.

7. **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 APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on June 21, 2018.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: June 21, 2018

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

May 8, 2018

Planning Commission
Attn: Jonas Ionin
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Commissioners:

On May 1, 2018, Supervisor Safai introduced the following substitute legislation:

File No. 180320-2

Ordinance amending the Planning Code to allow catering as an accessory use to limited restaurants in Neighborhood Commercial Districts under certain conditions; 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 making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

The substitute ordinance is being transmitted pursuant to Planning Code, Section 302(b), for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

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

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

- c: John Rahaim, Director of Planning
- Aaron Starr, Acting Manager of Legislative Affairs
- Scott Sanchez, Zoning Administrator
- Lisa Gibson, Environmental Review Officer
- AnMarie Rodgers, Director of Citywide Planning
- Laura Lynch, Environmental Planning
- Joy Navarrete, Environmental Planning

1 [Planning Code - Catering as an Accessory Use in Neighborhood Commercial Districts]

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3 **Ordinance amending the Planning Code to allow Catering as an Accessory Use to**
4 **Limited Restaurants in Neighborhood Commercial Districts under certain conditions;**
5 **affirming the Planning Department's determination under the California Environmental**
6 **Quality Act; making findings of consistency with the General Plan, and the eight**
7 **priority policies of Planning Code, Section 101.1; and making findings of public**
8 **necessity, convenience, and welfare pursuant to Planning Code, Section 302.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

16 Be it ordained by the People of the City and County of San Francisco:

17 Section 1. Environmental and Land Use Findings.

18 (a) The Planning Department has determined that the actions contemplated in this
19 ordinance comply with the California Environmental Quality Act (California Public Resources
20 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
21 Supervisors in File No. _____ and is incorporated herein by reference. The Board affirms
22 this determination.

23 (b) On _____, the Planning Commission, in Resolution No. _____, adopted
24 findings that the actions contemplated in this ordinance are consistent, on balance, with the
25 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board

1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
2 Board of Supervisors in File No. _____, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, the Board finds that this Planning Code
4 amendment will serve the public necessity, convenience, and welfare for the reasons set forth
5 in Planning Commission Resolution No. _____, and the Board incorporates such reasons
6 herein by reference.

7 Section 2. The Planning Code is hereby amended by revising Section 703, to read as
8 follows:

9 **SEC. 703. NEIGHBORHOOD COMMERCIAL DISTRICT REQUIREMENTS.**

10 (a) **Zoning Control Tables.** Each Zoning District in Article 7 has a corresponding
11 Zoning Control Table that details the basic development standards and Use controls for the
12 respective district. Zoning Control Tables are explained in Section 202.1 of this Code.
13 Permitted or Conditionally permitted ~~u~~Uses and Uses that are not permitted in the zoning
14 districts described in this Section 703 are detailed in the corresponding Zoning Control Tables.

15 (b) **Uses in Enclosed Buildings.** All permitted uses shall be conducted within an
16 enclosed building in Neighborhood Commercial Districts, unless otherwise specifically allowed
17 in this Code. Exceptions from this requirement are: uses which, when located outside of a
18 building, qualify as an Outdoor Activity Area or Open Air Sales, accessory off-street parking
19 and loading, and other uses listed below which function primarily as open-air uses, or which
20 may be appropriate if located on an open lot, outside a building, or within a partially enclosed
21 building, subject to other limitations of this Article 7 and other sections of this Code.

22 33A. Wireless Telecommunications Services Facility

23 Public and Private Parking Lots

24 Gas Station

25 Automotive Service Station

- 1 Automotive Wash
- 2 Automobile Sale or Rental
- 3 Institutional Uses (selected)
- 4 Public Facilities (selected)
- 5 Open Recreation Area
- 6 Outdoor Recreation Area
- 7 Neighborhood and Large Scale Urban Agriculture
- 8 Utility and Infrastructure Uses (selected)

9 (c) **Multiple Uses in One Structure.** If there are two or more uses in a structure and
10 none is classified under Section 703(d) below as an Accessory Use, then each of these uses
11 will be considered separately as independent Principal, Conditional or temporary uses.

12 (d) **Accessory Uses.** Subject to the limitations set forth below and in Sections 204.1
13 (Accessory Uses for Dwelling Units in R and NC Districts), 204.4 (Dwelling Units Accessory to
14 Other Uses), and 204.5 (Parking and Loading as Accessory Uses) of this Code, Accessory
15 Uses as defined in Section 102 shall be permitted when located on the same lot. Any use that
16 does not qualify as an Accessory Use shall be classified as a Principal or Conditional Use
17 unless it qualifies as a temporary use under Sections 205 through 205.4 of this Code.

18 No Use will be considered accessory to a permitted Principal or Conditional Use that
19 involves or requires any of the following:

20 (1) The use of more than ~~one-third~~^{1/3} of the total floor area occupied by such
21 use and the Principal or Conditional use to which it is accessory, except in the case of
22 accessory off-street parking and loading and as specified in subsection (d)(3) below as
23 accessory wholesaling, manufacturing, or processing of foods, goods, or commodities.

24 (2) Any Bar or Restaurant, or any other retail establishment which serves liquor
25 for consumption on-site; however, this shall not prohibit take-out food activity which operates

1 in conjunction with a Limited Restaurant, Restaurant, General Grocery, and Specialty
2 Grocery.

3 (3) The wholesaling, manufacturing, or processing of foods, goods, or
4 commodities on the premises of an establishment that does not also use or provide for retail
5 sale of such foods, goods, or commodities at the same location where such wholesaling,
6 manufacturing, or processing takes place; ~~except, however in,~~ with the following exceptions:

7 (A) In the North Beach Special Use District where such activities are
8 limited to 15% of the total floor area occupied by the Principal or Conditional Use to which it is
9 accessory unless the Principal or Conditional Use is Specialty Foods Manufacturing as
10 defined in Section 780.3 of this Code; and

11 (B) A Catering Use limited to food and beverage Catering shall be permitted as
12 an Accessory Use to Limited Restaurants if the following requirements are met:

13 (i) The Catering Use does not operate more than 75% of the total time
14 within the Limited Restaurant's Hours of Operation on any given day; and

15 (ii) The Catering Use does not distribute or deliver individual meals to
16 customers directly from the subject lot, either by its own means, or through a third-party delivery
17 service.

18 (4) Any retail Liquor Store.

19 (5) Medical Cannabis Dispensaries.

20 (6) Any General Entertainment or Nighttime Entertainment use, except for one
21 that involves a Limited Live Performance Permit as set forth in Police Code Section 1060 et
22 seq.

23 (7) Within the North Beach SUD and NCD, a Limited Restaurant.

1 (8) A Health Service use as an Accessory Use in the Sacramento Street
2 Neighborhood Commercial District requires a Conditional Use authorization on the ground
3 story and is permitted above the ground story pursuant to Section 724 of this Code.

4 (9) Cannabis Retail that does not meet the limitations set forth in Section
5 204.3(a)(3) *of this Code*.

6 (e) **Uses Not Permitted.**

7 (1) No use, even though listed as a Permitted Use, shall be permitted in a
8 Neighborhood Commercial District which, by reason of its nature or manner of operation,
9 creates conditions that are hazardous, noxious, or offensive through the emission of odor,
10 fumes, smoke, cinders, dust, gas, vibration, glare, refuse, water-carried waste, or excessive
11 noise.

12 (2) The establishment of a use that sells alcoholic beverages, other than beer
13 and wine, concurrent with motor vehicle fuel is prohibited, and shall be governed by Section
14 202.2(b), ~~with the exception that~~ *Except* in the SoMa NCT, ~~where~~ these uses are permitted
15 Accessory Uses.

16 (f) **Conflicting Controls.** All uses, buildings, and features in Neighborhood
17 Commercial Districts shall comply with all controls set forth for the district in which they are
18 located. Where different controls conflict or overlap within the same District, the use, building,
19 or feature shall abide by the most restrictive of all controls. For example, in an NC-2 District, a
20 Dwelling Unit on the second story is proposed for conversion to a Personal Service use.
21 Residential Conversions at the Second Story in an NC-2 District require Conditional Use
22 authorization under Table 711, while Personal Services at the Second Story in an NC-2
23 District are permitted as Principal Uses under Table 711. Following the most restrictive
24 control, the applicant must obtain Conditional Use authorization and all other necessary
25 permits in order to legally convert the Dwelling Unit to a Personal Service use.

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Section 3. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

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

By: 
AUSTIN M. YANG
Deputy City Attorney

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REVISED LEGISLATIVE DIGEST

(Substituted, 5/1/2018)

[Planning Code - Catering as an Accessory Use in Neighborhood Commercial Districts]

Ordinance amending the Planning Code to allow catering as an accessory use to limited restaurants in Neighborhood Commercial Districts under certain conditions; 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 making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

Existing Law

Planning Code Section 102 defines Accessory Use as a related minor Use that is either necessary to the operation or enjoyment of a lawful Principal or Conditional Use or appropriate, incidental, and subordinate to any such use, and is located on the same lot. Catering is defined as a Non-retail Sales and Service Use that involves the preparation and delivery of goods. A Limited Restaurant Use is defined as a Retail Sales and Service Use that serves ready-to-eat foods and/or drinks to customers for consumption on or off the premises, that may or may not have seating. A Limited Restaurant Use may include wholesaling, manufacturing, or processing of foods, goods, or commodities on the premises.

Planning Code Section 703 sets forth the permissible Accessory Uses in Neighborhood Commercial Districts and does not include Catering as a permissible Accessory Use.

Amendments to Current Law

This amendment would permit Catering as an Accessory Use to Limited Restaurants in Neighborhood Commercial Districts where: the Catering Use does not operate more than 75% of the total time permitted for the Limited Restaurant; and the Catering Use does not serve customers directly from the lot, unless it also provides retail sales of its products on the premises.

Background Information

Planning Code Section 703(d) governs Accessory Uses in Neighborhood Commercial Districts. Generally, this section does not permit the wholesaling, manufacturing, or processing of foods, goods, or commodities unless those same foods, goods, and commodities are sold on-site. This would create an exception for Catering Use under specific conditions and would allow catering companies to prepare foods on the premises of Limited Restaurants under specific conditions.

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