



SAN FRANCISCO PLANNING DEPARTMENT

November 30, 2018

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

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**Re: Transmittal of Planning Department Case Number 2018-015088PCA:
Permit Review Procedures for Uses in Neighborhood Commercial Districts
Board File No.181031
Planning Commission Recommendation: Approval with Modification**

Dear Ms. Calvillo and Supervisors Tang and Safai,

On November 29, 2018, the Planning Commission conducted duly noticed public hearing at regularly scheduled meetings to consider the proposed Ordinance, introduced by Supervisors Tang and Safai that would amend the Planning Code to make permanent the pilot program removing neighborhood notice and Planning Commission review for certain uses in Neighborhood Commercial Districts in the areas generally bounded by Supervisorial Districts 4 and 11. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modification was:

- Require the Planning Department and the Mayor's Office of Economic and Workforce Development to jointly submit a report to the Board of Supervisors describing the number of permit applications submitted pursuant to the exemption within two years of the effective date of the Ordinance.

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.

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 long horizontal stroke extending to the right.

Aaron D. Starr
Manager of Legislative Affairs

cc:

Austin M Yang, Deputy City Attorney
Ashley Summers, Aide to Supervisor Tang
Suha Sandoval, Aide to Supervisor Safai
Erica Major, Office of the Clerk of the Board

Attachments:

Planning Commission Resolution
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 20347 HEARING DATE NOVEMBER 29, 2018

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Project Name: Permit Review Procedures for Uses in Neighborhood Commercial Districts
Case Number: 2018-015088PCA [Board File No. 181031]
Initiated by: Supervisors Tang and Safai / Introduced October 23, 2018
Staff Contact: Diego Sanchez, 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

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO MAKE PERMANENT THE PILOT PROGRAM REMOVING NEIGHBORHOOD NOTICE AND PLANNING COMMISSION REVIEW FOR CERTAIN USES IN NEIGHBORHOOD COMMERCIAL DISTRICTS IN THE AREAS GENERALLY BOUNDED BY SUPERVISORIAL DISTRICTS 4 AND 11; 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 23, 2018 Supervisors Tang and Safai introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 181031, which would amend the Planning Code to make permanent the pilot program removing neighborhood notice and Planning Commission review for certain uses in Neighborhood Commercial Districts in the areas generally bounded by Supervisorial Districts 4 and 11;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 29, 2018; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c) 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

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 modification** the proposed ordinance.

The modification is as follows:

Require the Planning Department and the Mayor's Office of Economic and Workforce Development to jointly submit a report to the Board of Supervisors describing the number of permit applications submitted pursuant to the exemption within two years of the effective date of the Ordinance

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. Permanently reducing permit review timeframes can help new businesses locate in the City's retail corridors. This can be done by removing the neighborhood notification process for specified uses.
2. Individually tailoring the land use controls and noticing requirements for specific neighborhood commercial districts (NCDs) allows them to respond to the changing needs, tastes and preferences of adjacent residents.
3. Together, these measures make the permitting process less complex for prospective businesses and assure that the City's retail corridors remain vibrant.
4. **General Plan Compliance.** The proposed Ordinance and Commission's recommended modification are consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

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.

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.

The proposed Ordinance would help attract new neighborhood serving uses and other small businesses to the NCDs in Supervisorial District 4 and Supervisorial District 11 by permanently reducing permit review timelines for certain non-residential uses. The reduced permit review, and concomitant reduced start-up costs, can help ensure new neighborhood serving uses remain viable. Further, these uses are often small businesses responding to the latest changes in the marketplace and therefore are ones the City should seek to foster.

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 help preserve and enhance neighborhood-serving retail uses by relaxing the neighborhood notice requirements for specified retail uses in the neighborhood commercial districts in Supervisorial Districts 4 and 11.

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

The proposed Ordinance would help the economic diversity of the neighborhoods in Supervisorial Districts 4 and 11 by facilitating the entry of neighborhood-serving businesses into the neighborhood commercial districts in those Districts.

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

The City's supply of affordable housing would not be affected by the proposed Ordinance because it concerns itself with making permanent a pilot program for neighborhood serving businesses.

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 as the Ordinance makes permanent an exemption from neighborhood notice required of certain neighborhood-serving businesses in Supervisorial Districts 4 and 11.

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

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development because the Ordinance proposes to make permanent a pilot program that modifies the noticing requirements for neighborhood-serving businesses.

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 affect the City's preparedness against injury and loss of life in an earthquake because it modifies neighborhood notice requirements for businesses locating in the neighborhood commercial districts in Supervisorial Districts 4 and 11.

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 because it would make permanent temporary exemptions from procedural review for businesses locating in the neighborhood commercial districts in Supervisorial Districts 4 and 11.

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 because it concerns itself with making a pilot program for neighborhood serving businesses permanent.

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 APPROVES WITH MODIFICATION the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on November 29, 2018.



Jonas P. Ionin
Commission Secretary

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

NOES: None

ABSENT: Richards

ADOPTED: November 29, 2018

CONFIDENTIAL - This document contains information that is exempt from public release under the Freedom of Information Act.

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NAME AND TITLE

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SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: NOVEMBER 29, 2018

90-DAY DEADLINE: JANUARY 24, 2019

Project Name: **Permit Review Procedures for Uses in Neighborhood Commercial Districts**

Case Number: **2018-015088PCA** [Board File No. 181031]

Initiated by: Supervisors Tang and Safai / Introduced October 23, 2018

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: **Approval**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to make permanent the pilot program removing neighborhood notice and Planning Commission review for certain uses in Neighborhood Commercial Districts in the areas generally bounded by Supervisorial Districts 4 and 11.

The Way It Is Now:

In Supervisorial Districts 4 and 11 the following uses are exempted from notification and requests for Planning Commission review to exercise its Discretionary Review powers pursuant to a two-year pilot program ending in September 2020:

- a. Bar
- b. General Entertainment
- c. Limited Restaurant
- d. Liquor Store
- e. Massage Establishment
- f. Nighttime Entertainment
- g. Outdoor Activity Area
- h. Private Community Facility
- i. Public Community Facility
- j. Restaurant
- k. Tobacco Paraphernalia Establishments.

The Way It Would Be:

In Supervisorial Districts 4 and 11 the temporary exemption from notification and requests for Planning Commission review to exercise its Discretionary Review powers for the uses outlined above would be made permanent.

BACKGROUND

The Small Business Attraction Program Ordinance became effective on September 9, 2018.¹ The Ordinance, initiated by Supervisors Tang and Safai, created a two-year pilot program to exempt identified non-residential uses from neighborhood notice in Supervisorial Districts 4 and 11. This exemption was created to remove a barrier to entry for small businesses into the neighborhood commercial districts (NCDs) in Supervisorial Districts 4 and 11. The exemption will sunset, unless reenacted, in September 2020.

ISSUES AND CONSIDERATIONS

Neighborhood Notice

Purpose and Timeframe

The purpose of neighborhood notification is to inform property owners and residents about proposed projects in their vicinity. Notice serves as a venue to identify and resolve concerns about the project during permit review. Notice is provided to property owners and occupants within a 150 foot radius of the project.²

Non-residential projects subject to neighborhood notice require a much lengthier Planning Department (Department) review than projects approved over the counter. Given required Department analysis and coordination, review and notification can take between 90 to 120 days to complete. This timeframe is lengthened if a request for Discretionary Review (DR) is filed. The required Department Staff analysis and Planning Commission hearing can add another 90 days to the permit review period. In contrast, an over the counter approval may take a few hours.

Uses Subject to Neighborhood Notice

The number and types of non-residential uses subject to neighborhood notice has changed since requirements became effective in 2000.³ Initially all projects proposing a change in use required neighborhood notice. Since then that number has been reduced to 20 uses. This can be attributed to changing opinions about and needs for noticing. Currently the following non-residential uses require neighborhood notification:

- Adult Business
- Bar
- Cannabis Retail
- General Entertainment

¹ Ordinance No. 199-18

<https://sfgov.legistar.com/View.ashx?M=F&ID=6440745&GUID=A410B906-5D94-42A7-A094-8B3AAFDD8FB8>

² Planning Codes Section 311(a) and 312(a)

³ Ordinance No. 279-00

<https://sfgov.legistar.com/View.ashx?M=F&ID=2581135&GUID=B71B45D5-4601-46E7-A984-686A2676DCDD>

- Group Housing
- Limited Restaurant
- Liquor Store
- Massage Establishment
- Medical Cannabis Dispensary
- Nighttime Entertainment
- Outdoor Activity Area
- Post-Secondary Educational Institution
- Private Community Facility
- Public Community Facility
- Religious Institution
- Residential Care Facility
- Restaurant
- School
- Tobacco Paraphernalia Establishment
- Trade School

Retail Sector Challenges

In 2018, the San Francisco Office of Economic and Workforce Development (OEWD) released the State of the Retail Sector: Challenges and Opportunities for San Francisco’s Neighborhood Commercial Districts report (Report).⁴ Very broadly, the Report looked at changing national retail trends and their effect upon the City’s NCDs. It provided an in-depth look at three topics: the restructuring of the retail sector; the factors required to support successful retail corridors in San Francisco; and the opportunities and challenges facing San Francisco retail establishments and the possible adaptations.

With respect to the challenges facing the retail sector, the Report highlights eight. One of those is the City’s land use regulation and permitting requirements. It found that the lengthy permitting process, which includes neighborhood notification, can be detrimental to opening new businesses. For example, the Report states that in certain cases the months-long permitting process resulted in the applicant going bankrupt before opening their business. The Report also found the permitting process to be overly complex and technical for many new businesses. This complexity often requires an applicant to engage a business assistance provider to help navigate the permitting process.

⁴ State of the Retail Sector: Challenges and Opportunities for San Francisco’s Neighborhood Commercial Districts Strategic Economics
Executive Summary, January 2018
http://oewd.org/sites/default/files/Invest%20In%20Neighborhoods/State%20of%20the%20Retail%20Sector%20-%20Executive%20Summary_0.pdf
Final Report, February 15, 2018
<http://oewd.org/sites/default/files/Invest%20In%20Neighborhoods/State%20of%20the%20Retail%20Sector%20-%20Final%20Report.pdf>

Pilot Program Results

The Small Business Attraction Program, a two year pilot program, became effective in September 2018. As of the date of this document, the Department is not aware of any permits that have utilized the pilot program exemption. However, because the pilot program is fairly new, the Department is hesitant to draw conclusions on its efficacy.

General Plan Compliance

Commerce and Industry Element

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

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

The proposed Ordinance would help attract new neighborhood serving uses and other small businesses to the NCDs in Supervisorial District 4 and Supervisorial District 11 by permanently reducing permit review timelines for certain non-residential uses. The reduced permit review, and concomitant reduced start-up costs, can help ensure new neighborhood serving uses remain viable. Further, these uses are often small businesses responding to the latest changes in the marketplace and therefore are ones the City should seek to foster.

Implementation

The Department has determined that the Ordinance will have no adverse effect on our current implementation procedures for non-residential projects.

RECOMMENDATION

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

BASIS FOR RECOMMENDATION

The Department supports the Ordinance. Permanently reducing permit review timeframes can help new businesses locate in the City's retail corridors. Removing the neighborhood notification process also makes the permitting process less complex for prospective businesses. Further, individually tailoring the land use controls and noticing requirements for specific NCDs allows them to respond to the changing needs, tastes and preferences of adjacent residents. This assures that the City's retail corridors remain vibrant.

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. 181031