

BOARD of SUPERVISORS



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MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

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

DATE: May 20, 2019

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, which is being referred to the Small Business Commission for comment and recommendation.

File No. 190165

Ordinance amending the Planning Code to establish a legitimization program for certain non-residential uses at 3150-18th Street (Assessor's Parcel Block No. 3573, Lot No. 106); affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

____ **No Comment**

____ **Recommendation Attached**

Chairperson, Small Business Commission

cc: Dominica Donovan

1 [Planning Code - Legitimization Program for Non-Residential Uses at 3150-18th Street]

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3 **Ordinance amending the Planning Code to establish a legitimization program for**
4 **certain Non-Residential Uses at 3150-18th Street (Assessor's Parcel Block No. 3573,**
5 **Lot No. 106); affirming the Planning Department's determination under the California**
6 **Environmental Quality Act; and making findings of consistency with the General Plan,**
7 **and the eight priority policies of Planning Code, Section 101.1, and findings of public**
8 **necessity, convenience, and welfare under 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. 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 this
22 determination.

23 (b) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
24 ordinance will serve the public necessity, convenience, and welfare, for the reasons set forth
25 in Planning Commission Resolution No. _____, and incorporates such reasons by this
reference thereto. A copy of said resolution is on file with the Clerk of the Board of
Supervisors in File No. _____.

1 (c) On _____, the Planning Commission, in Resolution No. _____,
2 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
3 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
4 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
5 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

6 Section 2. Article 1.7 of the Planning Code is hereby amended by adding Section 192,
7 to read as follows:

8 **SEC. 192. LEGITIMIZATION OF CERTAIN LAND USES AT 3150 18TH STREET.**

9 (a) Intent. The purpose of this Section 192 is to establish a time-limited program whereby
10 existing land uses at 3150 18th Street (Assessor's Parcel Block No. 3573, Lot No. 106), which have
11 operated without required permits, may be permitted notwithstanding the zoning controls imposed by
12 Planning Code Section 210.3.

13 (b) Legitimization Program for Certain Land Uses. Any Non-Residential or PDR Use at 3150
14 18th Street that otherwise is not permitted pursuant to Planning Code Section 210.3 may be established
15 as a Legal Non-conforming Use, if it meets all of the following requirements:

16 (1) If the use is an Office Use, any building permit for such Office Use will be subject to
17 Mandatory Discretionary Review by the Planning Commission;

18 (2) As of January 15, 2019, it was operating in that location;

19 (3) As of January 15, 2019, it had a lease with the owner of 3150 18th Street, or it had a
20 written agreement with an entity who has such a lease with the owner to operate in that location; and

21 (4) Applications for all appropriate permits from any City or State agency to legalize
22 the use are filed within 90 days of the effective date of this Section 192, and the applicant diligently
23 pursues the permit(s) until they are issued.

24 (c) Notice.

1 (1) Notice by Planning Department. The Planning Department shall post notice of this
2 legitimization program on its website to describe its contents and requirements in order to assist
3 tenants at 3150 18th Street with participation in this program. The notice shall also inform the public
4 about the uses principally and conditionally permitted in PDR-1-G Districts, as set forth in Planning
5 Code Section 210.3.

6 (2) Notice by Owner. The owner of 3150 18th Street shall provide written notice to any
7 prospective tenant at this property about the uses principally and conditionally permitted in PDR-1-G
8 Districts, as set forth in Planning Code Section 210.3, prior to entering into any lease with the tenant.
9 The owner of 3150 18th Street shall also provide written notice to its current tenants at this property
10 regarding the legitimization program established by this Section 192, and such notice shall specify the
11 date on which this Section 192 will sunset under subsection (g).

12 (d) Determination of Applicability.

13 (1) Initial Determination. The Planning Department shall initially determine, through
14 the review of a building permit, whether a land use at 3150 18th Street meets the conditions set forth in
15 this Section 192. Evidence relevant to said determination may include, but is not limited to, the
16 following: rental or lease agreements, building or other permits, utility records, business licenses,
17 permit applications submitted by a tenant to a City or State agency, permits issued by a City or State
18 agency, and tax records.

19 (2) Monitoring and Reporting. To ensure that any Non-Residential Use continues to
20 meet the conditions set forth in this Section 192, the owner of 3150 18th Street shall, upon request,
21 provide the Planning Department with information about the uses at the property and copies of the
22 written notices it has provided to prospective and current tenants under subsection (c)(2).

23 (e) Limitation of Enlargement, Intensification, or Discontinuance. Enlargements,
24 Intensifications, or Discontinuances of eligible uses that follow the legitimization program authorized
25

1 by this Section 192 shall be subject to the relevant controls applicable under Sections 178, 181, 182,
2 and 183 of this Planning Code.

3 (f) **Compliance with Other Requirements of the Planning Code.** Non-Residential Uses that
4 follow the legitimization program authorized by this Section 192 shall comply with all applicable
5 requirements of the Planning Code, other than those requirements from which they are specifically
6 exempted under this Section 192, but such uses shall not be subject to any applicable impact fees
7 imposed by Planning Code Article 4.

8 (g) **Sunset; Abandonment of Legitimized Uses.** Unless readopted, this Section 192 shall
9 sunset ten years after its effective date. Upon such date, all Legal Non-conforming Uses established
10 through this Section 192 shall lose such non-conforming status, and shall be considered abandoned
11 pursuant to Section 183.

12 Section 3. No Retroactive Effect. This ordinance shall have no retroactive effect and
13 does not forgive or waive enforcement of any violations that occurred prior to the ordinance's
14 effective date.

15 Section 4. Effective Date. This ordinance shall become effective 30 days after
16 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
17 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
18 of Supervisors overrides the Mayor's veto of the ordinance.

19
20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22 By:


23 _____
24 ANDREW SHEN
25 Deputy City Attorney

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LEGISLATIVE DIGEST
(Substituted 05/07/19)

[Planning Code - Legitimization Program for Non-Residential Uses at 3150 18th Street]

Ordinance amending the Planning Code to establish a legitimization program for certain non-residential uses at 3150-18th Street (Assessor's Parcel Block No. 3573, Lot No. 106); affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

The Planning Code does not currently establish a legitimization program for uses at 3150 18th Street.

Amendments to Current Law

The legislation would codify a new Section 192, establishing a legitimization program to allow existing uses operating at 3150 18th Street without the benefit of all required permits to seek those permits. The legitimization program applies to non-residential uses that meet the following conditions:

- (1) if the use is for office, any building permit will be subject to mandatory discretionary review by the Planning Commission;
- (2) as of January 15, 2019, it was already operating at 3150 18th Street;
- (3) as of January 15, 2019, it had a lease with the owner of 3150 18th Street, or a written agreement with an entity that has such a lease with the owner; and
- (4) applications for all appropriate permits from any City or State agency to legalize the use are filed within 90 days of the effective date of this ordinance, and the applicant diligently pursues the permit(s) until they are issued.

Non-Residential or Production, Distribution, and Repair (PDR) Uses that qualify under this legitimization program would be considered Legal Non-Conforming Uses.

This legitimization program will sunset in 10 years, and any legal non-conforming uses would lose such status on that date.

This legislation would have no retroactive effect, and would not forgive or waive enforcement of any violations that occurred prior to the ordinance's effective date.

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