

File No. 190776

Committee Item No. _____

Board Item No. 65

COMMITTEE/BOARD OF SUPERVISORS

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Committee: _____

Date: _____

Board of Supervisors Meeting

Date: July 16, 2019

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OTHER

- Planning Department Report - 07/08/19
- Board of Supervisors Ordinance No. 106-19 - 06/14/19
- _____
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- _____
- _____

Prepared by: Lisa Lew

Date: July 12, 2019

Prepared by: _____

Date: _____

1 [Planning Department Report - Interim Zoning Moratorium on Change of Nighttime
2 Entertainment Use - One Maritime Plaza Area]

3 **Motion adopting the Planning Department's report on the interim zoning moratorium on**
4 **changes of nighttime entertainment use in the One Maritime Plaza area bounded by**
5 **Jackson Street to the north, Sacramento Street to the south, Drumm Street to the west,**
6 **and Sansome Street to the east; affirming the Planning Department's determination**
7 **under the California Environmental Quality Act; and making findings of consistency**
8 **with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

9
10 WHEREAS, On June 4, 2019, the Board of Supervisors adopted Ordinance No. 106-
11 19, imposing an interim zoning moratorium on changes of nighttime entertainment use in the
12 One Maritime Plaza area bounded by Jackson Street to the north, Sacramento Street to the
13 south, Drumm Street to the west, and Sansome Street to the east; affirming the Planning
14 Department's determination under the California Environmental Quality Act; and making
15 findings of consistency with the General Plan, and the eight priority policies of Planning Code,
16 Section 101.1; a copy of this Ordinance is on file with the Clerk of the Board in File No.
17 190567 and is available on the Board's website; and

18 WHEREAS, Ordinance No. 106-19 and the state law on the adoption of interim
19 moratoria, California Government Code, Sections 65858 et seq., requires the Board of
20 Supervisors to adopt a written report describing the measures taken to alleviate the conditions
21 that led to the adoption of the Ordinance within 35 days after the Ordinance is effective; and

22 WHEREAS, The Planning Department prepared such a report and submitted it to the
23 Clerk of the Board of Supervisors on July 8, 2019, for the Board's consideration; a copy of
24 said report is on file with the Clerk of the Board of Supervisors in File No. 190776; now,
25 therefore, be it

1 MOVED, That the Board of Supervisors adopts the July 8, 2019, Planning Department
2 report on the interim zoning moratorium on changes of nighttime entertainment use in the One
3 Maritime Plaza area for 45 days, as its own.

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SAN FRANCISCO PLANNING DEPARTMENT

Planning Department Report Urgency Ordinance: Interim Zoning Moratorium

To: Angela Calvillo, Clerk of the Board
From: Diego R Sánchez, Senior Planner, Legislative Affairs
Date: July 8, 2019
Regarding: 25 Day Report for the Interim Zoning Moratorium on Change of
Nighttime Entertainment Use – One Maritime Plaza Area
Case Number: Board File No. 190567/ Enactment Number 106-19

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STATEMENT OF PURPOSE

In accordance with the Section Three of the Urgency Ordinance the Planning Department is required to submit to the Clerk of the Board of Supervisors a written report describing the measures taken to alleviate the conditions that led to the adoption of the Urgency Ordinance. This report is intended to satisfy that requirement.

BACKGROUND

On June 4, 2019, the Board of Supervisors adopted the Urgency Ordinance approving an interim moratorium on changes of use away from Nighttime Entertainment uses and a prohibition on new private clubs within the area bounded by Jackson Street, Sacramento Street, Drumm Street and Sansome Street (One Maritime Plaza Area; *see map, attached*). On June 14, 2019 the Mayor enacted the Urgency Ordinance (Enactment No. 106-19). The interim zoning moratorium will remain in effect 45 days from the effective date and may be extended by the Board of Supervisors or superseded by permanent controls.

According to the Urgency Ordinance, activation of the publicly accessible spaces in the One Maritime Plaza Area is increasingly important as the area becomes more residential in nature. Activation depends on open and viable retail and entertainment venues, including nightclubs, comedy clubs, movie theaters, restaurants, bars and cafes.

The majority of the One Maritime Plaza Area is within the C-3-O (Commercial- Downtown Office) zoning district. The C-3-O zoning district principally permits many uses, including Nighttime Entertainment uses and eating and drinking uses. There are no special land use restrictions on replacing Nighttime Entertainment uses or on introducing new private clubs. The balance of the One Maritime Plaza Area is within the C-2 (Commercial- Community Business), the RC-4 (Residential Commercial-High Density) and the P (Public Use) zoning districts. Land use controls on eating and drinking uses, Nighttime Entertainment uses, and private club uses in the C-2 zoning district are like those in the C-3-O. The RC-4 permits Nighttime Entertainment, is slightly more restrictive on upper story retail uses than the C-3-O and prohibits most office uses. The P districts are the least permissive of the four zoning districts.

Section Three of the Urgency Ordinance requires the Planning Department to describe measures taken to alleviate the conditions that led to the adoption of the Ordinance. The Planning Department is currently discussing with Supervisor Peskin's office, the principal sponsor of the Urgency Ordinance, the following measures:

1. Invite and assist long-standing businesses, including nighttime entertainment uses, within the One Maritime Plaza Area to register on the City's Legacy Business Registry;
2. Connect establishments of interest, including Nighttime Entertainment uses, in the One Maritime Plaza Area to OEWD's Nightlife SF initiative and its Small Business Assistance Center to provide lease negotiation resources and other technical assistance; and
3. Explore adding Conditional Use authorization requirements to projects proposing a change of use away from Nighttime Entertainment uses in tenant spaces that front or open onto publicly accessible open areas, including streets, alleys, or plazas in the C-3-O zoning district.

ENVIRONMENTAL REVIEW

This report is not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because it will not result in a physical change in the environment.

REQUIRED BOARD ACTION

This report is required to be considered in a public hearing duly noticed in accordance with the basic rules of the Board. The Board has the option of accepting or rejecting this report.

RECOMMENDATION

The Department is recommending that the Board accept this report and to strongly consider the three measures above when taking actions to alleviate the conditions that led to the adoption of the Urgency Ordinance.

BASIS FOR RECOMMENDATION

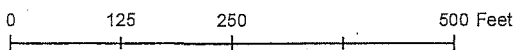
Maintaining the City's publicly accessible streets, alleys, and plazas active requires viable retail and entertainment uses. While land use controls are adept at allowing or prohibiting general types of establishments into an area, they cannot assure that specific retail or entertainment establishments remain open and viable. Operational grants, such as those available to the City's Legacy Businesses, and small business technical assistance can play a significant role in keeping retail and entertainment uses open and viable. In contrast, land use controls are often blunt measures that cannot precisely curate an area's retail or entertainment composition.

ONE MARITIME PLAZA AREA INTERIM ZONING MORATORIUM (in blue hatch mark)



4426

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1 [Planning Code - Interim Zoning Moratorium on Change of Nighttime Entertainment Use - One
2 Maritime Plaza Area]

3 Urgency ordinance approving an interim zoning moratorium for 45 days on changes of
4 nighttime entertainment use in the One Maritime Plaza area bounded by Jackson Street
5 to the north, Sacramento Street to the south, Drumm Street to the west, and Sansome
6 Street to the east; affirming the Planning Department's determination under the
7 California Environmental Quality Act; and making findings of consistency with the
8 General Plan, and the eight priority policies of Planning Code, Section 101.1.

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) **Environmental Findings.** The Planning Department has determined that the
19 actions contemplated in this urgency ordinance are in compliance with the California
20 Environmental Quality Act (California Public Resources Code sections 21000 et seq.). The
21 Board of Supervisors hereby affirms this determination. A copy of said determination is on file
22 with the Clerk of the Board of Supervisors in File No. 190567 and incorporated by reference.

23 (b) **Specific Findings.**

24 (1) The One Maritime Plaza area is zoned C-3-O, which has a wide range of
25 uses that are either principally permitted as of right or authorized as conditional uses. As the
area becomes more residential in nature and has a greater diversity of uses and publicly-

1 area becomes more residential in nature and has a greater diversity of uses and publicly-
2 accessible open spaces, protecting existing uses that encourage and enhance street activity
3 at night is imperative, particularly on the mezzanine and publicly-accessible upper levels of
4 the area, which were constructed as a part of the plaza build-out of the Alcoa Building in 1967.
5 This public plaza and adjoining public pathways do not have existing street-level activation
6 and rely mainly on the Nighttime Entertainment Uses at One Maritime Plaza to activate the
7 upper level at night.

8 (2) Nighttime Entertainment Uses, defined in Section 102 of the Planning
9 Code as including such uses as dance halls, discotheques, nightclubs, comedy clubs, and
10 other similar evening-oriented entertainment activities, are an important contribution to
11 enlivening an area at night. Currently, Nighttime Entertainment Uses are a principally
12 permitted use on all stories in the C-3-O zoning district. The only other areas of the City where
13 these uses are principally permitted on all stories is in industrially-zoned areas or PDR
14 (Production, Distribution, and Repair) zoning districts. In most other zoning districts in the City,
15 Nighttime Entertainment is either restricted to the ground floor and/or requires a conditional
16 use authorization, or is not permitted at all. The existing entertainment uses at One Maritime
17 Plaza regularly activate the upper public mezzanine area after dark (approximately 40 hours a
18 week).

19 (3) In addition to enlivening the area at night, Nighttime Entertainment Uses
20 in the area of One Maritime Plaza are an important source of employment for City residents,
21 providing at least 40 service-industry jobs. This does not include the individual talent
22 bookings, which number at least 300 paid gigs a year.

23 (4) In addition to encouraging public patronage after dark, the existing
24 Nighttime Entertainment Uses at and around One Maritime Plaza employ three to four
25

1 security guards in addition to a doorman, depending on the size of programmed events, which
2 augment limited site staffing by One Maritime Plaza's two security guards.

3 (5) The existing Nighttime Entertainment Uses in the One Maritime Plaza
4 area, in addition to generating nighttime foot traffic, attract an average of 180 people a night,
5 who then patronize the limited number of restaurants and bars in the immediate downtown
6 vicinity.

7 (6) The adjacent Embarcadero Center complex is currently undergoing
8 renovations that make access to the top floor movie theater more difficult after hours, making
9 the existing Nighttime Entertainment Uses at One Maritime Plaza even more critical to the
10 public activation and overall safety and well-being of the surrounding area.

11 (c) **Findings Related to Imposition of an Interim Moratorium.**

12 (1) Planning Code Section 306.7 provides for the imposition of interim zoning
13 controls to accomplish several objectives, which include (A) preserving areas of mixed
14 residential and commercial uses in order to preserve the existing character of those
15 neighborhoods and areas and (B) conserving the commerce and industry of the City in order
16 to maintain the City's economic vitality and provide its citizens with adequate jobs and
17 business opportunities:

18 (2) The imposition of interim zoning controls in this ordinance is designed to
19 ameliorate the problems and conditions identified in subsection (b) above by imposing a
20 temporary moratorium on changes from a Nighttime Entertainment Use to any other
21 permissible use.

22 (3) This Board of Supervisors has considered the impact on the public
23 health, safety, peace, and general welfare if the interim controls proposed herein are not
24 imposed. It has determined that the public interest will be best served by imposing these
25 interim controls at this time to ensure that the legislative scheme that may be ultimately

1 adopted for the One Maritime Plaza area is not undermined during the planning and
2 legislative process for permanent controls, which process shall be conducted within a
3 reasonable time.

4 (d) **Planning Code Section 101.1 Findings.** This interim zoning moratorium
5 advances and is consistent with Priority Policy 5 of Planning Code Section 101.1 in that it
6 attempts to maintain a diverse economic base by protecting an important service sector from
7 displacement due to commercial office development. With respect to Policies 1-4 and 6-8, the
8 Board finds that the interim zoning moratorium does not, at this time, have an effect upon
9 these policies and thus will not conflict with said policies.

10
11 Section 2. The following interim zoning moratorium is hereby adopted as an Urgency
12 Ordinance:

13 (a) Neither the Planning Department nor the Planning Commission shall issue an
14 approval or authorization for any change in use from an existing Nighttime Entertainment Use
15 to any other Principal Use, Conditional Use, or Accessory Use, including Non-Retail Sales &
16 Service or Office Uses, authorized in the zoning district (as these terms are defined in Section
17 102 of the Planning Code), nor shall any private clubs be permitted, in the One Maritime Plaza
18 area bounded by Jackson Street to the north, Sacramento Street to the south, Drumm Street
19 to the west, and Sansome Street to the east.

20 (b) This interim zoning moratorium shall remain in effect for 45 days unless it is
21 extended by the Board of Supervisors in accordance with California Government Code
22 Section 65858 or permanent controls are adopted to address changes in use that better
23 protect neighborhood character, maintain the City's economic vitality, and conserve existing
24 uses in the defined area, whichever first occurs.

1 (c) If application of this ordinance would have the effect of denying approvals
2 needed for the development of a project with a significant component of multifamily housing,
3 as described in California Government Code Section 65858, this moratorium shall not apply to
4 that use, but otherwise shall be unaffected.

5 (d) Due to the urgency of establishing this interim zoning moratorium and
6 notwithstanding the requirements of Planning Code Section 306.7(g), the Board finds that the
7 standard public notice for Board of Supervisors hearings is adequate to inform the public of
8 any hearing(s) on this ordinance.

9
10 Section 3. Within 25 days of the Board's adoption of this Urgency Ordinance, the
11 Planning Department shall submit to the Clerk of the Board of Supervisors a written report
12 describing the measures taken to alleviate the conditions that led to the adoption of the
13 ordinance. Upon receipt of the report, the Clerk shall calendar a motion for the full Board to
14 consider and approve said report. Said hearing and the action taken thereon shall be no later
15 than 35 days after this ordinance is effective.

16
17 Section 4. Effective Date. This urgency ordinance shall become effective immediately
18 after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns
19 the ordinance unsigned or does not sign the ordinance within 10 days of receiving it, or the
20 Board of Supervisors overrides the Mayor's veto of the ordinance by a 4/5ths vote.

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

23 By:

24 
JUDITH A. BOYAJIAN
Deputy City Attorney

25 n:\eganas2019\1900602\01362690.docx



City and County of San Francisco

Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 190567

Date Passed: June 04, 2019

Urgency ordinance approving an interim zoning moratorium for 45 days on changes of nighttime entertainment use in the One Maritime Plaza area bounded by Jackson Street to the north, Sacramento Street to the south, Drumm Street to the west, and Sansome Street to the east; 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.

June 03, 2019 Land Use and Transportation Committee - RECOMMENDED AS COMMITTEE REPORT

June 04, 2019 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton and Yee

File No. 190567

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 6/4/2019 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

6/14/19

Date Approved

Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

Time stamp
2019 JUL -9 PM 1:30
Meeting date

I hereby submit the following item for introduction (select only one):

BY _____

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Topic submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Supervisor Peskin

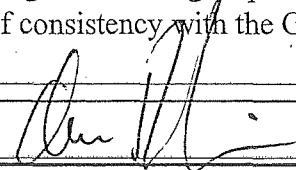
Subject:

[Planning Department Report - Interim Zoning Moratorium on Change of Nighttime Entertainment Use - One Maritime Plaza Area]

The text is listed:

Motion adopting the Planning Department's report on the interim zoning moratorium on changes of nighttime entertainment use in the One Maritime Plaza area bounded by Jackson Street to the north, Sacramento Street to the south, Drumm Street to the west, and Sansome Street to the east; 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.

Signature of Sponsoring Supervisor:



For Clerk's Use Only

