



SAN FRANCISCO PLANNING DEPARTMENT

February 5, 2020

Ms. Angela Calvillo, Clerk
Honorable Supervisor Haney
Board of Supervisors
City and County of San Francisco
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**Re: Transmittal of Planning Department Case Number 2019-013518PCA:
Interim Zoning Controls - Conditional Use Authorization Required for a
Change of Use from Nighttime Entertainment to Another Use Allowed in the
Defined South of Market Area
Board File No.190689**

Dear Ms. Calvillo and Supervisor Haney

On June 11, 2019, the Board approved interim zoning control for an 18-month period that require conditional use authorization for a change in use from Nighttime Entertainment to any other use allowed in the area south of Market Street bounded by the southwest side of 12th Street to the southwest side of 5th Street and the south side of Market Street to the south side of Harrison Street. Under Planning Code Section 306.7(i), for any interim controls that are placed in effect for more than six months, Planning Department staff shall report to the Board six months from the date of the imposition of the controls and at least every six months thereafter. The attached report covers the first six months that this resolution has been effective.

Attached, please find the six-month report. 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:

Judith A. Boyajian, Deputy City Attorney
Honey Mahogany, Aide to Supervisor Haney
Erica Major, Office of the Clerk of the Board

Attachments : Six-Month Report



SAN FRANCISCO PLANNING DEPARTMENT

Planning Department Report

Date: January 23, 2020
Report Name: Interim Zoning Controls - Conditional Use Authorization
Required for a Change of Use from Nighttime Entertainment to
Another Use Allowed in the Defined South of Market Area
Case Number: 2019-013518PCA
Initiated by: Supervisors Haney, Mandelman and Ronen / Board File 190689
Staff Contact: Audrey Merlone, Legislative Affairs
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STATEMENT OF PURPOSE

This report was prepared in response to a resolution (BF 190689) introduced by Supervisors Matt Haney, Rafael Mandelman, and Hillary Ronen on June 11, 2019 and enacted into law on August 2, 2019 (enactment number 355-19). This resolution imposes an interim zoning control for an 18-month period requiring conditional use authorization for a change in use from Nighttime Entertainment to any other use allowed in the area south of Market Street bounded by the southwest side of 12th Street to the southwest side of 5th Street and the south side of Market Street to the south side of Harrison Street. The Interim Controls will be in effect until February 2, 2021, unless extended by the Board of Supervisors, or until permanent controls are adopted, whichever first occurs.

Under Planning Code Section 306.7(i), upon the imposition of interim zoning controls by the Board of Supervisors, the Planning Department shall conduct a study of the contemplated zoning proposal and shall propose permanent legislation. As to any controls which are placed in effect for more than six months, the staff of the Planning Department shall report to the entity imposing the controls six months from the date of the imposition of the controls and at least every six months thereafter. This report covers the first six months that this resolution has been effective.

BACKGROUND

This resolution was introduced to retain existing Nighttime Entertainment venues in SoMa. Nighttime Entertainment, defined in Section 102 of the Planning Code, includes uses as dance halls, discotheques, nightclubs, and other similar evening-oriented activities. The use is a vital sector of the City's economy, an important source of employment for City residents, and a cultural and recreational dimension of City life valued by residents and visitors alike. It is important to preserve existing Nighttime Entertainment uses because the areas of the City where they are allowed is restricted. This is due to their incompatibility with other uses because of late-night hours, potentially loud music, and/or large patron volumes.

REQUIRED ANALYSIS

Per Planning Code Section 306.7, this report is required to address the Interim Controls; any required study; and an estimate the timeline needed to create permanent controls.

(1) Status of Interim Controls:

Board File 190689 was introduced by Supervisors Matt Haney, Rafael Mandelman, and Hillary Ronen on June 11, 2019 and enacted into law on August 2, 2019 (enactment number 355-19). It will expire on February 2, 2021 if it is not extended by the Board for an additional 6 months, or if permanent controls are adopted before February 2, 2021.

Summary of Interim Controls

The Interim Controls require conditional use authorization for a change in use from Nighttime Entertainment to any other use allowed in the area south of Market Street bounded by the southwest side of 12th Street to the southwest side of 5th Street and the south side of Market Street to the south side of Harrison Street.

(2) Findings and Recommendations To Date:

The Planning Department has met with the Office of Economic and Workforce Development (OEWD) and Supervisor Haney's Office several times during this six-month period to assess the needs of Nighttime Entertainment venues in SoMa. In addition, the Department researched the number of venues that have changed their use both to and from Nighttime Entertainment in the last five years within the subject area. Permit history research reveals that two new Nighttime Entertainment venues have opened in the last five years, and zero Nighttime Entertainment venues have changed their use from Nighttime Entertainment. It should be noted that the data does not reflect businesses that may hold Place of Entertainment permits from the Entertainment Commission, but do not hold building permits for Nighttime Entertainment. This type of discrepancy is often due to the business predating the current Use definition. Nighttime Entertainment was established as a Use in the Planning Code in 1990. The area subject to the Interim Controls has several venues that have been in operation as "Nighttime Entertainment" Uses since as early as the 1970's, and therefore may hold building permits for Uses such as "Dance Halls", or "General Entertainment".

The Department determined that in the first six months since the passing of the Interim Controls, two Nighttime Entertainment venues have directly benefitted from the controls. The first was facing the expiration of its lease and a property owner sought to convert the space to an Office Use. The Interim Controls provided the night club's tenants the ability to negotiate with the landlord. The landlord ultimately found a new Nighttime Entertainment tenant that could afford to pay a higher rent, but the Nighttime Entertainment Use was preserved. The second Nighttime Entertainment venue reported to OEWD that the Interim Controls helped them to negotiate a lease renewal after the property owner expressed interest in potentially pursuing a hotel development on the site.

OEWD has since reported a third Nighttime Entertainment venue in the subject area that may also benefit from the Interim Controls. In that case the property owner informed the tenant

that they were thinking of changing the use of the property from Nighttime Entertainment to Restaurant. The property owner has granted the venue several short lease extensions while the operator searches for a new location. OEWD believes the Interim Controls have helped this venue to remain in operation at their existing site until they secure a new location.

Understanding the existing stock of Nighttime Entertainment venues in the subject area is the first step in retaining these businesses. Due to changing Planning Code definitions and zoning controls in the subject area, established Nighttime Entertainment Uses in the subject area are not always easily identifiable. Permit referrals from the Entertainment Commission, which utilizes a different set of definitions for Entertainment Uses, further complicate identifying Nighttime Entertainment venues from other types of Entertainment as defined in the Planning Code. During the remainder of the period of Interim Controls, the Planning Department will work with the Zoning Administrator to find ways of clarifying long-standing Nighttime Entertainment Uses in the subject area, whose Use permits may be out-of-date with current Code definitions.

(3) Estimated Completion Time of Study

The Department will continue to monitor how the existing controls are impacting the health and vitality of the Nighttime Entertainment sector in the South of Market Area over the next year. Toward the end of that period we will assess whether the Interim Controls should be made permanent and whether any additional changes to the planning process or Planning Code are needed.

REQUIRED BOARD ACTION

The Board may approve or disapprove this report.

ENVIRONMENTAL REVIEW

This Report was determined not to be a project per State CEQA Guidelines, Sections 15378 and 15060(c)(2), because it does not result in a physical change to the environment.

RECOMMENDATION

The Planning Department is recommending that the Board accept this report, and that the issues outlined in the subject resolution be further analyzed to determine better ways to retain Nighttime Entertainment venues in San Francisco.

BASIS FOR RECOMMENDATION

The Planning Department is working with the Supervisors' Offices to better understand the existing stock of Nighttime Entertainment venues in the subject area. Since the effective date of this resolution, no applications for conversions of a Nighttime Entertainment Use to other uses have been submitted.