

BOARD of SUPERVISORS



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May 6, 2020

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

Dear Commissioners:

On April 28, 2020, Supervisor Ronen introduced the following legislation:

File No. 200421

Ordinance amending the Planning Code to allow in the Mission Street Neighborhood Commercial Transit District the continuance of a nonconforming parking lot that is on the site of a designated City landmark; 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 adopting findings of public necessity, convenience, and general welfare under Planning Code, Section 302.

The proposed 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: Rich Hillis, Director
Scott Sanchez, Zoning Administrator
Lisa Gibson, Environmental Review Officer
AnMarie Rodgers, Legislative Affairs
Devyani Jain, Deputy Environmental Review Officer
Adam Varat, Acting Director of Citywide Planning
Aaron Starr, Manager of Legislative Affairs
Andrea Ruiz-Esquide, Deputy City Attorney
Joy Navarrete, Major Environmental Analysis

1 [Planning Code - Continuation of Use for Certain Nonconforming Parking Lots - Mission Street
2 Neighborhood Commercial Transit District]

3 **Ordinance amending the Planning Code to allow in the Mission Street Neighborhood**
4 **Commercial Transit District the continuance of a nonconforming parking lot that is on**
5 **the site of a designated City landmark; affirming the Planning Department's**
6 **determination under the California Environmental Quality Act; making findings of**
7 **consistency with the General Plan, and the eight priority policies of Planning Code,**
8 **Section 101.1; and adopting findings of public necessity, convenience, and general**
9 **welfare under Planning Code, Section 302.**

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

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

18 Section 1. Findings.

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

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

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

3 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that
4 these Planning Code amendments will serve the public necessity, convenience, and general
5 welfare for the reasons set forth in Planning Commission Resolution No. _____.

6
7 Section 2. The Planning Code is hereby amended by revising Section 184, to read as
8 follows:

9 **SEC. 184. SHORT-TERM CONTINUANCE OF CERTAIN NONCONFORMING USES.**

10 *Except as provided in subsection (c) below, ~~T~~the period of time during which the following*
11 *nonconforming uses may continue or remain shall be limited to five years from the effective*
12 *date of this Code (May 2, 1960), or of the amendment thereto which caused the use to be*
13 *nonconforming. Every such nonconforming use shall be completely eliminated within 90 days*
14 *after the expiration of such period.*

15 (a) A Parking Lot or any other ~~Any~~ nonconforming commercial or industrial use of
16 land where no enclosed building is involved in such use, except for permanent off-street
17 Parking Lots in the C-3-O, C-3-R, and C-3-G Districts existing on the effective date of
18 Ordinance No. 414-85, provided that such lots are screened in the manner required by
19 Section 156(e); such permanent uses shall be eliminated no later than five years and 90 days
20 from the effective date of an amendment to this Code that makes such permanent uses
21 nonconforming.

22 (b) Any use of a type first permitted as a ~~p~~Principal or ~~e~~Conditional ~~u~~Use in an NC,
23 RC, C, or M District or in a Residential-Commercial Combined District, when occupying a
24 building in an R District other than a Residential-Commercial Combined District that has an
25

1 assessed valuation not in excess of \$500 on the effective date of this Code or such later date
2 as the use becomes nonconforming, with the following exceptions:

3 (1) Any lawful use in this category in a building having an assessed valuation
4 of \$250 or more on the effective date of this Code, or such later date as the use becomes
5 nonconforming, shall have a period of permitted continuance of 10 years from the date at
6 which the property was placed in a residential zoning classification, if such a period of
7 continuance produces an expiration date that is later than the expiration date stated above; or

8 (2) Any lawful use in this category that is of a type first permitted in an NC-1
9 District; or of a type first permitted in any other district and supplying commodities at retail, or
10 offering personal services, primarily to residents of the immediate vicinity; shall have a period
11 of permitted continuance of 10 years from the effective date of this Code, or of the
12 amendment thereto that caused the use to be nonconforming. After five years of such period
13 have elapsed, any use as described in this Paragraph (b)(2) shall, upon application, be
14 qualified for consideration by the Planning Commission as a conditional use as regulated in
15 Section 303 of this Code.

16 (c) In the Mission Street Neighborhood Commercial Transit District, a Parking Lot that is
17 on the site of a designated landmark under Article 10 of this Code as of the effective date of this
18 Ordinance No. _____ may continue its Use as a Parking Lot for five additional years from the original
19 expiration date provided by this Section 184.

20
21 Section 3. Effective Date. This ordinance shall become effective 30 days after
22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
24 of Supervisors overrides the Mayor's veto of the ordinance

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

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

10 By: /s/ Judith A. Boyajian
11 JUDITH A. BOYAJIAN
12 Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - Continuation of Use for Certain Nonconforming Parking Lots - Mission Street Neighborhood Commercial Transit District]

Ordinance amending the Planning Code to allow in the Mission Street Neighborhood Commercial Transit District the continuance of a nonconforming parking lot that is on the site of a designated City landmark; 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 adopting findings of public necessity, convenience, and general welfare under Planning Code, Section 302.

Existing Law

Planning Code Section 184 establishes the periods of time during which certain nonconforming uses are allowed to continue or remain before the use is required to be eliminated.

Amendments to Current Law

This ordinance will authorize the continuation of a nonconforming parking lot in the Mission Street Neighborhood Commercial District if it is on the site of a landmark designated under Article 10 of the Planning Code as of the effective date of this ordinance. The parking lot use would be allowed to remain for an additional five years from expiration of the time originally allowed by Section 184.

Background Information

Recognizing the importance of supporting the preservation of designated landmarks as well as the challenge of maintaining such sites, the Planning Code offers flexibility in allowable uses for landmarked parcels. For example, the Code allows office uses in PDR-1-G zoning districts under certain circumstances.

Landmark sites have limited potential development options. The City is actively working to address vacancies along commercial corridors, and with the extended shutdown of businesses and economic activity due to the COVID-19 health crisis and uncertainty in future development investment, the City has an interest in ensuring that sites in the Mission Street Neighborhood Commercial District remain active and do not sit vacant and underused.