



SAN FRANCISCO PLANNING DEPARTMENT

June 4, 2020

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

**Re: Transmittal of Planning Department Case Number 2020-003041PCA
Conditional Use Review and Approval Process
Board File No. 200214
Planning Commission Recommendation: Approval with Modification**

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Dear Ms. Calvillo and Supervisor Peskin,

On May 28, 2020, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Supervisor Peskin that would amend Planning Code to expedite the Conditional Use Authorization review and approval process and reduce the application fee for certain uses of commercial space. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modifications were as follows:

- In lieu of codifying the CB3P program, principally permit at the 1st story uses that contribute to retail corridor vitality for a period of three years; and
- Maintain controls on specific uses when existing restricted use districts or other measures quantitatively limit them.

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:

Judith A. Boyajian, Deputy City Attorney
Lee Hepner, Aide to Supervisor Peskin
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. 20725

HEARING DATE: MAY 28, 2020

Project Name: **Conditional Use Review and Approval Process**
Case Number: **2020-003041PCA [Board File No. 200214]**
Initiated by: **Supervisor Peskin / Introduced February 25, 2020**
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

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RESOLUTION APPROVING A PROPOSED ORDINANCE WITH MODIFICATIONS THAT WOULD AMEND THE PLANNING CODE TO EXPEDITE THE CONDITIONAL USE AUTHORIZATION REVIEW AND APPROVAL PROCESS AND REDUCE THE APPLICATION FEE FOR CERTAIN USES OF COMMERCIAL SPACE; 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 February 25, 2020 Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 200214, which would amend the Planning Code to expedite the Conditional Use authorization review and approval process and reduce the application fee for certain uses of commercial space;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on May 21, 2020; and,

WHEREAS, at its May 21, 2020 the Commission voted unanimously to continue its consideration of the proposed Ordinance to its May 28, 2020 hearing; and

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c)(2) 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 modifications** the proposed ordinance. Modifications include:

1. In lieu of codifying the CB3P program, principally permit at the 1st story uses that contribute to retail corridor vitality for a period of three years; and
2. Maintain controls on specific uses when existing restricted use districts or other measures quantitatively limit them.

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. Lowering the barriers to entry for small businesses into the City's retail corridors can help address multiple challenges afflicting those corridors.
2. In addition to providing permit review prioritization for small businesses, increasing the permissibility of commercial and institutional uses that effectively compete with e-commerce is another worthwhile strategy that would prove beneficial to the City's retail corridors.
3. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

The proposed Ordinance and modifications would help facilitate the entry of non-residential uses into the City's Neighborhood Commercial Districts that can attract patrons and that can survive the rise of e-commerce

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

The proposed Ordinance and modifications would help attract new commercial activity in the City's Neighborhood Commercial Districts by relaxing existing Planning Code permit review and approval processes.

OBJECTIVE 3

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

Policy 3.1

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

The proposed Ordinance and modifications would help expand the number of commercial firms locating in San Francisco that could provide employment opportunities for unskilled and semi-skilled workers by relaxing existing Planning review and approval processes

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 and modifications would facilitate the entry of new retail establishments that provide neighborhood serving goods and services. The selected retail establishments are those found to be responsive to the rise of e-commerce in that they are largely experiential and do not sell objects that can be purchased online.

BALBOA PARK STATION AREA PLAN

OBJECTIVE 1.2

STRENGTHEN THE OCEAN AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT.

Policy 1.2.2

Encourage mixed-use residential and commercial infill within the commercial district.

Policy 1.2.3

Retain and improve the neighborhood's existing businesses while also attracting new businesses that address unmet retail and service needs of the diverse local neighborhoods.

The proposed Ordinance and modifications would help facilitate commercial infill within the Ocean Avenue NCT of businesses that could address unmet retail and service needs.

BAYVIEW HUNTERS POINT AREA PLAN

OBJECTIVE 2

IMPROVE USE OF LAND ON THIRD STREET BY CREATING COMPACT COMMERCIAL AREAS, ESTABLISHING NODES FOR COMPLEMENTARY USES, AND RESTRICTING UNHEALTHY USES.

Policy 2.4

Encourage new mixed-use projects in defined nodes along Third Street to strengthen the corridor as the commercial spine of the neighborhood

The proposed Ordinance and modifications would help facilitate viable mixed use projects, and in particular the non-residential component of a mixed use project, along Third Street as it relaxes the existing Planning Code permit review and approval processes for non-residential uses.

GLEN PARK COMMUNITY PLAN

OBJECTIVE 1

PROTECT AND STRENGTHEN THE QUALITIES THAT MAKE DOWNTOWN GLEN PARK SPECIAL.

Policy 1.2

Update existing neighborhood zoning to strengthen Glen Park's commercial district and reinforce the area's pedestrian and transit oriented character.

The proposed Ordinance and modifications would help strengthen Glen Park's commercial district by facilitating the entry of uses that can withstand the rise of e-commerce and its effect on the retail sector.

SHOWPLACE SQUARE/POTRERO AREA PLAN

OBJECTIVE 1.1

ENCOURAGE THE TRANSITION OF PORTIONS OF SHOWPLACE / POTRERO TO A MORE MIXED USE AND NEIGHBORHOOD-SERVING CHARACTER, WHILE PROTECTING THE CORE OF DESIGN-RELATED PDR USES

Policy 1.1.4

Permit and encourage greater retail use on the ground floor on parcels that front 16th Street to take advantage of transit service and encourage more mixed uses, while protecting against the wholesale displacement of PDR uses

The proposed Ordinance and modifications would facilitate the entry of a wide range of retail uses that can add to a mixed use character and that are capable of surviving the rise of e-commerce.

WESTERN SOMA AREA PLAN

OBJECTIVE 2.1

RETAIN AND ENCOURAGE GROWTH OPPORTUNITIES FOR EXISTING NEIGHBORHOOD BUSINESSES

Policy 2.1.2

Promote a wide range of neighborhood-serving commercial uses north of Harrison Street

OBJECTIVE 2.2

PROMOTE APPROPRIATE NEW NEIGHBORHOOD BUSINESS OPPORTUNITIES THAT CREATIVELY RESPOND TO NEIGHBORHOOD, CITYWIDE AND REGIONAL ECONOMIC NEEDS AND TRENDS

Policy 2.1.12

Develop land use controls that promote Folsom Street as the main neighborhood shopping and ceremonial street in the Western SoMa SUD

The proposed Ordinance and modifications would facilitate the entry of a wide range of uses and bolster existing retail corridors

4. 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 and modifications would have a beneficial effect on neighborhood serving retail uses and on opportunities for resident employment in and ownership of neighborhood-serving retail because it facilitates the entry of neighborhood serving retail uses.

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 and modifications would have a positive effect on neighborhood character and promote the cultural and economic diversity of the City's neighborhoods as it seeks to facilitate the entry of many neighborhood serving retail and institutional uses.

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

The proposed Ordinance and modifications would not have an adverse effect on the City's supply of affordable housing because they concern themselves with regulatory changes to the entry of neighborhood serving retail and institutional uses.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance and modifications would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking because they deal with expediting the review and approval of non-residential uses.

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 and modifications would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired as they propose amendments to the review and approval processes for retail and institutional uses.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance and modifications would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake as they concern themselves with changing the regulations on the review and approval of retail and institutional uses.

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 as they maintain all existing regulations on the City's Landmarks and historic buildings.

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.

5. **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 MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on May 28, 2020.



Jonas P. Ionin
Commission Secretary

AYES: Diamond, Fung, Johnson, Koppel

NOES: Chan, Imperial, Moore

ABSENT: None

ADOPTED: May 28, 2020



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: MAY 21, 2020

90-DAY DEADLINE: JUNE 1, 2020

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Case Number: **2020-003041PCA [Board File No. 200214]**
Initiated by: **Supervisor Peskin / Introduced February 25, 2020**
Staff Contact: **Diego Sanchez, Legislative Affairs
diegorsanchez@sfgov.org, 415-575-9082**

Reviewed by: **Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362**

Recommendation: **Approval with Modifications**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to expedite the Conditional Use Authorization review and approval process and reduce the application fee for certain uses of commercial space.

The Way It Is Now

The Planning Commission allows, as a policy, priority processing for certain uses requiring Conditional Use authorization under the Community Business Priority Processing Program (CB3P). The uses afforded priority processing are generally small to mid-sized businesses, including smaller Formula Retail, and businesses that do not use outdoor areas at the rear or side of the property, or are Massage Establishments or Entertainment uses.

The Planning Commission is not limited in the number of continuances it may grant, nor are the continuances time limited when hearing a request for Conditional Use authorization under CB3P.

Fee Rates for Conditional Use authorizations are based upon construction cost and are not tied to the date the Planning Commission holds a hearing

The Way It Would Be

Priority processing for certain uses requiring Conditional Use authorization would be required and codified in the Planning Code under a new Section 303.2, Priority Processing for Certain Uses in Commercial Space. Uses afforded priority processing would closely match those allowed under the CB3P with four differences. Massage Establishments, General Entertainment uses and the use of an outdoor area at the rear or side of a property would be afforded priority while Formula Retail uses of any size would not.

The Planning Commission would not be allowed to grant more than one continuance when considering a request for Conditional Use authorization under the proposed priority processing procedures. Further, this continuance could not be scheduled more than 60 days after the initial hearing date.

Fee Rates for Conditional Use authorizations that meet the newly proposed priority processing requirements would be 50% of the applicable fee

on a complete Conditional Use authorization application. These fees are not typically refundable.

and would be entirely refundable if the Planning Commission does not hold a hearing within 90 days of the Conditional Use authorization application being deemed complete.

The Planning Department is not required to report to the Board of Supervisors on the performance of the CB3P.

The Planning Department would be required to annually report to the Board of Supervisors on the number and percentage of applications eligible for the codified prioritization program that are considered within 90 days of the date the Department has deemed the application complete and the reason or reasons why eligible applications were not heard within 90 days, if any. This reporting requirement would begin one year after the effective date of the Ordinance and continue for three years.

BACKGROUND

Priority Processing Programs

Expediently reviewing land use applications to establish small businesses in the City's retail corridors has been a concern for many years. In 2013 the Planning Commission (Commission) adopted Resolution 18842, creating the Small Business Priority Processing Pilot Program (SB4P), as one response to this concern. As a Commission policy, SB4P allowed the Planning Department (Department) to accelerate the review of specific small business applications requiring Conditional Use authorization (CU).

Two years later the Commission adopted the Community Business Priority Processing Program (CB3P). CB3P is the successor Commission policy to SB4P for noncontroversial small business applications requiring CU. CB3P affords eligible proposals a Commission hearing within 90 days of receipt of a complete application as well as placement on the Commission's consent calendar. There are no additional fees associated with participation in CB3P and the applicant simply pays the standard CU fees which are based on construction costs. To be eligible, a proposal must submit the CB3P checklist confirming compliance with eight criteria. Very broadly, these criteria assure the business is small to mid-sized; seeks principally permitted operating hours and off-street parking; does not consolidate multiple tenant spaces or remove Dwelling Units; involves only typical tenant improvements; and is a use that is family friendly and not exclusively adult oriented.¹

ISSUES AND CONSIDERATIONS

Current CB3P Implementation

Planning Department staff (Staff) currently processes approximately 18 CB3P applications per year. It takes Staff an average of 68 days from receipt of a *complete* application to have the Commission hear the proposal. This is well within the targeted 90-day timeline. It is also exceedingly rare that the Commission deny a CB3P proposal. This is in large part because Staff has effectively communicated the program's constraints

¹ Community Business Priority Processing Program Checklist for Eligibility:
https://sfplanning.org/sites/default/files/forms/CB3P_Application.pdf

and helped shape and refine proposals to increase their likelihood of approval. Taken together, this demonstrates that the Commission's policy is being effectively implemented as designed.

Planning Code Amendments and Commission Policies

In its role guiding the City's physical development, the Commission frequently considers ordinances amending the Planning Code. These ordinances typically stem from the Board of Supervisors (BOS) or the Mayor's Office. The Commission's consideration results in a non-binding recommendation to the BOS. The Commission's recommendation is only one step in the months-long legislative process. It is not uncommon for other City commissions to comment upon ordinances and for the BOS, in committee or as a whole, to disregard Commission recommendations. All told, the legislative process can be protracted and politicized and is one over which the Commission has little control.

The Commission may also adopt policies to help guide the City's physical development. In this case, the Commission directs Staff to formulate and/or implement new land use controls or procedures. An example is the CB3P establishing permit review procedures for small- and mid-sized businesses. Adoption of such policies may occur in a matter of weeks and subsequent refinements can occur in a similar timeframe. For example, expanding the eligible retail use types in a permit prioritization program to include Formula Retail uses with fewer than 20 establishments can occur in weeks. Further, Commission policies often provide Staff with discretion on how best to implement a new procedure. This allows for policies to quickly respond to changes in real estate markets or to community concerns. As an example, Senior Staff can be afforded the discretion to exclude from participation in permit prioritization programs specific use types because of on-going work with community stakeholders around retail corridor composition. This contrasts with the legislative process, as it is far lengthier and involves many more decision makers and divergent policy interests. The difficulties are further compounded when the legislative process codifies Department procedures, essentially stripping Staff of beneficial discretion.

Attracting Viable Retail and Institutional Uses

Even prior to the COVID-induced crisis, San Francisco's retail corridors were facing monumental challenges. The rise and prevalence of e-commerce, difficulties securing a stable workforce, escalating operating costs, and persistent vacancies all contributed to an increasingly bleak retail environment.

While limited in extent, land use controls can help resolve certain aspects of the retail corridor crises. For example, facilitating the entry of uses that effectively compete with e-commerce can help fill vacancies and lower initial operating costs. This would entail lowering permit requirements from CU for uses that, broadly speaking, sell experiences rather than objects, diversify the offerings along a retail corridor, and attract foot traffic to the retail corridor. In the Planning Code these would be eating and drinking uses like Limited Restaurants and Restaurants; entertainment uses like General Entertainment and Arts Activities; health/wellness uses like Health Services, Instructional Services (dance, exercise, music, martial arts), Personal Services (tattoo, cosmetic services, hair and nail salons), and Gymnasiums; and foot traffic generators like Community Facilities, Religious Institutions, Social Service Uses, Public Facilities, and Post-Secondary Educational Institutions.

It is important for these uses to have lowered permitting barriers to entry at the street level. This is where the lion's share of activity occurs within a retail corridor, and ultimately defines a corridor's viability.

Concerns over prolonged or rapid change in corridor composition can be allayed by making these modifications temporary and in response to the current COVID-induced shocks to the retail sector.

Permitting for the Retail Sector

One challenge to opening a new small business in the City's retail corridors is the time and cost of securing land use permits.² This is heightened when CU is required, including under the CB3P. CU requires a Commission hearing that, under best circumstances, occurs between three to six months after initial application submission. Principally permitting most small businesses can significantly reduce permit review times and procedures. There is no hearing requirement when a use is principally permitted. This avoids expending the effort coordinating a Commission hearing, producing a case report and collaborating on a presentation. This speed also benefits businesses seeking to combine multiple retail uses in one space, something that the current retail market is driving many to explore. Even when neighborhood notice is required, permit review and approval times are generally less than those for CU.

Public Input on Neighborhood Commercial District Composition

Currently the Planning Code affords the public multiple ways in which to opine upon and help craft the composition of the City's Neighborhood Commercial Districts (NCD). One way is through the CU process. This occurs when a small business operator is required to secure authorization from the Commission at a public hearing. Often a member of the public receives notice of the hearing and can provide the Commission with oral or written remarks about the proposed business. The Commission is required to consider these remarks as it deliberates whether the proposal is necessary and desirable. As stated above, this can take months to complete.

The neighborhood notice process is another means for the public to provide input on NCD composition. While the Planning Code principally permits many uses, some are required to undergo a 30-day notice period. This alerts neighbors of an impending Planning Department approval and allows neighbors to enquire and comment upon the proposal. It also allows the public to request that the Commission exert its Discretionary Review power on the proposal. In these instances, the Commission must find some aspect of the proposal extraordinary and exceptional in order to modify, impose conditions upon, or even deny the project.

Still another way the public process shapes the City's NCD's is through imposed quantitative limits on retail uses. For example, the Mission Neighborhood Commercial Transit District sets a limit on the number of eating and drinking establishments. This provides clarity to prospective retail establishments and avoids the arduous hearing processes. Similarly, in the North Beach Special Use District regulations only allow new eating and drinking establishments in locations where one already legally exists. This also serves as a de facto limit, providing certainty without the need of protracted hearings.

General Plan Compliance

² Strategic Economics, 2018. *State of the Retail Sector: Challenges and Opportunities for San Francisco's Neighborhood Commercial Districts*.

<https://oewd.org/sites/default/files/Invest%20In%20Neighborhoods/State%20of%20the%20Retail%20Sector%20-%20Final%20Report.pdf>

The Ordinance and recommended modifications align with several of the City’s General Plan Objectives and Policies. For example, the proposed Ordinance and recommended modifications satisfy policies concerning the attraction of small businesses in the Commerce and Industry Element, the Balboa Park Station Area Plan, the Bayview Hunters Point Area Plan, the Showplace Square/Potrero Area Plan, and the Western SoMa Area Plan.

Racial and Social Equity Analysis

Understanding the benefits, burdens and opportunities to advance racial and social equity that proposed Planning Code and Zoning Map amendments provide is part of the Department’s Racial and Social Equity Initiative. This is also consistent with the Mayor’s Citywide Strategic Initiatives for equity and accountability and with the Office of Racial Equity, which requires all Departments to conduct this analysis.

What are the Racial and Social Equity Impacts of this Ordinance?

The Ordinance essentially codifies existing Planning Department permit review prioritization procedures for small businesses. Because of this, in large measure there would be no new impacts, beneficial or burdensome, on racial and social equity should the Ordinance become effective. Codification, however, would eliminate the slight degree of discretion Staff maintains over prioritization. This could adversely affect on-going Planning Department efforts with neighborhoods reeling from commercial gentrification and displacement. In these neighborhoods the Department has occasionally elected to not provide prioritization to seemingly controversial proposals. Instead the Department has requested project sponsors dedicate the additional time to Commission hearing for continued outreach with neighborhood stakeholders.

Who Will Benefit or Be Burdened by the Ordinance?

Entrepreneurs seeking to establish new businesses will generally continue to benefit from codifying the existing prioritization procedures. Because immigrants and minorities start new businesses at higher rates than other demographic groups, they would stand to benefit at a disproportionate level.³ This has the possibility of improving racial and social equity in San Francisco. Further, the General Plan has various Objectives or Policies that seek to encourage the location of the firms typically owned or operated by racial and ethnic minorities in San Francisco and as such the prioritization procedures would align with these goals.⁴

Are there Strategies to Mitigate the Unintended Consequences or Enhance the Benefits of the Ordinance?

The Ordinance does not propose any strategies or measures to further enhance benefits from the Planning Code amendments. Possible measures could include dedicating resources to small business incubators to

³ Robert W. Fairlie. *Immigrant Entrepreneurs and Small Business Owners, and their Access to Financial Capital*. <https://www.sba.gov/sites/default/files/rs396tot.pdf>

Minority Entrepreneurs. <https://www.sbc.senate.gov/public/index.cfm/minorityentrepreneurs>

⁴ Commerce and Industry Element, Policy 2.3: Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

Mission Area Plan, Objective 7.3: Reinforce the importance of the Mission as the center of Latino life in San Francisco.

Western SoMa Area Plan, Objective 9.4: Reinforce the importance of the South of Market as a center for Filipino-American and LGBTQ life in San Francisco.

create a pipeline of businesses ready to occupy brick and mortar locations. Resources could also provide technical assistance for these burgeoning businesses, especially with lease negotiation, scoping and managing tenant improvements, and navigating the City permitting process, among other areas.

Implementation

The Department has determined that the Ordinance would impact current procedures. The codified 90-day threshold for Commission hearing and limit on continuances would require Staff to shift permit review toward eligible applications.

RECOMMENDATION

The Department recommends that the Commission *approve with modifications* the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

1. In lieu of codifying the CB3P program, principally permit at the 1st story uses that contribute to retail corridor vitality for a period of three years; and
2. Maintain controls on specific uses when existing restricted use districts or other measures quantitatively limit them.

BASIS FOR RECOMMENDATION

The Department supports the ordinance intention of streamlining the CU process for small businesses and provide them with a more certain timeline for approval; however, the existing CB3P program already provides this certainty by meeting or even exceed thing the 90-day timeline. Further, codifying the program will remove the Commission's ability to nimbly respond to small business needs. This is even more necessary in the COVID-19 context. Rather than codifying's a process that already is working and therefore will not drastically improve the approval process, the Department is instead proposing the following modifications which will allow small businesses to, in some cases, receive a approval within a couple of hours instead of a couple of months.

Recommendation 1: In lieu of codifying the CB3P program, principally permit at the 1st story uses that contribute to retail corridor vitality for a period of three years. Given the pre-existing challenges to the retail sector and new COVID-induced constraints, it is exceedingly important that land use controls adjust in response. This entails lowering the barrier to entry for uses that effectively compete with e-commerce and that contribute to corridor vitality. These uses include:

- Limited Restaurant
- Restaurant
- General Entertainment
- Arts Activities
- Health Services
- Instructional Services
- Personal Services
- Gymnasium
- Community Facility
- Religious Institution
- Social Service
- Public Facility
- Post-Secondary Educational Institution

Being that these changes are, at least in part, a response to COVID-induced pressures, Staff is recommending that they sunset in three years unless extended by the BOS. The three-year period matches the duration of the proposed reporting requirements in the Ordinance.

Recommendation 2: Maintain controls on specific uses when existing restricted use districts or other measures limit them. Public input on corridor composition is a staple in San Francisco. However, this can require enormous amounts of time, and result in a disincentive to open a small business in the City. To both provide certainty to small businesses and express community input on corridor composition, Staff is recommending that existing quantitative limits on specific uses, like eating and drinking uses in the Mission Street NCT, remain.

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. 200214