

File No. 091208

Committee Item No. 3

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date April 19, 2010

Board of Supervisors Meeting

Date \_\_\_\_\_

#### Cmte Board

<input type="checkbox"/>	<input type="checkbox"/>	Motion
<input type="checkbox"/>	<input type="checkbox"/>	Resolution
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ordinance
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legislative Digest
<input type="checkbox"/>	<input type="checkbox"/>	Budget Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Legislative Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Youth Commission Report
<input type="checkbox"/>	<input type="checkbox"/>	Introduction Form (for hearings)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Department/Agency Cover Letter and/or Report
<input type="checkbox"/>	<input type="checkbox"/>	MOU
<input type="checkbox"/>	<input type="checkbox"/>	Grant Information Form
<input type="checkbox"/>	<input type="checkbox"/>	Grant Budget
<input type="checkbox"/>	<input type="checkbox"/>	Subcontract Budget
<input type="checkbox"/>	<input type="checkbox"/>	Contract/Agreement
<input type="checkbox"/>	<input type="checkbox"/>	Form 126 – Ethics Commission
<input type="checkbox"/>	<input type="checkbox"/>	Award Letter
<input type="checkbox"/>	<input type="checkbox"/>	Application
<input type="checkbox"/>	<input type="checkbox"/>	Public Correspondence

#### OTHER

(Use back side if additional space is needed)

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Planning Department's Environmental Review</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Planning Commission Resolution No. 18010</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Small Business Commission's Recommendation</u>
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

Completed by: Alisa Somera Date April 16, 2010

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

An asterisked item represents the cover sheet to a document that exceeds 25 pages.  
The complete document can be found in the file.

[24<sup>th</sup> Street - Noe Valley Neighborhood Commercial District – Conditional Use for New Full-Service and Small Self-Service Restaurants.]

Ordinance amending the San Francisco Planning Code by amending Section 728.1 and Sections 728.42, 728.44 and 728.69A of the Zoning Control Table to allow new full-service restaurants, small self-service restaurants, and self-service specialty food establishments with conditional use authorization and removing the Specific Provisions for full-service restaurants; adopting findings, including environmental findings, Section 301 findings, and findings of consistency with the General Plan and the Priority Policies of Section 101.1 .

NOTE: Additions are *single-underline italics Times New Roman*;  
deletions are *strike through italics Times New Roman*.  
Board amendment additions are double-underlined;  
Board amendment deletions are ~~strikethrough normal~~.

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

Section 1. Findings. The Board of Supervisors hereby finds that:

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 091208 and is incorporated herein by reference.

(b) These Planning Code amendments will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 18010 . The Board incorporates those reasons herein by reference. A copy of Planning Commission Resolution No. 18010 is on file with the Clerk of the Board of Supervisors in File No. 091208.

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1 (c) These Planning Code amendments are consistent with the General Plan and  
2 with the Priority Policies of Planning Code Section 101.1 for the reasons set forth in Planning  
3 Commission Resolution No. 18010, and the Board incorporates those reasons herein by  
4 reference.

5 Section 2. The San Francisco Planning Code is hereby amended by amending Section  
6 728.1, to read as follows:

7 SEC. 728.1. 24TH STREET -- NOE VALLEY NEIGHBORHOOD COMMERCIAL  
8 DISTRICT.

9 The 24th Street -- Noe Valley Neighborhood Commercial District is situated along 24th  
10 Street between Chattanooga and Diamond in the Noe Valley neighborhood of central San  
11 Francisco. This daytime-oriented, multi-purpose commercial district provides a mixture of  
12 convenience and comparison shopping goods and services to a predominantly local market  
13 area. It contains primarily retail sales and personal services at the street level, some office  
14 uses on the second story, and residential use almost exclusively on the third and upper  
15 stories.

16 The 24th Street -- Noe Valley District controls are designed to allow for development  
17 that is compatible with the existing small-scale, mixed-use neighborhood commercial  
18 character and surrounding residential area. The small scale of new buildings and  
19 neighborhood-serving uses is encouraged and rear yard open space corridors at all levels are  
20 protected. Most commercial uses are directed to the ground story and limited at the second  
21 story of new buildings. In order to maintain the variety and mix of retail sales and services  
22 along the commercial strip and to control the problems of traffic, congestion, noise and late-  
23 night activity, certain potentially troublesome commercial uses are regulated. Additional large  
24 fast food restaurants are prohibited, other eating and drinking establishments require conditional  
25 use authorization are prohibited, and ground-story entertainment and financial service uses are

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restricted to and at the ground story. Prohibitions on drive-up and most automobile uses help prevent additional traffic and parking congestion.

Housing development in new buildings is encouraged above the ground story. Existing housing units are protected by prohibitions on upper-story conversions and limitations on demolitions.

Section 3. The San Francisco Planning Code is hereby amended by amending Sections 728.42, 728.44, 728.69A and the Specific Provisions of the Zoning Control Table, to read as follows:

SEC. 728. 24TH STREET -- NOE VALLEY NEIGHBORHOOD COMMERCIAL DISTRICT

ZONING CONTROL TABLE

			24th Street -- Noe Valley
No.	Zoning Category	§ References	Controls
BUILDING STANDARDS			
728.10	Height and Bulk Limit	§§ 102.12, 105, 106, 250--252, 260, 270, 271	40-X
728.11	Lot Size <i>[Per Development]</i>	§§ 790.56, 121.1	P up to 4,999 sq. ft. C 5,000 sq. ft. & above § 121.1
728.12	Rear Yard	§§ 130, 134, 136	Required at grade level and above § 134(a) (e)
728.13	Street Frontage		Required § 145.1
728.14	Awning	§ 790.20	P § 136.1(a)
728.15	Canopy	§ 790.26	P § 136.1(b)
728.16	Marquee	§ 790.58	P § 136.1(c)

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1	728.17	Street Trees		Required § 143
2	COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES			
3	728.20	Floor Area Ratio	§§ 102.9, 102.11, 123	1.8 to 1 § 124(a) (b)
4	728.21	Use Size [Non-Residential]	§ 790.130	P up to 2,499 sq. ft.; C 2,500 sq. ft. & above § 121.2
5	728.22	Off-Street Parking, Commercial/Institutional	§§ 150, 153-- 157, 159--160, 204.5	Generally, none required if occupied floor area is less than 5,000 sq. ft. §§ 151, 161(g)
6	728.23	Off-Street Freight Loading	§§ 150, 153-- 155, 204.5	Generally, none required if gross floor area is less than 10,000 sq. ft. §§ 152, 161(b)
7	728.24	Outdoor Activity Area	§ 790.70	P if located in front; C if located elsewhere § 145.2(a)
8	728.25	Drive-Up Facility	§ 790.30	
9	728.26	Walk-Up Facility	§ 790.140	P if recessed 3 ft.; C if not recessed § 145.2(b)
10	728.27	Hours of Operation	§ 790.48	P 6 a.m.--2 a.m. C 2 a.m.--6 a.m.
11	728.30	General Advertising Sign	§§ 262, 602-- 604, 608, 609	
12	728.31	Business Sign	§§ 262, 602-- 604, 608, 609	P § 607.1(f)2
13	728.32	Other Signs	§§ 262, 602-- 604, 608, 609	P § 607.1(c) (d) (g)

23	No.	Zoning Category	§ References	24th Street-- Noe Valley
				Controls by Story

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		§ 790.118	1st	2nd	3rd+
728.38	Residential Conversion	§ 790.84	P		
728.39	Residential Demolition	§ 790.86	P	C	C
Retail Sales and Services					
728.40	Other Retail Sales and Services [Not Listed Below]	§ 790.102	P#	C#	
728.41	Bar	§ 790.22	C#		
728.42	Full-Service Restaurant	§ 790.92	C#		
728.43	Large Fast Food Restaurant	§ 790.90			
728.44	Small Self-Service Restaurant	§ 790.91	C		
728.45	Liquor Store	§ 790.55	C		
728.46	Movie Theater	§ 790.64	P		
728.47	Adult Entertainment	§ 790.36			
728.48	Other Entertainment	§ 790.38	C		
728.49	Financial Service	§ 790.110	C		
728.50	Limited Financial Service	§ 790.112	C		
728.51	Medical Service	§ 790.114	P	C	
728.52	Personal Service	§ 790.116	P	C	
728.53	Business or Professional Service	§ 790.108	P	C	
728.54	Massage Establishment	§ 790.60, § 1900 Health Code	C		
728.55	Tourist Hotel	§ 790.46	C	C	
728.56	Automobile Parking	§§ 790.8, 156, 160	C	C	C
728.57	Automotive Gas	§ 790.14			

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1		Station				
2	728.58	Automotive Service Station	§ 790.17			
3	728.59	Automotive Repair	§ 790.15			
4	728.60	Automotive Wash	§ 790.18			
5	728.61	Automobile Sale or Rental	§ 790.12			
6	728.62	Animal Hospital	§ 790.6	C		
7	728.63	Ambulance Service	§ 790.2			
8	728.64	Mortuary	§ 790.62			
9	728.65	Trade Shop	§ 790.124	P	C	
10	728.66	Storage	§ 790.117			
11	728.67	Video Store	§ 790.135	C	C	
12	728.68	Fringe Financial Service	§ 790.111	#	#	#
13	728.69	Tobacco Paraphernalia Establishments	§ 790.123	C		
14	728.69A	Self-Service Specialty Food	§ 790.93	C		
15	Institutions and Non-Retail Sales and Services					
16	728.70	Administrative Service	§ 790.106			
17	728.80	Hospital or Medical Center	§ 790.44			
18	728.81	Other Institutions, Large	§ 790.50	P	C	C
19	728.82	Other Institutions, Small	§ 790.51	P	P	P
20	728.83	Public Use	§ 790.80	C	C	C
21	728.84	Medical Cannabis Dispensary	§ 790.141	P		
22	RESIDENTIAL STANDARDS AND USES					
23	728.90	Residential Use	§ 790.88	P	P	P
24						
25						

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728.91	Residential Density, Dwelling Units	§§ 207, 207.1, 790.88(a)	Generally, 1 unit per 600 sq. ft. lot area § 207.4		
728.92	Residential Density, Group Housing	§§ 207.1, 790.88(b)	Generally, 1 bedroom per 210 sq. ft. lot area § 208		
728.93	Usable Open Space [Per Residential Unit]	§§ 135, 136	Generally, either 80 sq. ft if private, or 100 sq. ft. if common § 135(d)		
728.94	Off-Street Parking, Residential	§§ 150, 153-- 157, 159--160, 204.5	Generally, 1 space for each dwelling unit §§ 151, 161(a) (g)		
728.95	Community Residential Parking	§ 790.10	C	C	C

**SPECIFIC PROVISIONS FOR THE 24TH STREET--NOE VALLEY  
NEIGHBORHOOD COMMERCIAL DISTRICT**

Article 7 Code Section	Other Code Section	Zoning Controls
§ 728.40	§ 790.102(b) and (n) § 703.2(b)(1)(C)	<b>24TH STREET -- NOE VALLEY SPECIALTY RETAIL USES</b> Boundaries: Only the area within the 24th Street -- Noe Valley Neighborhood Commercial District. The controls shall not apply to NC-1 Districts or nonconforming uses within 1/4 mile of this District as set forth in Code §§ 710.10 and 186. Controls: Retail coffee stores, as defined in Code § 790.102(n), are prohibited. Retail coffee stores and specialty groceries, defined in Code § 790.102(b), are prohibited from establishing accessory take-out food service use pursuant to Code § 703.2(b)(1)(C).
§ 728.41	§ 790.22	<b>24th STREET--NOE VALLEY LIQUOR LICENSES FOR FULL-SERVICE RESTAURANTS</b> Boundaries: Applicable to the 24th Street - Noe Valley Neighborhood Commercial District Controls: (a) In order to allow certain restaurants to seek an ABC license type 47 so that liquor may be served for drinking on the premises, a bar use, as defined in § 790.22, may be permitted as a conditional use on the ground level if, in addition to

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1		the criteria set forth in Section 303, the Planning Commission finds that:
2		(1) The bar function is operated as an integral element of an establishment which is classified both
3		as: (A) a full-service restaurant as defined in § 790.92
4		and (B) a bona-fide restaurant as defined in § 781.8(c); and
5		(2) The establishment maintains only an ABC license type 47. Other ABC license types, except those that
6		are included within the definition of a full-service restaurant pursuant to § 790.92, are not permitted for
7		those uses subject to this Section.
8		(b) Subsequent to the granting of a conditional use authorization under this Section, the Commission
9		may consider immediate revocation of the previous conditional use authorization should an establishment
10		no longer comply with any of the above criteria for any length of time.
11		
12		<del>24th STREET NOE VALLEY FULL SERVICE RESTAURANTS</del>
13		<del>Boundaries: Applicable to the 24th Street Noe Valley Neighborhood Commercial District</del>
14		<del>Controls: (a) A full-service restaurant may be permitted as a conditional use on the ground level if, in addition to the criteria set forth in Section 303, the Planning Commission finds that:</del>
15		<del>(1) The full-service restaurant does not occupy space that has been occupied by a basic neighborhood service since the effective date of this Section. For the purposes of this Section, a 'basic neighborhood service' shall be considered to include, but not necessarily be limited to, the following: hardware stores, shoe repair facilities, bookstores, and grocery stores that sell a wide variety of staple goods and collect less than 50% of gross receipts from the sale of alcoholic beverages;</del>
16		<del>(2) Should the full-service restaurant seek the use of public sidewalk space through the Department of Public Works or another City agency, such use is conducted in a manner consistent with: (A) nearby commercial and residential uses and structures, and (B) the width of the sidewalk along the subject property and adjacent properties. New, expanded, or intensified use of public sidewalk space for a full-service restaurant authorized under this Section shall</del>
17		
18	<del>§ 728.42</del>	<del>§ 790.92</del>
19		
20		
21		
22		
23		
24		
25		

		<p><del>require a new conditional use authorization pursuant to Section 303;</del></p> <p><del>(3) The Planning Commission has approved no more than a total of three (3) full-service restaurants in accordance with this Section. Should a full-service restaurant permitted under this Section cease operation and complete a lawful change of use to another principally or conditionally permitted use, the Commission may consider a new full-service restaurant in accordance with the terms of this Section; and</del></p> <p><del>(4) No more than 60 months have elapsed from the effective date of this Section.</del></p>
§ 728.68	§ 249.35	<p>FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT (FFSRUD) Boundaries: The FFSRUD and its 1/4 mile buffer includes portions of, but is not limited to, the 24th Street-Noe Valley Neighborhood Commercial District. Controls: Within the FFSRUD and its 1/4 mile buffer, fringe financial services are NP pursuant to Section 249.35. Outside the FFSRUD and its 1/4 mile buffer, fringe financial services are P subject to the restrictions set forth in Subsection 249.35(c)(3).</p>

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

By:

  
JUDITH A. BOYAJIAN  
Deputy City Attorney

Supervisor Dufty  
BOARD OF SUPERVISORS

## **LEGISLATIVE DIGEST**

[24<sup>th</sup> Street - Noe Valley Neighborhood Commercial District – Conditional Use for New Full-Service and Small Self-Service Restaurants.]

**Ordinance amending the San Francisco Planning Code by amending Section 728.1 and Sections 728.42, 728.44 and 728.69A of the Zoning Control Table to allow new full-service restaurants, small self-service restaurants, and self-service specialty food establishments with conditional use authorization and removing the Specific Provisions for full-service restaurants; adopting findings, including environmental findings, Section 301 findings, and findings of consistency with the General Plan and the Priority Policies of Section 101.1 .**

### **Existing Law**

Planning Code Section 728.1 establishes the 24<sup>th</sup> Street – Noe Valley Neighborhood Commercial District. The Section 728 Zoning Control Table sets forth the building standards and uses that are allowed in the 24<sup>th</sup> Street – Noe Valley NCD. The existing Code allows new full-service restaurants with a conditional use; the Planning Commission has to consider additional conditional use criteria to authorize a full-service restaurant. New small self-service restaurants and self-service specialty food establishments are not permitted.

### **Amendments to Current Law**

The proposed legislation would remove the additional conditional use criteria for full-service restaurants and permit small self-service restaurants and self-service specialty food establishments with a conditional use.

### **Background Information**

The restrictions on restaurants and specialty food establishments were put in place more than 20 years ago, before the City enacted the controls on formula retail establishments that are now in the Planning Code. Due to the current economic downturn, there are currently significant vacancies of storefronts on 24<sup>th</sup> Street. Since formula retail controls are now in place to protect the neighborhood, the residents would like to open up the street to new food options and allow new small self-service restaurants and self-service specialty food establishments with a conditional use.

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

October 28, 2009

File No. 091208

Bill Wycko  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Mr. Wycko:

On October 20, 2009, Supervisor Dufty introduced the following proposed legislation:

**File No. 091208** Ordinance amending the San Francisco Planning Code by amending Section 728.1 and Sections 728.42, 728.44 and 728.69A of the Zoning Control Table to allow new full-service restaurants, small self-service restaurants, and self-service specialty food establishments with conditional use authorization and removing the Specific Provisions for full-service restaurants; adopting findings, including environmental findings, Section 301 findings, and findings of consistency with the General Plan and the Priority Policies of Section 101.1.

The legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, likely belonging to Angela Calvillo.

By: Linda Laws, Committee Clerk  
Land Use & Economic Development Committee

Attachment

cc: Nannie Turrell, Major Environmental Analysis  
Brett Bollinger, Major Environmental Analysis

Environmental Review Referral

*Not a project per CEQA  
Guidelines Section  
15060(c)(2)  
Nannie T. Turrell  
November 5, 2009*



# SAN FRANCISCO PLANNING DEPARTMENT

January 21, 2010

Ms. Angela Calvillo, Clerk  
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 2009.1066T:  
24<sup>th</sup> Street-Noe Valley NCD: Eating Uses  
Board File Number 09-1208  
Planning Commission Recommendation: Approval

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

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2010 JAN 29 AM 8:13  
Reception: 415.558.6378  
Fax: 415.558.6409  
Planning Information: 415.558.6877

BY AS

Dear Ms. Calvillo,

On January 14<sup>th</sup>, the San Francisco Planning Commission (hereinafter "Commission") conducted duly noticed public hearings at a regularly scheduled meeting to consider the proposed Ordinance.


The proposed Ordinance would amend would amend the 24<sup>th</sup> Street-Noe Valley NCD Sections 728.1, 728.42 (full-service restaurants), 728.44 (small self-service restaurants), and 728.69A (specialty food, self-service) to allow new full-service restaurants, small self-service restaurants, and self-service specialty food establishments with a Conditional Use authorization.

The proposed zoning changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2).

At the January 14<sup>th</sup> hearing, the Commission voted to recommend approval of the proposed Ordinance.

Please find attached documents relating to the Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

  
John Rahaim  
Director of Planning

cc: Supervisor Dufty

Attachments (one copy of the following):

Planning Commission Resolution No. 18010

Planning Commission Executive Summary for Case No. 2009.1066T

[www.sfplanning.org](http://www.sfplanning.org)



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Resolution No. 18010

HEARING DATE: JANUARY 14, 2009

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

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

*Project Name:* Amendments relating to the 24<sup>th</sup> Street-Noe Valley NCD:  
Eating Uses  
*Case Number:* 2009.1066T [Board File No. 09-1208]  
*Initiated by:* Supervisor Dufty / Introduced October 20, 2009  
*Staff Contact:* Tara Sullivan, Legislative Affairs  
tara.sullivan@sfgov.org, 415-558-6257  
*Reviewed by:* AnMarie Rodgers, Manager Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395  
*Recommendation:* Recommend Approval

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE 24TH STREET-NOE VALLEY NCD ("24TH-NOE NCD") PLANNING CODE SECTIONS 728.1 (ZONING CONTROL TABLE), 728.42 (FULL-SERVICE RESTAURANTS), 728.44 (SMALL SELF-SERVICE RESTAURANTS), AND 728.69A (SPECIALTY FOOD, SELF-SERVICE) TO ALLOW NEW FULL-SERVICE RESTAURANTS, SMALL SELF-SERVICE RESTAURANTS, AND SELF-SERVICE SPECIALTY FOOD ESTABLISHMENTS WITH A CONDITIONAL USE AUTHORIZATION.

### PREAMBLE

Whereas, on October 20, 2009, Supervisor Dufty introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 09-1208 which would amend the 24<sup>th</sup> Street-Noe Valley NCD ("24<sup>th</sup>-Noe NCD") Sections 728.1 (Zoning Control Table), 728.42 (full-service restaurants), 728.44 (small self-service restaurants), and 728.69A (specialty food, self-service) to allow new full-service restaurants, small self-service restaurants, and self-service specialty food establishments with a Conditional Use authorization; and

Whereas, on January 14, 2010, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed zoning changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

Whereas, the 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 the applicant, Department staff, and other interested parties; and

Whereas, the 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 Commission has reviewed the proposed Ordinance; and

**MOVED**, that the Commission hereby recommends that the Board of Supervisors recommends *approval of the proposed Ordinance* and adopts the attached Draft Resolution to that effect.

## 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. The 24th Street –Noe Valley NCD Controls have not been substantially revised since their adoption in 1987;
2. The 24th Street –Noe Valley NCD prohibits the opening of any new full-service restaurant and small self-service restaurant. Under Section 179(a) of the Planning Code, those full-service restaurants and small self-service restaurants which lawfully existed on the effective date of Ordinance No. 69-87, enacting the 24th Street –Noe Valley NCD, are either nonconforming or conditional uses and permitted to remain in use;
3. A Self-Service Specialty Food establishment is a new use definition that was enacted in December 2008. New self-service specialty food establishments are also prohibited in the 24th Street –Noe Valley NCD;
4. Since the establishment of the 24th Street –Noe Valley NCD in 1987, several restaurants have closed and have not been replaced with neighborhood-servicing businesses. In addition, there has been a shift in recent years more towards food and drink facilities as being integral components of a thriving neighborhood. The result of the prohibition of new restaurants has resulted in an accumulation of demand for these types of establishments;
5. In December 2009, there are approximately 15 vacant storefronts along 24th Street;
6. The proposed Ordinance would allow a proposed full-service restaurant, small self-service restaurant, or a specialty food, self-service establishment to apply for a Conditional Use Authorization in the 24<sup>th</sup>-Noe NCD;

7. Such new full-service restaurants, small self-service restaurants and/or Self-service specialty food establishments will attract patrons who would support existing and future local businesses within the 24<sup>th</sup>-Noe NCD.
8. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

**I. COMMERCE & INDUSTRY ELEMENT**

THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN SETS FORTH OBJECTIVES AND POLICIES THAT ADDRESS THE BROAD RANGE OF ECONOMIC ACTIVITIES, FACILITIES, AND SUPPORT SYSTEMS THAT CONSTITUTE SAN FRANCISCO'S EMPLOYMENT AND SERVICE BASE.

**GOALS**

THE THREE GOALS OF THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN RELATE TO CONTINUED ECONOMIC VITALITY, SOCIAL EQUITY, AND ENVIRONMENTAL QUALITY.

**OBJECTIVE 6**

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

**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 promotes small business enterprises by fostering the growth of full-service restaurants, small self-service restaurants, and specialty food, self-service establishments in the 24<sup>th</sup>-Noe NCD.*

**POLICY 6.3**

Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

*The proposed Ordinance promotes the mixed commercial-residential character in the 24<sup>th</sup>-Noe NCD by allowing a limited number of new full-service restaurants, small self-service restaurants, and specialty food, self-service establishment uses via a Conditional Use Authorization that will serve the residents in the neighborhood and contribute to the mix of businesses in the 24<sup>th</sup>-Noe NCD.*

**POLICY 6.10**

Promote neighborhood commercial revitalization, including community-based and other economic development efforts where feasible.



*The character of the 24<sup>th</sup>-Noe NCD has changed over the past 20 years. There are approximately 15 vacant storefronts along 24<sup>th</sup> Street and permitting a limited number of new full-service restaurants, small self-service restaurants, and specialty food, self-service establishment uses through the conditional use authorization process, should help address the vacancy issue along the 24<sup>th</sup>-Noe NCD. The proposed Ordinance seeks to remedy the existing conditions while also accommodating the demand for full-service restaurants, small self-service restaurants, and specialty food, self-service establishment uses for residents in the 24<sup>th</sup>-Noe NCD.*

9. The proposed replacement project is consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

- A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

*The proposed Ordinance will encourage neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses in the 24<sup>th</sup>-Noe NCD by allowing new eating and drinking uses through the Conditional Use Authorization process.*

- B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

*The proposed legislation contains requires the Planning Commission to use the conditional use criteria when evaluating each proposed full-service restaurants, small self-service restaurants and/or self-service specialty food establishments. The conditional use process will allow for the continued presence and economic viability of existing neighborhood establishments while not negatively affecting existing residential development, housing or neighborhood character.*

- C) The City's supply of affordable housing will be preserved and enhanced:

*The proposed Ordinance will have no adverse effect on the City's supply of affordable housing.*

- D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

*The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.*

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

*The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.*

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments. Any new construction or alteration associated with a use would be executed in compliance with all applicable construction and safety measures.*

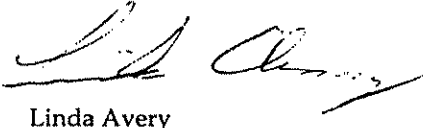
- G) That landmark and historic buildings will be preserved:

*Landmarks and historic buildings would be unaffected by the proposed amendments. Should a proposed use be located within a landmark or historic building, such site would be evaluated under typical Planning Code provisions and comprehensive Planning Department policies.*

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

*The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed amendments. It is not anticipated that permits would be such that sunlight access, to public or private property, would be adversely impacted.*

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on January 14, 2010.

  
Linda Avery  
Commission Secretary

AYES: Miguel, Olague, Moore, Sugaya, Lee, Antonini, Borden

NAYS:

ABSENT:

ADOPTED: January 14, 2010



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text Change HEARING DATE: JANUARY 14, 2010

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Suite 400  
San Francisco,  
CA 94103-2479

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*Project Name:* Amendments relating to the 24<sup>th</sup> Street-Noe Valley NCD:  
Eating Uses  
*Case Number:* 2009.1066T [Board File No. 09-1208]  
*Initiated by:* Supervisor Dufty / Introduced October 20, 2009  
*Staff Contact:* Tara Sullivan, Legislative Affairs  
tara.sullivan@sfgov.org, 415-558-6257  
*Reviewed by:* AnMarie Rodgers, Manager Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395  
*Recommendation:* **Recommend Approval**

### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the 24<sup>th</sup> Street-Noe Valley NCD ("24<sup>th</sup>-Noe NCD") Sections 728.1 (Zoning Control Table), 728.42 (full-service restaurants), 728.44 (small self-service restaurants), and 728.69A (specialty food, self-service) to allow new full-service restaurants, small self-service restaurants, and self-service specialty food establishments with a Conditional Use Authorization.

It should be noted that the limitations placed on new liquor licenses for full-service restaurants will remain in effect.

Please note that the Planning Commission ("Commission") heard BOS File No. 05-1676 on December 8, 2005, which allowed up to (3) new full-service restaurants by Conditional Use Authorization, which was sponsored by Supervisor Dufty. This legislation became effective on March 8, 2006, and the three Conditional Use Authorizations have been granted. This legislation sunset in 3 years from the effective date on March 8, 2009.

#### The Way It Is Now:

With the exception of the three full-service restaurants mentioned above, the 24<sup>th</sup>-Noe NCD prohibits new restaurants of any type.<sup>1</sup> Under Section 179(a) of the Planning Code, those restaurants and bar uses which lawfully existed on the effective date of Ordinance No. 69-87, enacting the 24<sup>th</sup>-Noe NCD, are either nonconforming and permitted to remain in use.

A full-service restaurant may seek a Type 47 liquor license (full bar, on site) if they meet the requirements on Section 728.1.

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<sup>1</sup> San Francisco Planning Code Sections 728.41 (Bar), 728.42 (Full-Service Restaurant), 728.44 (Small Self-Service Restaurant), and 728.69A (specialty food, self-service) → all are currently not permitted in the 24<sup>th</sup>-Noe NCD.

### The Way It Would Be:

The proposed ordinance would allow a proposed full-service restaurant, small self-service restaurant, or a specialty food, self-service establishment to apply for a Conditional Use Authorization in the 24<sup>th</sup>-Noe NCD. There would be no numerical cap nor a sunset clause; rather it would permit these uses to be approved by the Planning Commission on a case-by-case basis.

### REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

### RECOMMENDATION

The Department recommends that the Commission recommend *approval* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

### BASIS FOR RECOMMENDATION

The citywide Neighborhood Commercial Controls were enacted in 1987 in response to land use issues identified by neighborhood groups, planners, and elected officials. Along 24<sup>th</sup>-Noe Streets and elsewhere in the City, restaurants and bars were identified as volatile uses which could multiply and upset the commercial equilibrium by forcing out critical neighborhood services. This concern led to prohibitions such as those in the 24<sup>th</sup>-Noe Street NCD, which nearly 20 years later continue disallow new restaurants and bars or the reestablishment of restaurant and bar uses which had converted for a period of time to another use.

The character of the 24<sup>th</sup>-Noe NCD has changed over the past 20 years. This is evident in the desire to allow 3 new full-service restaurants to open in the NCD 4 years ago. The community wanted more restaurants then and continue to do so today.

Surveys from 1984-1987 show that there were 29 restaurants along 24<sup>th</sup> Street (please note that the survey does not distinguish between full-service and small self-service restaurants). There was only 1 vacancy, 5 bars, and 4 take-out establishments. Today, there are 22 restaurants, 15 vacancies, and 13 take-out establishments.

While the number of restaurants has decreased from 29 to 22 in the past 20+ years, the number of vacancies has increased dramatically. Permitting new full service restaurants, small self-service restaurants, and specialty food, self-service establishments through the Conditional Use Authorization process should help these uses spread out more evenly throughout the 24<sup>th</sup>-Noe NCD and reduce vacancies.

Further, opening up these uses to a Conditional Use Authorization will allow the Commission to analyze each application on a case-by-case basis. When the number of restaurants exceeds the needs of the community, the Commission can deny the application. Placing a numerical cap on restaurants appears to be short-sighted; there may arise the need to amend the number if the community needs more eating establishments. With the proposed legislation, the Code will not have to be amended in the future because each application will be judged on the merits of its application, the needs of the community, and the criteria in the Planning Code.

In sum, the Department supports the proposed Ordinance to permit new full-service restaurants, small self-service restaurants, and specialty foods, self-service establishments on 24<sup>th</sup>-Noe NCD via a Conditional Use Authorization.

### **ENVIRONMENTAL REVIEW**

The proposal to amend Planning Code Sections 728.1 (Zoning Control Table), 728.42 (full-service restaurants), 728.44 (small self-service restaurants), and 728.69A (specialty food, self-service) in the 24<sup>th</sup> Street-Noe Valley NCD would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

### **PUBLIC COMMENT**

As of the date of this report, the Planning Department has not received any comments in with regard to the proposed Ordinance.

<b>RECOMMENDATION:</b>	<b>Recommendation of Approval</b>
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**Attachments:**

Exhibit A: Draft Planning Commission Resolution  
Exhibit B: Board of Supervisors File No. 09-1208



SMALL BUSINESS COMMISSION  
OFFICE OF SMALL BUSINESS



CITY AND COUNTY OF SAN FRANCISCO  
GAVIN NEWSOM, MAYOR

November 16, 2009

Ms. Angela Calvillo, Clerk of the Board  
Board of Supervisors  
City Hall room 244  
1 Carlton B. Goodlett Place  
San Francisco, CA 94102-4694

**RE: File No. 091208. [24th Street - Noe Valley Neighborhood Commercial District – Conditional Use for New Full-Service and Small Self-Service Restaurants.]** Ordinance amending the San Francisco Planning Code by amending Section 728.1 and Sections 728.42, 728.44 and 728.69A of the Zoning Control Table to allow new fullservice restaurants, small self-service restaurants, and self-service specialty food establishments with conditional use authorization and removing the Specific Provisions for full-service restaurants; adopting findings, including environmental findings, Section 301 findings, and findings of consistency with the General Plan and the Priority Policies of Section 101.1

Small Business Commission Recommendation: **Approval**

Dear Ms. Calvillo:

On November 9, 2009, the Small Business Commission heard and recommends to the Board of Supervisors approval for File #091208.

Sincerely,

Regina Dick-Endrizzi  
Director, Office of Small Business

cc. Supervisor Maxwell, Mar, Chu and Chu  
Starr Terrell  
Alisa Somera, Clerk of the Land Use and Economic Development Committee