



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary General Plan Text Amendment

HEARING DATE: OCTOBER 6, 2016

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*Date:* September 29, 2016  
*Case No.* 2015-017206GPA  
*Project Name:* **Updating the Commerce and Industry Element on Eating and Drinking Establishments**  
*Staff Contact:* Menaka Mohan, Legislative Affairs  
menaka.mohan@sfgov.org; 415-575-9141  
*Reviewed by:* Aaron Starr, Manager Legislative Affairs  
aaron.starr@sfgov.org; 415-558-6362  
*Recommendation:* **Recommend Approval**

### GENERAL PLAN AMENDMENT

The proposal would amend the General Plan's Commerce and Industry Element's Guidelines for Specific Uses on Eating and Drinking Establishments. The proposed changes are designed to reflect a general policy statement by removing the specific percentages of eating and drinking establishments that can occupy total occupied commercial frontages in a single zoning district. The specific percentage calculations for eating and drinking use concentrations will remain unchanged in Planning Code Section 303 (o).

#### The Way It Is Now:

1. The Commerce and Industry Element of the General Plan states that the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage of a single zoning district. Additionally, eating and drinking establishments should not occupy more than 25% of the total commercially-occupied frontage in "zoning districts with an established pattern of service to a broad market, such as North Beach."
2. Planning Code section 303, which governs Conditional Uses, also establishes a specific percentage limit for eating and drinking uses when such uses are seeking Conditional Use Authorization. Section 303(o) states that such proposed uses should not exceed 25% of the total commercial frontage in the same zoning district within 300 feet of the establishment.

#### The Way It Would Be:

1. The specific percentages of eating and drinking establishments that can occupy total occupied commercial frontages in a single zoning district would be removed in the General Plan. The language in the Guidelines for Eating and Drinking Establishments would be amended to reflect a general policy statement.

2. There will be no change in the current Planning Code calculations in Section 303(o). Planning staff would continue to calculate the percentage of total commercial frontage within 300 feet of the proposed establishment. Planners would no longer have to calculate the percentage in the General Plan, which requires that eating and drinking establishments should not occupy more than 20 percent of the total occupied commercial frontage.

## **BACKGROUND**

### **The General Plan**

San Francisco's General Plan is a guiding document that is designed to attain the following goals:

- Protection, preservation, and enhancement of the economic, social, cultural, and esthetic values that establish the desirable quality and unique character of the city;
- Improvement of the city as a place for living, by aiding in making it more healthful, safe, pleasant, and satisfying, with housing representing good standards for all residents and by providing adequate open spaces and appropriate community facilities;
- Improvement of the city as a place for commerce and industry by making it more efficient, orderly, and satisfactory for the production, exchange and distribution of goods and services, with adequate space for each type of economic activity and improved facilities for the loading and movement of goods;
- Coordination of the varied pattern of land use with public and semi-public service facilities required for efficient functioning of the city, and for the convenience and well-being of its residents, workers, and visitors; and
- Coordination of the varied pattern of land use with circulation routes and facilities required for the efficient movement of people and goods within the city, and to and from the city.

The General Plan is as a broad policy document that the Planning Code interprets. As such specific numerical limits should not be located within the General Plan; they should be located within the Planning Code. Currently the language in the Commerce and Industry Element is very specific by requiring that establishments do not occupy more than 20% of the total occupied commercial frontage in a single district. The Commerce and Industry Element describes the percentage as a method to mitigate the proliferation of eating and drinking establishments in any one district. The element also describes characteristics of eating and drinking establishments namely, that they should not impose undue traffic or noise impacts.

The Conditional Use Authorization (CUA) in section 303 also includes specific findings around noise, traffic patterns, and neighborhood compatibility which interpret the language in the General Plan.

### **The 2011 Restaurant Ordinance**

In 2012 the Board passed The Restaurant Rationalization ordinance (Board File 120084), which among things rationalized the City's restaurant definitions and controls. Prior to this ordinance there were 13 separate eating and drinking definition in the Planning Code. The Restaurant Rationalization ordinance reduced this number down to four definitions based on level of alcohol service: Bars, Restaurants, Limited Restaurants, and Take-Out. Also as part of this ordinance, the Planning Department added Planning Code Section 303(p) - now Section 303(o) - which imported the concentration controls for eating and drinking uses from the General Plan into the Planning Code. The higher percentage - 25% - was

used and instead of the entire NC District a radius of 300 feet was used to address NCDs that can stretch for several miles. At the time, it was anticipated that the Restaurant Rationalization ordinance would be followed-up with a General Plan amendment to remove the concentration controls in the General Plan. While several years late, this ordinance accomplishes this goal.

The controls that were put into Planning Code Section 303 in 2012 and which exist today are as follows:

**Eating and Drinking Uses.** With regard to a Conditional Use authorization application for a Restaurant, Limited-Restaurant and Bar uses the Planning Commission shall consider, in addition to the criteria set forth in Subsection (c) above, the existing concentration of eating and drinking uses in the area. Such concentration should not exceed 25 percent of the total commercial frontage as measured in linear feet within the immediate area of the subject site. For the purposes of this Section of the Code, the immediate area shall be defined as all properties located within 300' of the subject property and also located within the same zoning district.

## **ISSUES AND CONSIDERATIONS**

### **Duplicative Controls**

Currently, two similar but distinct calculations for General Plan and Planning Code Compliance for proposed Eating and Drinking Uses that are subject to a Conditional Use Authorization are required of Planning Staff.

#### *Calculation One:*

The Planning Code calculation is explicitly done within 300 feet of the proposed site. This calculation can easily be done by Planning Staff by way of a simple survey of the immediate area of the proposed establishment. As such, this calculation meets the intent of the General Plan, ensuring there is not an overconcentration of such uses within the immediate vicinity.

#### *Calculation Two*

The General Plan calculation establishes that the proposed establishment will not add more than 20% (or 25% "in districts with an established pattern of service to a broad market") of eating and drinking establishments to the overall occupied commercial frontages of the *entire* zoning district.

The two calculations can be onerous on staff and the calculation that is the most informative resides in the Planning Code.

### **One Metric**

The Planning Code implements the intent of the General Plan using a narrower geography. In using the entire district the General Plan calculation disregards the immediate blocks of the site-unlike the Planning Code calculation-and can in fact be less restrictive since there could be a cluster of eating and drinking establishments of greater than 20-25% near a proposed site, but district-wide be less than a 20% concentration. It is not clear in the General Plan guideline how to interpret a district with an "established pattern of service to a broad market," which uses a 25% threshold. The Planning Code simplifies and standardizes the use concentration threshold to 25% within 300 feet if the proposed establishment city-wide.

## **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 Planning Department supports the proposed amendments because they will remove specific numeric controls from the General Plan and maintain similar, but more effective controls in the Planning Code. As the main policy document for the City's land use, the General Plan should focus on general policy statements, while the Planning Code should provide the tools for implementing those goals and policies.

The current language confuses the roll of the two documents by having specific numerical controls in the General Plan and requires planners to make two similar but distinct calculations. Additionally, the calculation prescribed in the General Plan does not meet the intent of the language, which is to look at the surround area for a concentration of eating and drinking uses.

Simplifying the language in the General Plan ensures that the intent is still being met because no changes are proposed regarding the Conditional Use. This will ensure a more effective and consistent evaluation of eating and drinking uses in the future.

## **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.

## **ENVIRONMENTAL REVIEW**

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment.

## **PUBLIC COMMENT**

On May 9, 2016 the Planning Department hosted a meeting regarding the proposed change to the General Plan, attendance was low. Since the initiation hearing on June 30<sup>th</sup>, the Department presented at the July 19 meeting of the Coalition of San Francisco Neighborhoods to describe the changes to the General Plan, and they provided no substantial comments. Additionally, the Department presented the proposed changes to the Small Business Commission on August 22, 2016; commission members had no substantial comments. Staff has also met with the Golden Gate Restaurant Association which is supportive of the change.

<b>RECOMMENDATION: Recommend Approval</b>
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### **Attachments:**

- 1. Exhibit A: Draft Resolution**
- 2. Exhibit B: Ordinance Adopting General Plan Amendments**



# SAN FRANCISCO PLANNING DEPARTMENT

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## Draft Planning Commission Resolution General Plan Text Amendment HEARING DATE: SEPTEMBER 29, 2016

1650 Mission St.  
Suite 400  
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*Adoption Hearing*  
*Staff Contact:* Menaka Mohan, Legislative Affairs  
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*Reviewed by:* Aaron Starr, Manager Legislative Affairs  
aaron.starr@sfgov.org; 415-558-6362  
*Recommendation:* **Recommend Approval**

ADOPTING AMENDMENTS TO THE GENERAL PLAN TO UPDATE THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN TO UPDATE THE GUIDELINES REGARDING OVERCONCENTRATION OF EATING AND DRINKING ESTABLISHMENTS IN A SINGLE AREA; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE SECTION 101.1.

### PREAMBLE

WHEREAS, Section 4.105 of the Charter of the City and County of San Francisco mandates that the Planning Department shall periodically recommend to the Board of Supervisors for approval or rejection proposed amendments to the General Plan;

WHEREAS, on June 30, 2016 the Planning Commission unanimously proposed to initiate amendments to the General Plan to update the Commerce and Industry Element;

WHEREAS, The Commerce and Industry Element of the General Plan sets forth objectives and policies addressing the broad range of economic activities, facilities and support systems that constitute San Francisco's employment and service base;

WHEREAS, The Guidelines for Specific Uses contained in the Neighborhood Commerce section of the Commerce and Industry Element states that "[t]he balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage," with a higher percentage of 25% for districts such as North Beach where there is an established pattern of service to a broad market.;

WHEREAS, Planning Code Section 303(o) states that the existing concentration of eating and drinking uses in an area should not exceed 25% of the total commercial frontage within 300 feet of the establishment and within the same zoning district;

WHEREAS, Because of this specific language in the Planning Code regarding concentration of eating and drinking uses in an area, the proposed amendments to the General Plan will replace the existing specific language in the Guidelines with general policy statements regarding the impacts of clustering;

WHEREAS, the General Plan amendments are consistent with the Priority Policies of Planning Code Section 101.1(b). Planning Code Section 101.1(b) establishes eight priority policies and is the basis by which differences between competing policies in the General Plan are resolved. The project is consistent with the eight priority policies, in that:

1. That existing neighborhood serving retail uses be preserved and enhanced and future opportunities for resident employment in or ownership of such businesses enhanced.  
*The General Plan Amendments to the Commerce and Industry Element would continue preserve and enhance existing neighborhood retail opportunities.*
2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.  
*The General Plan Amendments to the Commerce and Industry Element would continue preserve and enhance existing neighborhood retail opportunities.*
3. That the City's supply of affordable housing be preserved and enhanced.  
*The General Plan Amendments would not impact the City's supply of affordable housing be preserved and enhanced.*
4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.  
*The General Plan Amendments would not impede MUNI transit service or overburden our streets or neighborhood parking.*
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 General Plan Amendments would not adversely affect the industrial or service sectors or impede future opportunities for resident employment and ownership in the industrial or service sectors.*
6. That the City achieves the greatest possible preparedness to protect against injury and loss of life in an earthquake.  
*The General Plan Amendments would not adversely impact the City's ability to achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.*
7. That landmarks and historic buildings be preserved.  
*The General Plan Amendments would no impact the preservation of landmarks and historic buildings.*
8. That our parks and open space and their access to sunlight and vistas be protected from development.

*The General Plan Amendments would not impact the City's parks and open space and their access to sunlight and vistas from development.*

In addition, the conforming General Plan Amendments for the Commerce and Industry Element were developed in coordination with existing General Plan policies. The General Plan amendments are, on balance, consistent with the following Objectives and Policies of the General Plan, including Objectives and Policies as they are proposed for amendment.

## **COMMERCE AND INDUSTRY ELEMENT**

### **OBJECTIVE 1**

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

#### **Policy 1.2**

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

*The General Plan Amendments will continue to provide guidance on the balance of eating and drinking uses for neighborhood commerce.*

### **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.

*The General Plan Amendments will continue to provide guidance on the balance of eating and drinking uses for neighborhood commerce.*

## **HOUSING ELEMENT**

### **OBJECTIVE 11**

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

#### **Policy 11.8**

Consider a neighborhood's character when integrating new uses, and minimize disruption caused by expansion of institutions into residential areas.

*The General Plan Amendments will provide guidance on the balance of eating and drinking uses for neighborhood commerce.*

NOW, THEREFORE BE IT RESOLVED, that pursuant to Planning Code Section 340, the Planning Commission adopts a Resolution of Intention to initiate amendments to the General Plan of the City and County of San Francisco, in order to update the Commerce and Industry Element of the General Plan.

AND BE IT FURTHER RESOLVED, that pursuant to Planning Code Section 306.3, the Planning Commission authorizes the Department to provide appropriate notice for a public hearing to consider the above referenced General Plan amendment in a draft ordinance approved as to form by the City Attorney contained in Exhibit B, as though fully set forth herein, to be considered at a publicly noticed hearing on or after October 6, 2016.

I hereby certify that the foregoing Resolution was ADOPTED by the City Planning Commission on October 6, 2016.

Jonas Ionin  
Commission Secretary

AYES:

NOES:

ABSENT:

DATE: October 6, 2016



1 [General Plan Amendment - Commerce and Industry Element; Guidelines for Eating and  
2 Drinking Establishments]

3 **Ordinance amending the Commerce and Industry Element of the General Plan to**  
4 **update the guidelines regarding over concentration of Eating and Drinking**  
5 **Establishments in a single area; affirming the Planning Department’s determination**  
6 **under the California Environmental Quality Act; and making findings of consistency**  
7 **with the General Plan and the eight priority policies of Planning Code Section 101.1.**

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

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

14 Section 1. Findings.

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

21 (b) On \_\_\_\_\_, 2016, the Planning Commission, in Resolution No. \_\_\_\_\_,  
22 adopted findings that the actions contemplated in this ordinance are consistent with the City’s  
23 General Plan and the eight priority policies of Planning Code Section 101.1. The Board of  
24 Supervisors adopts these findings as its own. A copy of said Resolution is on file with the  
25

1 Clerk of the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by  
2 reference.

3 (c) Charter Section 4.105 and Planning Code Section 340 provide that the Planning  
4 Commission shall periodically recommend to the Board of Supervisors, for approval or  
5 rejection, proposed amendments to the General Plan in response to changing conditions.

6 (d) Pursuant to Planning Code Section 340, an amendment to the General Plan  
7 may be initiated by a resolution of intention by the Planning Commission referring to, and  
8 incorporating by reference, the proposed General Plan amendment. The Planning  
9 Commission shall adopt the proposed General Plan amendment if, after a public hearing, it  
10 finds from the facts presented that the public necessity, convenience and general welfare  
11 require the proposed amendment or any part thereof. If adopted by the Commission, in whole  
12 or in part, the proposed amendment shall be presented to the Board of Supervisors, which  
13 may approve or reject the amendment by a majority vote.

14 (e) The Commerce and Industry Element sets forth objectives and policies  
15 addressing the broad range of economic activities, facilities and support systems that  
16 constitute San Francisco's employment and service base. The Guidelines for Specific Uses  
17 contained in the Neighborhood Commerce section states that "[t]he balance of commercial  
18 uses may be threatened when eating and drinking establishments occupy more than 20% of  
19 the total occupied commercial frontage," with a higher percentage of 25% for districts such as  
20 North Beach where there is an established pattern of service to a broad market.

21 (f) Planning Code Section 303(o) states that the existing concentration of eating  
22 and drinking uses in an area should not exceed 25% of the total commercial frontage within  
23 300 feet of the establishment and within the same zoning district.

24 (g) Because there is specific language in the Planning Code regarding  
25 concentration of eating and drinking uses in an area, the proposed amendments to the

1 General Plan will replace the existing specific language in the Guidelines with general policy  
2 statements regarding the impacts of clustering.

3 (h) At a public hearing held on \_\_\_\_\_2016, the Planning Commission adopted  
4 Motion No. \_\_\_\_\_ initiating the proposed amendment to the General Plan. At a public  
5 hearing held on \_\_\_\_\_2016, the Commission adopted Resolution No. \_\_\_\_\_,  
6 finding that the proposed General Plan amendment serves the public necessity, convenience  
7 and general welfare and recommending the amendment to the Board of Supervisors.

8 (i) In a letter dated \_\_\_\_\_, 2016, the Planning Department transmitted to the  
9 Board of Supervisors the proposed General Plan amendment and the Planning Commission’s  
10 adoption actions. The Board received this transmittal on \_\_\_\_\_, 2016 and it is on file  
11 with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

12 (j) The Board of Supervisors finds, pursuant to Planning Code Section 340, that the  
13 proposed General Plan amendment will serve the public necessity, convenience and general  
14 welfare for the reasons set forth in Planning Commission Resolution No. \_\_\_\_\_ and  
15 incorporates those reasons herein by reference.

16  
17 Section 2. The General Plan is hereby amended by revising the text of the Commerce  
18 and Industry Element, to read as follows:

19 **Neighborhood Commerce**  
20 **Objective 6**  
21 **Maintain and Strengthen Viable Neighborhood Commercial Areas Easily Accessible to**  
22 **City Residents.**

23 \* \* \* \*

24

25

1 **POLICY 6.1**

2 Ensure and encourage the retention and provision of neighborhood-serving goods and  
3 services in the city's neighborhood commercial districts, while recognizing and encouraging  
4 diversity among the districts.

5 \* \* \* \*

6 **GUIDELINES FOR SPECIFIC USES**

7 \* \* \* \*

8 **Eating and Drinking Uses**

9 \* \* \* \*

10 In districts where the proliferation of eating and drinking establishments could generate  
11 problems, the following guidelines should be employed in the consideration of new  
12 establishments, relocations, changes from one kind of eating and drinking establishment to  
13 another (e.g. from self-service restaurant to full-service restaurant), expansion or  
14 intensification of existing establishments:

- 15 • The establishment should not add to an overconcentration of eating and drinking  
16 establishments in a single district. The balance of commercial uses may be threatened  
17 when eating and drinking establishments occupy *more than 20% of the total occupied a*  
18 *high percentage of* commercial frontage. Proposals for eating and drinking establishments  
19 which would increase the proportion of total occupied commercial frontage above *20%*  
20 *what is prescribed in the Planning Code* should be reviewed to ensure that they would not  
21 reduce the variety of neighborhood-serving uses; nor create substantial noise, traffic,  
22 parking problems, or other nuisances in the district or surrounding neighborhood. Those  
23 establishments that would do the above should not be permitted. Except in districts with  
24 an established pattern of service to a broad market, such as North Beach, such  
25 establishments *could occupy a higher percentage than other commercial districts should not*

1 ~~occupy more than 25% of the total commercially occupied frontage in a district.~~ To minimize  
2 the problems they can create, eating and drinking uses should generally be at least 100  
3 feet apart from each other, unless there are factors making clustering of uses  
4 appropriate. For example, a configuration of clustered eating and drinking uses where  
5 off-street parking is shared might be more appropriate than an even distribution of such  
6 establishments.

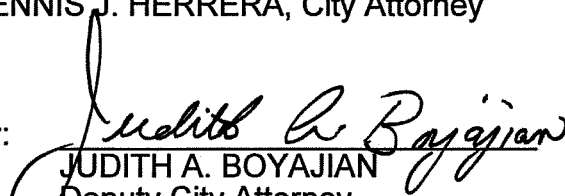
7 \* \* \* \*

8  
9 Section 3. Effective Date. This ordinance shall become effective 30 days after  
10 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
11 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
12 of Supervisors overrides the Mayor's veto of the ordinance.

13  
14 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
15 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
16 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the General  
17 Plan that are explicitly shown in this ordinance as additions, deletions, Board amendment  
18 additions, and Board amendment deletions in accordance with the "Note" that appears under  
19 the official title of the ordinance.

20  
21 APPROVED AS TO FORM:  
22 DENNIS J. HERRERA, City Attorney

23  
24 By:

  
25 JUDITH A. BOYAJIAN  
Deputy City Attorney  
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