



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: MARCH 10, 2016
EXPIRATION DATE: MARCH 22, 2016

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Project Name: **Permitting Accessory Massage Uses, with a Conditional Use Permit, in the North of Market Residential Special Use District**

Case Number: **2015-018261PCA [Board File No. 151280]**

Initiated by: Supervisor Kim / Introduced December 15, 2016

Staff Contact: Diego R Sánchez, 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

Recommendation: **Recommend Approval**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend Planning Code Section 249.5 to permit, with Conditional Use Authorization (CU), massage uses accessory to a Personal Service use in the North of Market Residential Special Use District.

The Way It Is Now:

Massage uses are not permitted in the North of Market Residential Special Use District unless they are accessory to the following uses:

- Hospitals
- Residential Care Facilities
- Health Services
- Social Service or Philanthropic Facility uses; and
- health clubs, gymnasiums or other facilities with a regular membership or one which is used primarily for instruction in body building, exercising, reducing sports, dancing or other similar physical activities.

The Way It Would Be:

In addition to the uses listed above, massage uses accessory to a Personal Service use would also be permitted, with CU, in the North of Market Residential Special Use District.

BACKGROUND

The North of Market Residential Special Use District

Established in 1985, the North of Market Residential Special Use District (NMRSUD) is within the Tenderloin neighborhood (See Exhibit B: Map of the North of Market Residential Special Use District). This neighborhood, largely zoned RC-4 (Residential-Commercial, High Density), is characterized by buildings with upper story residential uses above commercial uses. The stated purpose of the NMRSUD

is to preserve the residential character of the neighborhood by protecting the existing housing stock and allowing new infill housing at compatible densities. Commercial developments that may adversely affect the residential character are to be limited.

The purpose of the NMRSUD is reflected in the additional controls the NMRSUD establishes. For example, commercial uses are generally limited to the ground floor and the first basement floor. They may locate on the second floor, but require CU to do so. This is done, in part, to prevent the loss of upper story residential units and to maintain the prevailing character of the neighborhood.

The NMRSUD also regulates the types of commercial uses that may be established. It generally prohibits new off-sale liquor licenses and contains multiple good neighbor policies for those existing off-sale liquor establishments. In the same vein, fringe financial uses are prohibited in the NMRSUD. Massage establishments in the NMRSUD are also strictly regulated as it has been found that they are, at times, used as fronts for illicit activity.¹ Unless they are accessory to institutional uses like hospitals or retail uses focused on physical activities massage uses are prohibited

Origins of the Ordinance

The Ordinance originated from a stakeholder request to Supervisor Kim's office requesting a relaxation of the massage controls in the NMRSUD. Staff understands that the stakeholder is establishing a therapeutic health spa in the NMRSUD. Activities will include hot water baths, steam rooms and massage therapy. However, because massage therapy is prohibited when incidental to those activities the stakeholder cannot offer those services. The Ordinance would permit massage therapy incidental to those uses with CU and apply specific operating practices to the massage component.

ISSUES AND CONSIDERATIONS

Use Definitions: Personal Service, Health Service and Massage Establishments

The Planning Code defines a Personal Service use as a use providing grooming services to an individual. Salons, cosmetic services and tattoo parlors fall into this category. The Planning Code also considers retail uses that provide traditional therapeutic treatments, such as bathhouses and steam rooms, as Personal Service uses. The Planning Code distinguishes between these traditional therapeutic uses and health care services provided by professionals licensed by State-sanctioned Boards such as physicians, dentists and psychologists. The Planning Code considers the later as Health Service uses.

The Planning Code also provides a distinct definition for Massage Establishments. This definition relies on Article 29 of the Health Code to define the types and nature of activities that are considered massage. In this definition the Planning Code indicates that CU is required to establish a massage use anywhere in

¹ "Sex Trafficking." *Polaris Project*. Polaris 2016. Web. 16 February 2016. <https://polarisproject.org/sex-trafficking>; "Hotline Statistics." *National Human Trafficking Resource Center*. Polaris 2016. Web. 16 February 2016. <https://traffickingresourcecenter.org/states>; Environmental Health Protection, Equity and Sustainability Branch. San Francisco Department of Public Health. Report on Licensing and Regulation of Massage Establishments in San Francisco. 2013. <https://www.sfdph.org/dph/files/EHSdocs/ehsMassagedocs/massage%20establishment%20report%20140224.pdf>

the City. However, it also lists a number of massage uses exempted from the CU requirement. These include chair massage completely open to the public view, a Sole Practitioner Massage Establishment, as defined in the Health Code, and massage accessory to large institutions or large tourist hotels.

Recent Massage Regulation

Regulations for massage uses must strike a balance between two competing goals. The first is to recognize the importance of massage therapy as a healing art and increase its accessibility to those in need of treatment. The second is to equip the City with adequate regulatory tools to assure the safe, legitimate and compatible operation of massage uses.

Over the last decade and a half, the regulatory environment for massage uses has markedly changed, largely influenced by that balancing act. For example, prior to 2004 regulatory authority over massage uses was primarily the domain of the Police Department. This was largely due to the City's view of massage therapy as an off-shoot of adult entertainment.² The City signaled a change in its perspective on massage when it entrusted the Department of Public Health (DPH) with permitting authority over massage uses in 2004.³ By shifting authority to DPH and away from the Police Department, the City acknowledged that massage therapy was unmistakably different from adult entertainment. It also acknowledged DPH's capacity to regulate and enforce the health and safety standards of a therapeutic discipline.

A more recent example of this balancing act is embodied in Supervisor Tang's 2015 Massage Establishments Ordinance.⁴ This Ordinance reestablished the CU requirement for most massage uses and required all massage practitioners and establishments to secure licenses from DPH. These requirements afforded a public process to assess necessity and desirability of the massage use and assure neighborhood compatibility given an area's existing retail composition. It also provided an effective enforcement tool given that the authorization is revocable in the event of code violations. Lastly, with the involvement of DPH, additional oversight was provided, thereby further assuring safe and legitimate operations. These enforcement tools are valuable to the effort to prevent the use of massage establishments as fronts for forced labor and prostitution.⁵

At the same time, the Ordinance maintained and expanded upon the breadth of massage uses exempted from the CU requirement. This created a simpler permitting process for smaller scale massage uses. The Ordinance also created an amnesty program for massage establishments that had not secured local land use entitlements. This helped bring massage uses under one local regulatory program.

² The Planning Code considers adult bookstores, adult theaters and encounter studios (establishments providing booths, rooms or stalls wherein an entertainer provides entertainment to patrons or members within the aforesaid booths, rooms or stalls) as adult entertainment uses.

³ Board File 030995 <https://sfgov.legistar.com/View.ashx?M=F&ID=2600565&GUID=4DC26B04-364E-4A7B-AEB5-190B271594F3>

⁴ Board File 141303 <https://sfgov.legistar.com/View.ashx?M=F&ID=3770126&GUID=E2B7CDFC-A9B7-41CA-AAD6-8B1349DD9BB9>

⁵ "Sex Trafficking." *Polaris Project.*; "Hotline Statistics." *National Human Trafficking Resource Center.*

New massage regulations should follow this pattern of providing new access to massage therapy while affording regulatory agencies the proper tools to assure safe operations and neighborhood compatibility. By doing this, the City facilitates the growth of small business in a manner that balances the needs of all stakeholders.

IMPLEMENTATION

The Department has determined that this ordinance will not impact our current implementation procedures.

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 Department supports the Ordinance because it increases access to a therapeutic service and fosters small business expansion. It also provides the City with adequate regulatory and enforcement mechanisms to assure safe operation and neighborhood compatibility.

Organization and Consistency of Controls

Locating the proposed new massage regulations in the “Controls” subsection of the NMRSUD eases their implementation and the overall legibility of the NMRSUD. It avoids referencing multiple subsections of the NMRSUD and minimizes missing the new controls. This is contrast to a 2007 Ordinance that added fringe financial controls in its own subsection at the end of the NMRSUD.⁶

The proposed new massage regulations also generally align with existing provisions on accessory uses in the RC districts. The vast majority of properties in the NMRSUD are within the RC-4 zoning district. Planning Code Section 204.3, Accessory Uses for Uses other than Dwellings in C, RC, M and PDR Districts, already regulates accessory uses in the RC-4. Because these regulations exist, it makes sense to require any newly allowed accessory use, including massage uses, to generally conform to these controls.

The proposed new massage regulations also align with the hours of operation in existing Health Code regulations. San Francisco Health Code Section 29.31 regulates the operating practices for massage uses throughout the City. Among those operational practices regulated are the hours of operation. The

⁶Board File 070671 <https://sfgov.legistar.com/View.ashx?M=F&ID=2593950&GUID=5810D993-093D-4242-AD5D-26C2660672C1>

Health Code expressly prohibits the provision of massage services between the hours of 10:00pm and 7:00am. The Planning Department's standard Conditions of Approval for massage uses also adhere to these restrictions on hours of operation. For consistency's sake, it is reasonable to align the new accessory provisions in the NMRSUD with existing, City-wide regulations on the hours of operation.

Owning to the subordinate and incidental nature of accessory uses, it is important that they are inaccessible to the public when the principal use is closed. If the accessory use remains open beyond the hours of operation of the principal use, the accessory use becomes the primary use of that space. This would be in direct conflict with the Planning Code's intent for accessory uses. The proposed language in the Ordinance that reinforces this relation between accessory and principal use is therefore important and helps clarify this dynamic.

Conditional Use Authorization

Maintaining the CU requirement is advantageous or appropriate for a number of reasons. The first is the public nature of the process, including the neighborhood notification and Commission hearing. This process helps to filter less scrupulous or thoughtful proposals. This is especially important in Tenderloin neighborhood, given recent DPH findings of the overlap between massage establishment locations and areas with higher incidences of prostitution related crimes.⁷

The second reason maintaining CU is appropriate is because it is in line with the recent changes to massage regulation and their intentions. Specifically, Supervisor Tang's 2015 Massage Establishments Ordinance reinstated the citywide CU requirement for the majority of massage uses. This ensured that neighborhood concentration and compatibility concerns can be analyzed and discussed in a public forum. This tool can be especially useful in the Tenderloin neighborhood given the stated purpose of the NMRSUD.

Lastly, requiring CU is advantageous and appropriate because of the Conditions of Approval the Planning Commission applies to the authorization. These Conditions set a minimum performance standard, establish a monitoring and enforcement protocol, indicate the revocability of the authorization and require the identification of a community liaison. For massage uses the Conditions of Approval are tailored to assist in the enforcement duties of the Planning Department. They also reiterate that the authorization may be revoked and the establishment closed. This is ultimately the strongest tool the Planning Department has to guarantee safe and legitimate operation of any massage use.

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.

⁷ San Francisco Department of Public Health. Report on Licensing and Regulation of Massage Establishments in San Francisco. 2013.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

RECOMMENDATION: Recommendation of Approval with Modification
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Map of the North of Market Residential Special Use District
- Exhibit C: Letters of Support
- Exhibit D: Board of Supervisors File No. 151280



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution

HEARING DATE MARCH 10, 2016

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diego.sanchez@sfgov.org, 415-575-9082

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

Recommendation: **Recommend Approval**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTION 249.5 TO PERMIT ACCESSORY MASSAGE USES, WITH CONDITIONAL USE PERMIT, IN THE NORTH OF MARKET RESIDENTIAL SPECIAL USE DISTRICT; 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 December 15, 2016 Supervisor Kim introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 151280, which would amend Section 249.5 of the Planning Code to permit accessory massage uses, with conditional use permit, in the North of Market Residential Special Use District;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on March 10, 2016; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c); 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

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve** the proposed ordinance.

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. Regulations on massage uses must strike a balance between the need to increase access to massage therapy with the need to equip the City with adequate regulatory tools to assure the safe, legitimate and compatible operation of massage uses.
2. The City can strike that balance between competing needs in two ways. First, by enacting regulations that allow for smaller scaled massage uses to open in areas where they were once largely prohibited. Second, by concurrently requiring a permitting process that is transparent and an approval that is revocable and that applies performance standards to ensure safe operation.
3. Amending the regulations in the North of Market Residential Special Use District to allow accessory massage uses with Conditional Use authorization strikes this balance.
4. **General Plan Compliance.** The proposed Ordinance is 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.

Policy 1.2

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

The proposed Ordinance will facilitate the establishment of a retail use that provides net benefits to its patrons and the neighborhood in general. Any potential undesirable consequences will be addressed through existing regulatory controls, including performance standards, by the Planning and Health Departments.

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.

Policy 2.3

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

The proposed Ordinance allows new commercial activity in a special use district where it once was largely prohibited. This added commercial activity will help maintain a favorable social and cultural climate in San Francisco as it adds to the number of retail activities available to employees. This enhances San Francisco as a firm location.

5. **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 will have a beneficial effect on neighborhood serving retail uses as it will allow new commercial uses to locate in the North of Market Residential Special Use District and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

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 will help conserve the existing housing and neighborhood character, thereby preserving the cultural and economic diversity of the City's neighborhoods.

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

The proposed Ordinance will not have an adverse effect on the City's supply of affordable housing as it relates only to regulations on non-residential activities.

4. That commuter traffic 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 because the Ordinance concerns itself with regulations on a minor, accessory retail activity.

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 will 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 because the Ordinance will relax regulations on a retail sales and service use within one special use district.

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

The proposed Ordinance will not have an adverse effect on City's preparedness against injury and loss of life in an earthquake because the Ordinance modifies regulations on a retail activity.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance will not have an adverse effect on the City's Landmarks and historic buildings because the Ordinance concerns itself with regulating a retail sales and service use category.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance will not have an adverse effect on the City's parks and open space and their access to sunlight and vistas because it concerns the regulation of a retail sales and service use.

- 8. 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.

Resolution XXXXXX
March 10, 2016

CASE NO. 2015-018261PCA
Permitting Accessory Massage Uses, with a Conditional Use
Permit, in the North of Market Residential Special Use District

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on March 10, 2016.

Jonas P. Ionin
Commission Secretary

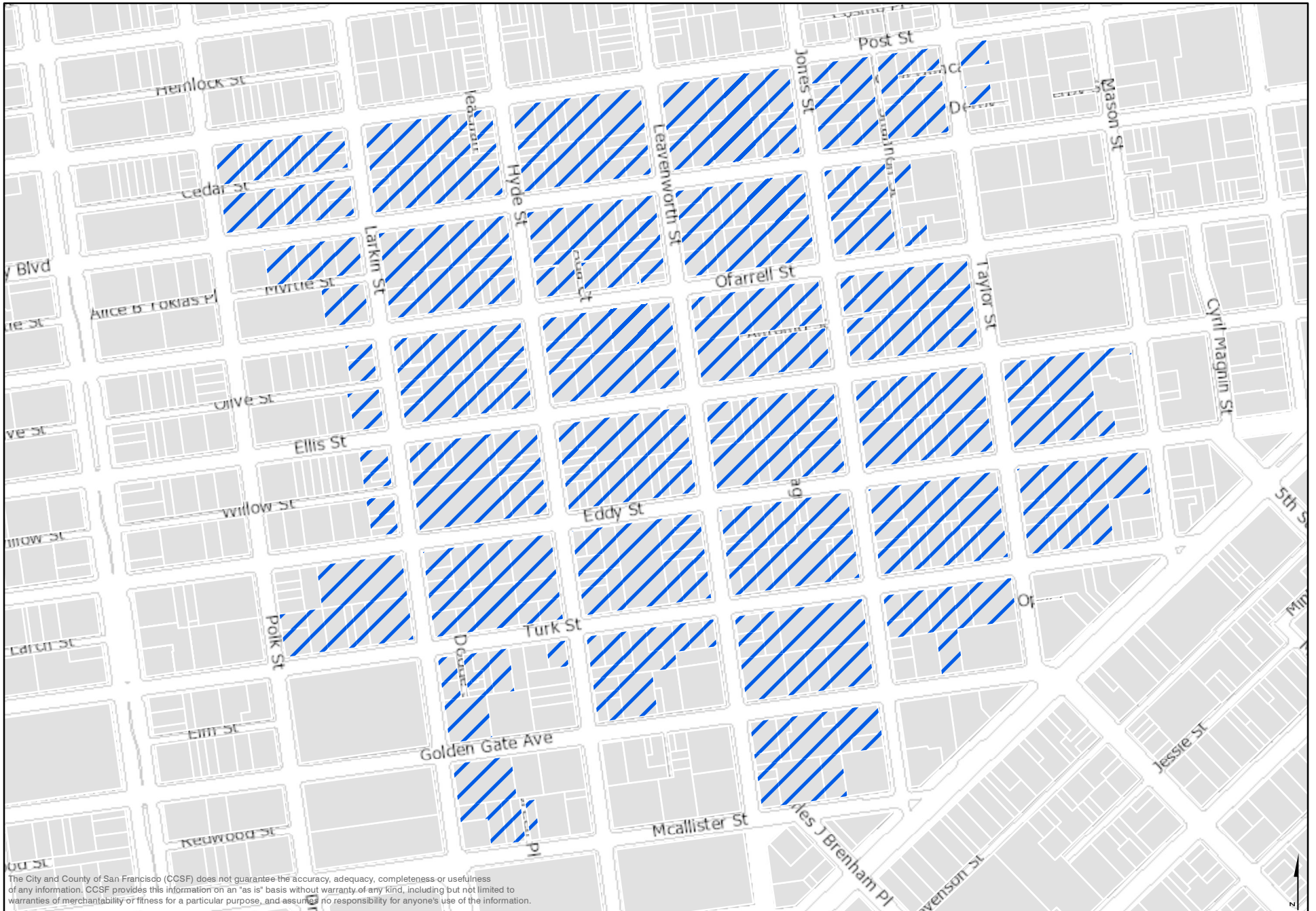
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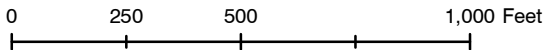
ABSENT:

ADOPTED: March 10, 2016

North of Market Residential Special Use District



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December 10th, 2015

San Francisco Board of Supervisors
1 Dr. Carleton B. Goodlett Place #244
San Francisco, CA 94102

To Whom It May Concern,

I own the Adrian Hotel on Eddy Street in the Tenderloin. I recently found out that there is a new business going into the building across the street, which will be a spa and restaurant called Onsen Spa and Tea Room. I am very supportive of a business like this coming into the Tenderloin. It sounds like they will run a good, clean business, which will be good for my hotel and help out the neighborhood. I have dealt with so many issues around crime, safety and cleanliness. A solid business like this spa, which I understand won't be like other massage parlors that have been a problem here, will be really good for the neighborhood.

Please offer your support to this new business. We need to bring more businesses like this into the neighborhood.

A handwritten signature in black ink, appearing to read 'S. Patel', written in a cursive style.

Sukhdev Patel
Owner, Adrian Hotel

November 30, 2015

City and County of San Francisco Board of Supervisors
1 Dr. Carleton B. Goodlett Place #244
San Francisco, CA 94102

Dear San Francisco Board of Supervisors,

I am writing to encourage your support for a new, dynamic Tenderloin business, Onsen Holistic Spa and Tea Room, led by co-owners Caroline Smith and Sunny Simmons. Having engaged with them at local community gatherings, I can vouch for their amazing business plan and leadership. Their incredible spa and delicious Japanese restaurant will be a force of light in the Tenderloin.

As co-owner and Executive Director of PianoFight, a Tenderloin comedy club, I want more small businesses to plant roots in the neighborhood and succeed. It is imperative that we do all we can to support them. It is such a challenge to get a business up and running in this neighborhood.

Caroline and Sunny have expressed their current hurdle regarding zoning restrictions, which impact the massage component of their business. Healthy, vibrant, legal spas must offer massage services. It is critical to the entire spa experience. Onsen Holistic Spa and Tea Room draws business model inspiration from Kabuki Springs and Archimedes Banya, two highly successful and esteemed San Francisco spas. There is nothing illegal or illicit about Onsen's massage activity in their business. They are legit and should be fully supported. Any exemption that they can be granted to carry out their business is critical.

I appreciate your consideration of their zoning plight. I hope you can support their business fully and help the Tenderloin economy and people thrive.

Best regards,

A handwritten signature in black ink, appearing to read 'Dan Williams', with a long horizontal flourish extending to the right.

Dan Williams
Executive Director, PianoFight



UNIVERSITY OF CALIFORNIA
HASTINGS COLLEGE OF THE LAW

DAVID N. SEWARD
Chief Financial Officer

November 10, 2015

City and County of San Francisco Board of Supervisors
1 Dr. Carleton B. Goodlett Place, Room #244
San Francisco, CA 94102

Re: Onsen Spa and Tea Room

Dear City and County of San Francisco Board of Supervisors:

As the Chief Financial Officer at UC Hastings, the well-being of our students along with their engagement with the community is paramount. Students are contributory to the vibrancy and livability of the Tenderloin. Promoting greater levels of student interaction is a priority, but quite frankly, many still find the Tenderloin intimidating and have skirted its borders, hesitant to venture to explore the neighborhood's hidden jewels. But then again, these attractions are limited as the Tenderloin lacks many amenities that one would expect to find in a densely residential neighborhood in the urban core of a world-class city.

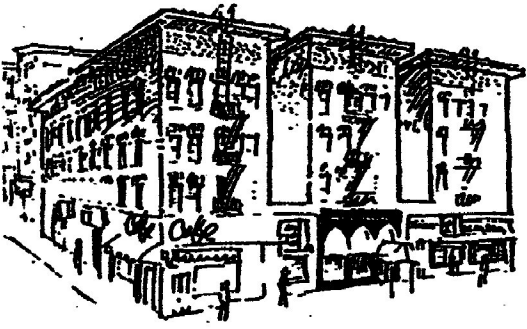
But progress is everywhere. Geary and O'Farrell Streets are examples of positive activation with its bars and restaurants. Taylor Street is displaying signs of resurgence with the Piano Fight venue and the prospect of dramatic change with development plans and construction in progress at Turk and Taylor Streets. New music, drama and dance venues, a museum and art galleries all hold great appeal to our students, many of whom are attracted to UC Hastings because of its location and institutional commitment to public interest and public service. Our students also "give back" providing pro bono and other legal services to the neighborhood's residents, nonprofits, courts and government agencies.

I am aware of another new business, the Onsen Spa and Tea Room. While we understand that zoning issues exist, we support their efforts seeking waiver from these restrictions as this neighborhood needs more socially responsible businesses. The reasons supporting Onsen Spa are two-fold: helping improve our students' lives and promoting a neighborhood needing a greater array community serving amenities. Onsen Spa would help students decompress, offering respite from the pressures of academic rigor. They need an oasis not only from the intensity of their studies, but also of the street intensity of the Tenderloin and Mid-Market.

Additionally, I serve on the board of directors of the Tenderloin Economic Development Project and the Tenderloin Community Benefits District supporting economic development and small business. Small business is the fabric of the neighborhood providing opportunities for recent immigrants, families and young entrepreneurs alike. Patrons of Onsen will attract individuals with the disposable income needed to also support other small businesses thereby enhancing the overall livability of the neighborhood.

Sincerely,


David Seward



reality house west

cadillac hotel 380 eddy street, san francisco, 94102, 415-673-7223

November 3, 2015

San Francisco Board of Supervisors
1 Dr. Carleton B. Goodlett Place #244
San Francisco, CA 94102

Dear Board of Supervisors,

I am writing to express my enthusiastic support for the new Onsen Holistic Spa and Tea Room set to open in the Tenderloin at 466 Eddy Street in spring 2016. Having been a non-profit and property owner at the Cadillac Hotel for decades and actively serving on multiple community boards—including, TLCBD and Uptown Tenderloin, I am fully committed to change in this neighborhood and bringing in legitimate businesses to generate neighborhood economic development.

I've met with Onsen owners, Caroline Smith and Sunny Simmons, and talked at length about their business plans. I am so excited at the prospect of their foothold in the Tenderloin. The opportunity to expand the reach of outside people coming into our area would be incredible with their business draw. Folks coming in for their massage & acupuncture treatments and use of the spa pools & restaurant could visit other local businesses nearby like the Tenderloin Museum, Center for New Music etc. It's imperative that our local businesses are diverse and cross-fertilize to generate more economic development, which is critical to crime and drug dealing reduction. Drug dealers don't loiter in front of active, dynamic legitimate businesses in the TL—crime goes down substantially. Onsen will also be busy in the day and night, which is so important and can dramatically change negative views that people have about neighborhood safety.

Onsen Spa and Tea Room is the perfect business for the Tenderloin and builds on our years of hard work and persistence to make this neighborhood safer and more habitable. We must support businesses like this to keep changing and improving the neighborhood. Onsen also offers reduced acupuncture treatments for low-income residents, which is amazing and shows their true commitment to community integration. We must all work together and support businesses like Onsen to make the Tenderloin a true destination and a safe, welcoming place.

Sincerely yours,


Katherine Looper
Owner, Cadillac Hotel

November 30, 2015

City and County of San Francisco Board of Supervisors
1 Dr. Carleton B. Goodlett Place #244
San Francisco, CA 94102

Dear San Francisco Board of Supervisors,

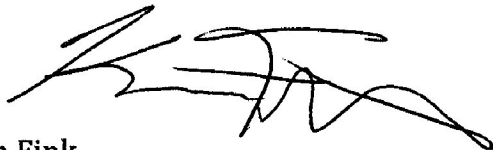
I am writing to encourage your support for a new, dynamic Tenderloin business, Onsen Holistic Spa and Tea Room, led by co-owners Caroline Smith and Sunny Simmons. Having engaged with them at local community gatherings, I can vouch for their amazing business plan and leadership. Their incredible spa and delicious Japanese restaurant will be a force of light in the Tenderloin.

As co-owner and Financial Director of PianoFight, a Tenderloin comedy club, I want more small businesses to plant roots in the neighborhood and succeed. It is imperative that we do all we can to support them. It is such a challenge to get a business up and running in this neighborhood.

Caroline and Sunny have expressed their current hurdle regarding zoning restrictions, which impact the massage component of their business. Healthy, vibrant, legal spas must offer massage services. It is critical to the entire spa experience. Onsen Holistic Spa and Tea Room draws business model inspiration from Kabuki Springs and Archimedes Banya, two highly successful and esteemed San Francisco spas. There is nothing illegal or illicit about Onsen's massage activity in their business. They are legit and should be fully supported. Any exemption that they can be granted to carry out their business is critical.

I appreciate your consideration of their zoning plight. I hope you can support their business fully and help the Tenderloin economy and people thrive.

Best regards,

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Kevin Fink
Financial Director, PianoFight



November 3, 2015

City and County of San Francisco Board of Supervisors
1 Dr. Carleton B. Goodlett Place #244
San Francisco, CA 94102

Dear Board of Supervisors,

As a Tenderloin property owner for many years, I want the best for this neighborhood to improve the life of my tenants. I want the streets of the Tenderloin to be clean and safe. I've been working with Randy Shaw at the Tenderloin Housing Clinic to help support new efforts to make this neighborhood better and contributed to the creation of the Tenderloin Museum.

It is my understanding that there is a new spa, Onsen Holistic Spa and Tea Room, coming into the neighborhood, which promises to help improve the area. I welcome a business like this and have heard that they are not engaged in any illegal activity, which has been the case with other spas, particularly on Larkin St. As a property owner, I do not support any illegal activity in the Tenderloin. I offer my support for a legal business like Onsen Holistic Spa and Tea Room.

Please grant them whatever exemption they need to succeed. It is important to draw new businesses into the Tenderloin.

Thanks for any help you can provide to this business.

Sincerely,

Neveo Mosser

Mosser Companies

308 Jessie Street
San Francisco, CA 94103

Telephone 415.284.9000
Fax. 415.284.9020

www.mosserco.com

November 30, 2015

City and County of San Francisco Board of Supervisors
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I am writing to encourage your support for a new, dynamic Tenderloin business, Onsen Holistic Spa and Tea Room, led by co-owners Caroline Smith and Sunny Simmons. Having engaged with them at local community gatherings, I can vouch for their amazing business plan and leadership. Their incredible spa and delicious Japanese restaurant will be a force of light in the Tenderloin.

As co-owner and Artistic Director of PianoFight, a Tenderloin comedy club, I want more small businesses to plant roots in the neighborhood and succeed. It is imperative that we do all we can to support them. It is such a challenge to get a business up and running in this neighborhood.

Caroline and Sunny have expressed their current hurdle regarding zoning restrictions, which impact the massage component of their business. Healthy, vibrant, legal spas must offer massage services. It is critical to the entire spa experience. Onsen Holistic Spa and Tea Room draws business model inspiration from Kabuki Springs and Archimedes Banya, two highly successful and esteemed San Francisco spas. There is nothing illegal or illicit about Onsen's massage activity in their business. They are legit and should be fully supported. Any exemption that they can be granted to carry out their business is critical.

I appreciate your consideration of their zoning plight. I hope you can support their business fully and help the Tenderloin economy and people thrive.

Best regards,

A handwritten signature in black ink, appearing to read 'Rob Ready', with a stylized flourish extending from the end.

Rob Ready
Artistic Director, PianoFight

TENDERLOIN HOUSING CLINIC

RANDALL M. SHAW
STEPHEN L. COLLIER
RAQUEL FOX
MATT MCFARLAND
JOSEPH K. BARBER

126 Hyde Street
San Francisco, CA 94102
Tel. (415) 771-9850
Fax. (415) 771-1287

Contact:

Email: randy@thclinic.org
Phone: 771-9850 ext. 117

November 4, 2015

VIA U.S. MAIL

City and County of San Francisco Board of Supervisors
1 Dr. Carleton B. Goodlett Place #244
San Francisco, CA 94102

Dear Board of Supervisors,

I am writing to express my support for the Onsen Holistic Spa and Tea Room. I've been working actively with owners, Caroline Smith and Sunny Simmons, to support their new business and conduct community outreach. Their business plan is solid, substantial and well-deserving of unanimous support in its entirety.

Unfortunately, Onsen owners, Caroline and Sunny, are being negatively impacted by zoning restrictions for massage service offerings in the Tenderloin. I fully support the City's efforts to eliminate illegal massage services in the neighborhood. I've been actively involved in that crusade. Illegal massage businesses have been terrible for the neighborhood and diminish our efforts to change and beautify the area. We definitely want the zoning crackdown for illegal activity, but must make an exemption for legal businesses like Onsen Holistic Spa.

Their business plan modeled after Kabuki Springs & Spa in Japantown offers successful, legitimate business practice—zero illegal massage activity. Onsen offers a wide range of spa treatments and a restaurant featuring first-class Japanese cuisine. This business will bring people into the neighborhood who might never have ventured here before. This is critical to everything we've been doing in this neighborhood for years to clean up the area and breathe new life into the streets. We've got to bring new people into the Tenderloin to purchase goods & services at dynamic, local businesses.

Many new businesses including the Tenderloin Museum, Counterpulse, PianoFight, Jessica Silverman's gallery and other non-profits will benefit tremendously from Onsen Holistic Spa. Not only will Onsen's presence raise awareness about neighborhood change to dispel negative perceptions, but we can all feed off each other and get more revenue circulating. The result: economic growth to support current businesses driving interest in future business ventures.

November 4, 2015

Page 2

In summary, it is critical that Onsen Holistic Spa and Tea Room is granted a special exemption from the zoning restrictions for massage in the Tenderloin. We want their business here. They will greatly improve our chances for success. Please let me know if there is any further assistance I can provide to make their case.

Best regards,



Randy Shaw, Executive Director
Tenderloin Housing Clinic

Tim Colen
2256 Edgehill Way
San Francisco, CA 94127
timcolen@gmail.com

November 23, 2015

President London Breed and
Members of the San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear President Breed,

I am writing to express my full support for Onsen Holistic Spa and Tea Room. I had the opportunity to meet recently with Mr. Sunny Simmons, one of the owners, and to tour the construction project currently underway. The Simmons have taken a historic brick building and are investing to convert it into a very attractive holistic spa and restaurant. My understanding is that their spa will offer acupuncture, massage, facials and communal bathing amenities. They will also have a wide range of teas and Japanese inspired food.

I respectfully urge you to support the massage element of their business. I am aware of the issues surrounding massage and support San Francisco's efforts in eradicating any illegitimate businesses. I enjoy spas myself and have been a client for many years at Kabuki Springs and Spa in Japantown. The Onsen Spa will be a legitimate business and should be allowed to include massage as a service to customers. Their plans also include a sliding-scale acupuncture program that would serve the community.

I believe that Onsen Spa will become a valued asset to the Tenderloin community – it will bring new customers who would provide welcome street activation to a neighborhood that very much needs it. Having more foot traffic to the neighborhood will increase economic activity and street safety.

Please support wellness and a new small business in the Tenderloin.

Sincerely,



Tim Colen

CC Randy Shaw, THC
Sunny Simmons, Onsen Spa

1 [Planning Code - Permitting Accessory Massage Uses with a Conditional Use Permit in the
2 North of Market Residential Special Use District]

3 **Ordinance amending the Planning Code to permit accessory massage uses, with a**
4 **Conditional Use permit, in the North of Market Residential Special Use District;**
5 **affirming the Planning Department's determination under the California Environmental**
6 **Quality Act; and making findings, including findings of public necessity, convenience,**
7 **and welfare under Section 302 of the Planning Code, and findings of consistency with**
8 **the General Plan and the eight priority policies of Planning Code Section 101.1.**

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

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

18 Section 1. Findings.

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

24 (b) On _____, the Planning Commission, in Resolution No. _____,
25 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
the Board of Supervisors in File No. _____, and is incorporated herein by reference.

1 (c) On _____, the Planning Commission, in Resolution No. _____, approved
2 this legislation, recommended it for adoption by the Board of Supervisors, and adopted
3 findings that it will serve the public necessity, convenience, and welfare. Pursuant to Planning
4 Code Section 302, the Board adopts these findings as its own. A copy of said Resolution is
5 on file with the Clerk of the Board of Supervisors in File No. _____, and is incorporated by
6 reference herein.

7
8 Section 2. The Planning Code is hereby amended by revising Section 249.5, to read
9 as follows:

10 **SEC. 249.5. NORTH OF MARKET RESIDENTIAL SPECIAL USE DISTRICT.**

11 (a) General. A special use district entitled the "North of Market Residential Special
12 Use District," which includes RC-4 and P Use Districts, the boundaries of which are shown on
13 Sectional Map No. SU01 of the Zoning Map of the City and County of San Francisco, is
14 hereby established for the purposes set forth below.

15 (b) Purposes. In order to protect and enhance important housing resources in an area
16 near downtown, conserve and upgrade existing low and moderate income housing stock,
17 preserve buildings of architectural and historic importance and preserve the existing scale of
18 development, maintain sunlight in public spaces, encourage new infill housing at a compatible
19 density, limit the development of tourist hotels and other commercial uses that could
20 adversely impact the residential nature of the area, and limit the number of commercial
21 establishments which are not intended primarily for customers who are residents of the area,
22 the following controls are imposed in the North of Market Residential Special Use District.

23 (c) Controls. The following zoning controls are applicable in the North of Market
24 Residential Special Use District. Certain controls are set forth in other Sections of this Code
25 and are referenced herein.

1 (1) Conditional Use Criteria. In making determinations on applications for
2 Conditional Use authorizations required for uses located within the North of Market
3 Residential Special Use District, the Planning Commission shall consider the purposes as set
4 forth in Subsection (b) above, in addition to the criteria of Section 303(c) of this Code.

5 (2) Notwithstanding the Zoning Control Table for RC Districts found in Section
6 209.3 of this Code, commercial establishments shall be limited to the ground floor and the first
7 basement floor, except that such establishments may be permitted on the second story as a
8 conditional use if authorized pursuant to Section 303 and Section 249.5(c)(1) of this Code.

9 (3) The following uses are not permitted:

10 (A) A Hotel or Motel; and

11 (B) Massage Establishments which are not incidental to Hospitals,
12 Residential Care Facilities, Health Services, *Personal Services* and Social Service or
13 Philanthropic Facility uses or are not incidental to a health club, gymnasium or other facility
14 with a regular membership or other facility which is used primarily for instruction and training
15 in body building, exercising, reducing, sports, dancing or other similar physical activities. For
16 those massage establishments incidental to Personal Services, the following shall apply:

17 (i) the Massage Use shall obtain a Conditional Use Authorization
18 pursuant to Section 303(n) of this Code;

19 (ii) The Massage Use shall comply with the accessory use provisions
20 of Section 204.3 of this Code, except that in no case shall the Massage Use occupy more than 1,000
21 square feet of occupied floor area of the Personal Service use;

22 (iii) The Massage Use must be functionally integrated into the
23 operation of the Personal Service use and cannot function independently of the Personal Service use,
24 including having hours of operation that exceed those of the Personal Service use. In no case may the
25 Massage Use operate during the hours between 10:00 pm and 7:00 am.

1 (4) In the portion of the area designated as Subarea No. 1 of the North of Market
2 Residential Special Use District, as shown on Section Map No. SU01 of the Zoning Map, the
3 density ratio shall be one dwelling unit for each 125 square feet of lot area; in Subarea No. 2,
4 as shown on Section Map No. SU01 of the Zoning Map, the density ratio shall be one dwelling
5 unit for each 200 feet of lot area. The double density provision for Senior Housing, as defined
6 in Section 102, shall not result in greater density than that permitted in an RC-4 District.

7 (5) A bulk district "T" shall apply pursuant to the provisions of Section 270, Table 270
8 of this Code.

9 (6) Special exceptions to the 80-foot base height limit in height and bulk districts 80-
10 120-T and 80-130-T may be granted pursuant to the provisions of Section 263.7 of this Code.

11 (7) Building setbacks are required in this district pursuant to Section 132.2; provisions
12 for exceptions are also set forth in Section 132.2 of this Code.

13 (8) Exceptions to the rear yard requirements for an RC-4 District may be granted
14 pursuant to Section 134(g) of this Code.

15 (9) All provisions of the Planning Code applicable in an RC-4 Use District shall apply
16 within that portion of the district zoned RC-4, except as specifically provided above. All
17 provisions of the Planning Code applicable in a P Use District shall apply within that portion of
18 the district zoned P, except as specifically provided above.

19 (10) All demolitions of buildings containing residential units shall be permitted only if
20 authorized as a conditional use under Section 303 of this Code, unless the Director of the
21 Department of Building Inspection or the Chief of the Bureau of Fire Prevention and Public
22 Safety determines that the building is unsafe or dangerous and that demolition is the only
23 feasible means to secure the public safety. When considering whether to grant a conditional
24 use permit for the demolition, in lieu of the criteria set forth in Planning Code Section 303(c),
25 consideration shall be given to the purposes of the North of Market Residential Special Use

1 District set forth in Section 249.5(b), above, to the adverse impact on the public health, safety
2 and general welfare due to the loss of existing housing stock in the district and to any
3 unreasonable hardship to the applicant if the permit is denied. Demolition of residential hotel
4 units shall also comply with the provisions of the Residential Hotel Ordinance.

5 * * * *

6
7 Section 3. Effective Date. This ordinance shall become effective 30 days after
8 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
9 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
10 of Supervisors overrides the Mayor's veto of the ordinance.

11
12 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
13 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
14 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
15 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
16 additions, and Board amendment deletions in accordance with the "Note" that appears under
17 the official title of the ordinance.

18
19 APPROVED AS TO FORM:
20 DENNIS J. HERRERA, City Attorney

21 By:


22 _____
23 ANDREA RUIZ-ESQUIDE
24 Deputy City Attorney

25
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