



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: NOVEMBER 29, 2018

90-DAY DEADLINE: JANUARY 24, 2019

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Project Name: **Permit Review Procedures for Uses in Neighborhood Commercial Districts**

Case Number: **2018-015088PCA** [Board File No. 181031]

Initiated by: Supervisors Tang and Safai / Introduced October 23, 2018

Staff Contact: Diego R Sánchez, Legislative Affairs
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Reviewed by: Aaron Starr, Manager of Legislative Affairs
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Recommendation: **Approval**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to make permanent the pilot program removing neighborhood notice and Planning Commission review for certain uses in Neighborhood Commercial Districts in the areas generally bounded by Supervisorial Districts 4 and 11.

The Way It Is Now:

In Supervisorial Districts 4 and 11 the following uses are exempted from notification and requests for Planning Commission review to exercise its Discretionary Review powers pursuant to a two-year pilot program ending in September 2020:

- a. Bar
- b. General Entertainment
- c. Limited Restaurant
- d. Liquor Store
- e. Massage Establishment
- f. Nighttime Entertainment
- g. Outdoor Activity Area
- h. Private Community Facility
- i. Public Community Facility
- j. Restaurant
- k. Tobacco Paraphernalia Establishments.

The Way It Would Be:

In Supervisorial Districts 4 and 11 the temporary exemption from notification and requests for Planning Commission review to exercise its Discretionary Review powers for the uses outlined above would be made permanent.

BACKGROUND

The Small Business Attraction Program Ordinance became effective on September 9, 2018.¹ The Ordinance, initiated by Supervisors Tang and Safai, created a two-year pilot program to exempt identified non-residential uses from neighborhood notice in Supervisorial Districts 4 and 11. This exemption was created to remove a barrier to entry for small businesses into the neighborhood commercial districts (NCDs) in Supervisorial Districts 4 and 11. The exemption will sunset, unless reenacted, in September 2020.

ISSUES AND CONSIDERATIONS

Neighborhood Notice

Purpose and Timeframe

The purpose of neighborhood notification is to inform property owners and residents about proposed projects in their vicinity. Notice serves as a venue to identify and resolve concerns about the project during permit review. Notice is provided to property owners and occupants within a 150 foot radius of the project.²

Non-residential projects subject to neighborhood notice require a much lengthier Planning Department (Department) review than projects approved over the counter. Given required Department analysis and coordination, review and notification can take between 90 to 120 days to complete. This timeframe is lengthened if a request for Discretionary Review (DR) is filed. The required Department Staff analysis and Planning Commission hearing can add another 90 days to the permit review period. In contrast, an over the counter approval may take a few hours.

Uses Subject to Neighborhood Notice

The number and types of non-residential uses subject to neighborhood notice has changed since requirements became effective in 2000.³ Initially all projects proposing a change in use required neighborhood notice. Since then that number has been reduced to 20 uses. This can be attributed to changing opinions about and needs for noticing. Currently the following non-residential uses require neighborhood notification:

- Adult Business
- Bar
- Cannabis Retail
- General Entertainment

¹ Ordinance No. 199-18

<https://sfgov.legistar.com/View.ashx?M=F&ID=6440745&GUID=A410B906-5D94-42A7-A094-8B3AAFDD8FB8>

² Planning Codes Section 311(a) and 312(a)

³ Ordinance No. 279-00

<https://sfgov.legistar.com/View.ashx?M=F&ID=2581135&GUID=B71B45D5-4601-46E7-A984-686A2676DCDD>

- Group Housing
- Limited Restaurant
- Liquor Store
- Massage Establishment
- Medical Cannabis Dispensary
- Nighttime Entertainment
- Outdoor Activity Area
- Post-Secondary Educational Institution
- Private Community Facility
- Public Community Facility
- Religious Institution
- Residential Care Facility
- Restaurant
- School
- Tobacco Paraphernalia Establishment
- Trade School

Retail Sector Challenges

In 2018, the San Francisco Office of Economic and Workforce Development (OEWD) released the State of the Retail Sector: Challenges and Opportunities for San Francisco's Neighborhood Commercial Districts report (Report).⁴ Very broadly, the Report looked at changing national retail trends and their effect upon the City's NCDs. It provided an in-depth look at three topics: the restructuring of the retail sector; the factors required to support successful retail corridors in San Francisco; and the opportunities and challenges facing San Francisco retail establishments and the possible adaptations.

With respect to the challenges facing the retail sector, the Report highlights eight. One of those is the City's land use regulation and permitting requirements. It found that the lengthy permitting process, which includes neighborhood notification, can be detrimental to opening new businesses. For example, the Report states that in certain cases the months-long permitting process resulted in the applicant going bankrupt before opening their business. The Report also found the permitting process to be overly complex and technical for many new businesses. This complexity often requires an applicant to engage a business assistance provider to help navigate the permitting process.

⁴ State of the Retail Sector: Challenges and Opportunities for San Francisco's Neighborhood Commercial Districts Strategic Economics
Executive Summary, January 2018
http://oewd.org/sites/default/files/Invest%20In%20Neighborhoods/State%20of%20the%20Retail%20Sector%20-%20Executive%20Summary_0.pdf
Final Report, February 15, 2018
<http://oewd.org/sites/default/files/Invest%20In%20Neighborhoods/State%20of%20the%20Retail%20Sector%20-%20Final%20Report.pdf>

Pilot Program Results

The Small Business Attraction Program, a two year pilot program, became effective in September 2018. As of the date of this document, the Department is not aware of any permits that have utilized the pilot program exemption. However, because the pilot program is fairly new, the Department is hesitant to draw conclusions on its efficacy.

General Plan Compliance

Commerce and Industry Element

Objective 6: Maintain and strengthen viable neighborhood commercial areas easily accessible to City residents.

Policy 6.1: Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts

Policy 6.2: Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society

The proposed Ordinance would help attract new neighborhood serving uses and other small businesses to the NCDs in Supervisorial District 4 and Supervisorial District 11 by permanently reducing permit review timelines for certain non-residential uses. The reduced permit review, and concomitant reduced start-up costs, can help ensure new neighborhood serving uses remain viable. Further, these uses are often small businesses responding to the latest changes in the marketplace and therefore are ones the City should seek to foster.

Implementation

The Department has determined that the Ordinance will have no adverse effect on our current implementation procedures for non-residential projects.

RECOMMENDATION

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

BASIS FOR RECOMMENDATION

The Department supports the Ordinance. Permanently reducing permit review timeframes can help new businesses locate in the City's retail corridors. Removing the neighborhood notification process also makes the permitting process less complex for prospective businesses. Further, individually tailoring the land use controls and noticing requirements for specific NCDs allows them to respond to the changing needs, tastes and preferences of adjacent residents. This assures that the City's retail corridors remain vibrant.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

ENVIRONMENTAL REVIEW

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

PUBLIC COMMENT

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

Attachments:

Exhibit A: Draft Planning Commission Resolution
Exhibit B: Board of Supervisors File No. 181031



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution

HEARING DATE NOVEMBER 29, 2018

Project Name: Permit Review Procedures for Uses in Neighborhood Commercial Districts
Case Number: 2018-015088PCA [Board File No. 181031]
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RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO MAKE PERMANENT THE PILOT PROGRAM REMOVING NEIGHBORHOOD NOTICE AND PLANNING COMMISSION REVIEW FOR CERTAIN USES IN NEIGHBORHOOD COMMERCIAL DISTRICTS IN THE AREAS GENERALLY BOUNDED BY SUPERVISORIAL DISTRICTS 4 AND 11; 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 October 23, 2018 Supervisors Tang and Safai introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 181031, which would amend the Planning Code to make permanent the pilot program removing neighborhood notice and Planning Commission review for certain uses in Neighborhood Commercial Districts in the areas generally bounded by Supervisorial Districts 4 and 11;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 29, 2018; 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 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves** 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. Permanently reducing permit review timeframes can help new businesses locate in the City's retail corridors. This can be done by removing the neighborhood notification process for specified uses.
2. Individually tailoring the land use controls and noticing requirements for specific neighborhood commercial districts (NCDs) allows them to respond to the changing needs, tastes and preferences of adjacent residents.
3. Together, these measures make the permitting process less complex for prospective businesses and assure that the City's retail corridors remain vibrant.
4. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 6

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

Policy 6.1

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

Policy 6.2: Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society.

The proposed Ordinance would help attract new neighborhood serving uses and other small businesses to the NCDs in Supervisorial District 4 and Supervisorial District 11 by permanently reducing permit review timelines for certain non-residential uses. The reduced permit review, and concomitant reduced start-up costs, can help ensure new neighborhood serving uses remain viable. Further, these uses are often small businesses responding to the latest changes in the marketplace and therefore are ones the City should seek to foster.

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 would help preserve and enhance neighborhood-serving retail uses by relaxing the neighborhood notice requirements for specified retail uses in the neighborhood commercial districts in Supervisorial Districts 4 and 11.

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 would help the economic diversity of the neighborhoods in Supervisorial Districts 4 and 11 by facilitating the entry of neighborhood-serving businesses into the neighborhood commercial districts in those Districts.

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

The City's supply of affordable housing would not be affected by the proposed Ordinance because it concerns itself with making permanent a pilot program for neighborhood serving businesses.

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

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking as the Ordinance makes permanent an exemption from neighborhood notice required of certain neighborhood-serving businesses in Supervisorial Districts 4 and 11.

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 would not cause displacement of the industrial or service sectors due to office development because the Ordinance proposes to make permanent a pilot program that modifies the noticing requirements for neighborhood-serving businesses.

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

The proposed Ordinance would not affect the City's preparedness against injury and loss of life in an earthquake because it modifies neighborhood notice requirements for businesses locating in the neighborhood commercial districts in Supervisorial Districts 4 and 11.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings because it would make permanent temporary exemptions from procedural review for businesses locating in the neighborhood commercial districts in Supervisorial Districts 4 and 11.

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

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas because it concerns itself with making a pilot program for neighborhood serving businesses permanent.

6. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

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

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on November 29, 2018.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: November 29, 2018

[Planning Code - Permit Review Procedures for Uses in Neighborhood Commercial Districts]

Ordinance amending the Planning Code to make permanent the pilot program removing neighborhood notice and Planning Commission review for certain uses in Neighborhood Commercial Districts in the areas generally bounded by Supervisorial Districts 4 and 11; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

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

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

Section 1. Environmental and Land Use Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 181031 and is incorporated herein by reference. The Board of Supervisors affirms this determination.

(b) On _____, the Planning Commission, in Resolution No. _____, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the

1 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board of
2 Supervisors adopts these findings as its own. A copy of said Resolution is on file with the
3 Clerk of the Board of Supervisors in File No. _____, and is incorporated herein by reference.

4 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
5 Planning Code amendment will serve the public necessity, convenience, and welfare for the
6 reasons set forth in Planning Commission Resolution No. _____, and the Board of
7 Supervisors incorporates such reasons herein by reference.

8
9 Section 2. Article 3 of the Planning Code is hereby amended by revising Section 311,
10 to read as follows:

11 **SEC. 311. PERMIT REVIEW PROCEDURES**

12 * * * *

13 (b) **Applicability.** Except as indicated herein, all building permit applications in
14 Residential, NC, NCT, and Eastern Neighborhoods Districts for a change of use;
15 establishment of a Micro Wireless Telecommunications Services Facility; establishment of a
16 Formula Retail Use; demolition, and/or new construction, and/or alteration of residential
17 buildings; and including the removal of an authorized or unauthorized residential unit, in RH,
18 RM, and RTO Districts shall be subject to the notification and review procedures required by
19 this Section 311. In addition, all building permit applications that would establish Cannabis
20 Retail or Medical Cannabis Dispensary Uses, regardless of zoning district, shall be subject to
21 the review procedures required by this Section 311. Notwithstanding the foregoing or any
22 other requirement of this Section 311, a change of use to a Child Care Facility, as defined in
23 Section 102, shall not be subject to the review requirements of this Section 311.

24 (1) **Change of Use.** For the purposes of this Section 311, a change of use is
25 defined as follows:

1 (A) **Residential, NC, and NCT Districts.** For all Residential, NC, and
2 NCT Districts, a change of use is defined as a change to, or the addition of, any of the
3 following land uses as defined in Section 102 of this Code: Adult Business, Bar, Cannabis
4 Retail, General Entertainment, Group Housing, Limited Restaurant, Liquor Store, Massage
5 Establishment, Medical Cannabis Dispensary, Nighttime Entertainment, Outdoor Activity Area,
6 Post-Secondary Educational Institution, Private Community Facility, Public Community
7 Facility, Religious Institution, Residential Care Facility, Restaurant, School, Tobacco
8 Paraphernalia Establishment, Trade School, and Wireless Telecommunications Facility. A
9 change of use from a Restaurant to a Limited-Restaurant shall not be subject to the provisions
10 of this Section 311. Any accessory massage use in the Ocean Avenue Neighborhood
11 Commercial Transit District shall be subject to the provisions of this Section 311.

12 (i) Exception NC Districts in Supervisorial Districts 4 and 11.
13 Notwithstanding subsection 311(b)(1)(A), in the geographic areas identified in subsection
14 311(b)(1)(A)(ii) for NC Districts in Supervisorial Districts 4 and 11, building permit applications for
15 a change of use to the following uses shall be excepted from the provisions of subsections
16 311(d) and 311(e): Bar, General Entertainment, Limited Restaurant, Liquor Store, Massage
17 Establishment, Nighttime Entertainment, Outdoor Activity Area, Private Community Facility,
18 Public Community Facility, Restaurant, and Tobacco Paraphernalia Establishment.

19 (ii) Subsection 311(b)(1)(A)(i) shall apply to Neighborhood
20 Commercial Districts in the following geographic areas:

21 Area 1: shall comprise all of that portion of the City and County commencing at the point of the
22 intersection of the shoreline of the Pacific Ocean and a straight-line extension of Lincoln Way, and
23 proceeding easterly along Lincoln Way to 17th Avenue, and proceeding southerly along 17th Avenue to
24 Judah Street, and proceeding westerly along Judah Street to 19th Avenue, and proceeding southerly
25 along 19th Avenue to Sloat Boulevard, and proceeding westerly along Sloat Boulevard, and following a

1 straight-line extension of Sloat Boulevard to the shoreline of the Pacific Ocean and proceeding
2 northerly along said line to the point of commencement.

3 Area 2: shall comprise all of that portion of the City and County commencing at the point of the
4 intersection of Junipero Serra Boulevard and Brotherhood Way, and proceeding northerly along the
5 eastern edge of Junipero Serra Boulevard to Garfield Street, and proceeding easterly along Garfield
6 Street to Grafton Avenue, and continuing easterly along Grafton Avenue to Mount Vernon Avenue, and
7 proceeding easterly along Mount Vernon Avenue to Howth Street, and proceeding northerly along
8 Howth Street to Geneva Avenue, and proceeding easterly along Geneva Avenue to Interstate 280, and
9 proceeding northerly along Interstate 280 to the straight-line extension of Tingley Street, and
10 proceeding southerly along said line to Tingley Street, and proceeding southerly along Tingley Street to
11 Alemaný Boulevard, and proceeding easterly along Alemaný Boulevard to Congdon Street, and
12 proceeding southerly along Congdon Street to Silver Avenue, and proceeding easterly along Silver
13 Avenue to Madison Street, and proceeding southerly along Madison Street to Burrows Street, and
14 proceeding westerly along Burrows Street to Prague Street, and proceeding southerly along Prague
15 Street to Persia Avenue, and proceeding westerly along Persia Avenue to Athens Street, and
16 proceeding southerly along Athens Street to Geneva Avenue, and proceeding easterly along Geneva
17 Avenue to the intersection of Geneva Avenue and Carter Street, and proceeding westerly along the
18 southeastern boundary of Census Tract 0263.02, Block 3005 to the San Francisco/San Mateo county
19 border, and proceeding westerly along the San Francisco/San Mateo county border to Saint Charles
20 Avenue, and proceeding northerly along Saint Charles Avenue to Interstate 280, and proceeding
21 northeasterly along Interstate 280 to a northerly straight-line extension to Orizaba Avenue, and
22 proceeding northerly along said line to Alemaný Boulevard, and proceeding westerly along Alemaný
23 Boulevard to Brotherhood Way, and proceeding westerly along Brotherhood Way to the point of
24 commencement.

~~Sunset. Unless reenacted, subsections 311(b)(1)(A)(i) (ii) shall expire by operation of law 24 months after the effective date of the ordinance in Board File No. 180482. Upon its expiration, the City Attorney is authorized to take steps to remove subsections 311(b)(1)(A)(i) (ii) from the Planning Code.~~

* * * *

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

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

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

By: _____
AUSTIN M. YANG
Deputy City Attorney

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