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[Zoning - Conditional Use Authorization in Neighborhood Commercial Districts]
AMENDING PART II, CHAPTER II OF THE SAN FRANCISCO MUNICIPAL CODE
(PLANNING CODE) BY AMENDING SECTION 303 TO REQUIRE ADDITIONAL
CONSIDERATIONS FOR CONDITIONAL USES IN LOCATIONS IN NEIGHBORHOOD
COMMERCIAL DISTRICTS IN WHICH THE USE SIZE FOR THE PROPOSED LOCATION
EXCEEDS THE LIMITATIONS CONTAINED IN SECTION 121.2, INCLUDING
CONSIDERATIONS OF THE INTENSITY OF ACTIVITY IN THE DISTRICT, SERVICE TO
THE NEIGHBORHOOD, AND RESPECT FOR THE SCALE OF DEVELOPMENT IN THE
DISTRICT.

Note: Additions are underlined; deletions are in ((double parentheses)). Be it ordained by the People of the City and County of San Francisco:

Section 1. (a) General Findings. (1) In response to San Francisco residents' and merchants' concerns, including increased traffic congestion, proliferation of food service uses, the loss of neighborhood-oriented businesses and changes in the local neighborhood character, the City and County of San Francisco created Neighborhood Commercial Individual Area Districts (NCDs) in 1987. Descriptions of these NCDs and the zoning that applies within their boundaries are set forth in Article 7 of the San Francisco Municipal Code, Part II, Chapter II (Planning Code).

- (2) To promote, protect, and maintain a scale of development that is appropriate to each NCD and compatible with adjacent buildings, the San Francisco Planning Code provides a comprehensive and flexible zoning system for Neighborhood Commercial Districts, and limits the size of nonresidential uses that are permitted without conditional use authorization.
- (3) In determining an application for the authorization of conditional uses, the City Planning Commission evaluates an application based on the criteria listed in Planning

Code Section 303(c), including, among other things, whether or not the proposed use is compatible with the neighborhood, is detrimental to the health, safety, convenience, or general welfare of residents or workers in the vicinity, and complies with the General Plan.

- (4) In determining whether to authorize a conditional uses in an NCD, the Planning Commission should take into account special considerations when it considers uses proposed for locations that already exceed the limitations for square footage in the particular NCD.
- (b) **Priority Policy Findings**. Pursuant to Section 101.1 of the Planning Code, the Board of Supervisors makes the following findings:
- (1) The proposed legislation is consistent with Priority Policy 1 in that it will create greater regulatory control over the size of nonresidential uses within the NCDs, and therefore, preserve and enhance the existing neighborhood-serving uses and enhance future opportunities for resident employment and the ownership of other neighborhood-serving business.
- (2) The proposed legislation is consistent with Priority Policy 2 in that it has no adverse effect on existing housing and will help to preserve the character of the neighborhood.
- (3) The proposed legislation is consistent with Priority Policy 3 in that it has no effect on the City's current or future supply of affordable housing.
- (4) The proposed legislation is consistent with Priority Policy 4 in that it has no negative impact on commuter traffic or neighborhood parking.
- (5) The proposed legislation is consistent with Priority Policy 5 in that it does not involve commercial office development, which may displace any industrial or service sector employment, and will enhance the viability of existing neighborhood-serving establishments, thereby enhancing future opportunities for resident employment and ownership.

- (6) The proposed legislation is consistent with Priority Policy 6 in that it will not adversely affect the City's ability to achieve earthquake preparedness to protect against injury and loss of life in an earthquake.
- (7) The proposed legislation is consistent with Priority Policy 7 in that it will not affect any landmarks or historic buildings.
- (8) The proposed legislation is consistent with Priority Policy 8 in that it has no effect on parks and open space and their access to sunlight and vistas.
- Section 2. Part II, Chapter II of the San Francisco Municipal Code (Planning Code) is hereby amended by amending Section 303, to read as follows:
- SEC. 303. CONDITIONAL USES. (a) General. The City Planning Commission shall hear and make determinations regarding applications for the authorization of conditional uses in the specific situations in which such authorization is provided for elsewhere in this Code. The procedures for conditional uses shall be as specified in this Section and in Sections 306 through 306.6, except that Planned Unit Developments shall in addition be subject to Section 304, medical institutions and post-secondary educational institutions shall in addition be subject to the institutional master plan requirements of Section 304.5, and conditional use and Planned Unit Development applications filed pursuant to Article 7, or otherwise required by this Code for uses or features in Neighborhood Commercial Districts, and conditional use applications within South of Market Districts, shall be subject to the provisions set forth in Sections 316 through 316.8 of this Code, in lieu of those provided for in Sections 306.2 and 306.3 of this Code, with respect to scheduling and notice of hearings, and in addition to those provided for in Sections 306.4 and 306.5 of this Code, with respect to conduct of hearings and reconsideration.
- (b) **Initiation.** A conditional use action may be initiated by application of the owner, or authorized agent for the owner, of the property for which the conditional use is sought.

	(c)	Determination.	After	its	hearing	on	the	application,	or	upon	the
recor	nmend	ation of the Directo	r of Pla	annin	g if the ap	plicat	ion is	filed pursuant	to S	Sections	316
throu	gh 316	.8 of this Code ar	nd no h	earir	ng is requi	red, 1	the Ci	ty Planning C	omn	nission	shall
appro	ove the	application and a	uthoriz	e a	conditiona	l use	if the	e facts preser	nted	are suc	ch to
estat	olish:										

- (1) That the proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.
- (A) In Neighborhood Commercial Districts, if the proposed use is to be located at a location in which the square footage exceeds the limitations found in Planning Code § 121.2(a) or 121.2(b), the following shall be considered:
- (i) the intensity of activity in the district is not such that allowing the larger use will be likely to foreclose the location of other needed neighborhood-serving uses in the area; and
- (ii) the proposed use will serve the neighborhood, in whole or in significant part, and the nature of the use requires a larger size in order to function; and
- (iii) the building in which the use is to be located is designed in discrete elements which respect the scale of development in the district; and
- (2) That such use or feature as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:
- (A) The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;
  - (B) The accessibility and traffic patterns for persons and vehicles, the

type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

- (C) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;
- (D) Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs; and
- (3) That such use or feature as proposed will comply with the applicable provisions of this Code and will not adversely affect the Master Plan; and
- (4) With respect to applications filed pursuant to Article 7 of this Code, that such use or feature as proposed will provide development that is in conformity with the stated purpose of the applicable Neighborhood Commercial District, as set forth in zoning control category .1 of Sections 710 through 729 of this Code; and
- (5)(A) With respect to applications filed pursuant to Article 7, Section 703.2(a), zoning categories .46, .47, and .48, in lieu of the criteria set forth above in Section 303(c)(1—4), that such use or feature will:
- (i) Not be located within 1,000 feet of another such use, if the proposed use or feature is included in zoning category .47, as defined by Section 790.36 of this Code; and/or
  - (ii) Not be open between two a.m. and six a.m.; and
  - (iii) Not use electronic amplification between midnight and six a.m.;

and

- (iv) Be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.
  - (B) Notwithstanding the above, the City Planning Commission may

authorize a conditional use which does not satisfy the criteria set forth in (5)(A)(ii) and/or (5)(A)(iii) above, if facts presented are such to establish that the use will be operated in such a way as to minimize disruption to residences in and around the district with respect to noise and crowd control.

- (6) With respect to applications for live/work units in RH and RM Districts filed pursuant to Section 209.9(f) or 209.9(h) of this Code, that:
- (A) Each live/work unit is within a building envelope in existence on the effective date of Ordinance No. 412-88 (effective October 10, 1988) and also within a portion of the building which lawfully contains at the time of application a nonconforming, nonresidential use;
- (B) There shall be no more than one live/work unit for each 1,000 gross square feet of floor area devoted to live/work units within the subject structure; and
- (C) The project sponsor will provide any off-street parking, in addition to that otherwise required by this Code, needed to satisfy the reasonably anticipated auto usage by residents of and visitors to the project.

Such action of the City Planning Commission, in either approving or disapproving the application, shall be final except upon the filing of a valid appeal to the Board of Supervisors as provided in Section 308.1.

(d) **Conditions.** When authorizing a conditional use as provided herein, the City Planning Commission, or the Board of Supervisors on appeal, shall prescribe such additional conditions, beyond those specified in this Code, as are in its opinion necessary to secure the objectives of the Code. Once any portion of the conditional use authorization is utilized, all such conditions pertaining to such authorization shall become immediately operative. The violation of any condition so imposed shall constitute a violation of this Code and may constitute grounds for revocation of the conditional use authorization. Such conditions may

SUPERVISOR LENO

**BOARD OF SUPERVISORS** 

include time limits for exercise of the conditional use authorization; otherwise, any exercise of such authorization must commence within a reasonable time.

(e) **Modification of Conditions.** Authorization of a change in any condition previously imposed in the authorization of a conditional use shall be subject to the same procedures as a new conditional use. Such procedures shall also apply to applications for modification or waiver of conditions set forth in prior stipulations and covenants relative thereto continued in effect by the provisions of Section 174 of this Code.

## (f) Hotels and Motels.

- (1) With respect to applications for development of tourist hotels and motels, the Planning Commission shall consider, in addition to the criteria set forth in Subsections (c) and (d) above:
- (A) The impact of the employees of the hotel or motel on the demand in the City for housing, public transit, childcare, and other social services. To the extent relevant, the Commission shall also consider the seasonal and part-time nature of employment in the hotel or motel;
- (B) The measures that will be taken by the project sponsor to employ residents of San Francisco in order to minimize increased demand for regional transportation; and
  - (C) The market demand for a hotel or motel of the type proposed.
- (2) Notwithstanding the provisions of Subsections (f)(1) above, the Planning Commission shall not consider the impact of the employees of a proposed hotel or motel project on the demand in the City for housing where:
- (A) The proposed project would be located on property under the jurisdiction of the San Francisco Port Commission; and
  - (B) The sponsor of the proposed project has been granted exclusive

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rights to propose the project by the San Francisco Port Commission prior to June 1, 1991.

(3)Notwithstanding the provisions of Subsection (f)(1) above, with respect to the conversion of residential units to tourist hotel or motel use pursuant to an application filed on or before June 1, 1990 under the provisions of Chapter 41 of the San Francisco Administrative Code, the Planning Commission shall not consider the criteria contained in Subsection (f)(1) above; provided, however, that the Planning Commission shall consider the criteria contained in Subsection (f)(1)(B) at a separate public hearing if the applicant applies for a permit for new construction or alteration where the cost of such construction or alteration exceeds \$100,000. Furthermore, no change in classification from principal permitted use to conditional use in Section 216(b)(i) of this Code shall apply to hotels or motels that have filed applications on or before June 1, 1990 to convert residential units to tourist units pursuant to Chapter 41 of the San Francisco Administrative Code.

APPROVED AS TO FORM:

LOUISE H. RENNE, City Attorney

By: *l*ohn D. Malamút

Deputy City Attorney



## City and County of San Francisco Tails

City Hall 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4689

## Ordinance

File Number:

991585

Date Passed:

Ordinance amending Planning Code Section 303 to require additional considerations for conditional uses in locations in neighborhood commercial districts in which the use size for the proposed location exceeds the limitations contained in Section 121.2, including considerations of the intensity of activity in the district, service to the neighborhood, and respect for the scale of development in the district.

November 15, 1999 Board of Supervisors — PASSED, ON FIRST READING

Ayes: 11 - Kaufman, Leno, Newsom, Teng, Yaki, Yee, Ammiano, Becerril, Bierman, Brown, Katz

November 22, 1999 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yaki, Yee

File No. 991585

I hereby certify that the foregoing Ordinance was FINALLY PASSED on November 22, 1999 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young

Clerk of the Board

DEC - 3 1999

**Date Approved**