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24 25 [Planning Code - Interim Zoning Moratorium on Change of Nighttime Entertainment Use - One Maritime Plaza Area

Urgency ordinance approving an interim zoning moratorium for 45 days on changes of nighttime entertainment use in the One Maritime Plaza area bounded by Jackson Street to the north, Sacramento Street to the south, Drumm Street to the west, and Sansome Street to the east; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

> **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. Findings.

- (a) **Environmental Findings.** The Planning Department has determined that the actions contemplated in this urgency ordinance are in compliance with the California Environmental Quality Act (California Public Resources Code sections 21000 et seg.). The Board of Supervisors hereby affirms this determination. A copy of said determination is on file with the Clerk of the Board of Supervisors in File No. 190567 and incorporated by reference.
 - (b) Specific Findings.
- The One Maritime Plaza area is zoned C-3-O, which has a wide range of uses that are either principally permitted as of right or authorized as conditional uses. As the area becomes more residential in nature and has a greater diversity of uses and publicly-

 area becomes more residential in nature and has a greater diversity of uses and publicly-accessible open spaces, protecting existing uses that encourage and enhance street activity at night is imperative, particularly on the mezzanine and publicly-accessible upper levels of the area, which were constructed as a part of the plaza build-out of the Alcoa Building in 1967. This public plaza and adjoining public pathways do not have existing street-level activation and rely mainly on the Nighttime Entertainment Uses at One Maritime Plaza to activate the upper level at night.

- Code as including such uses as dance halls, discotheques, nightclubs, comedy clubs. and other similar evening-oriented entertainment activities, are an important contribution to enlivening an area at night. Currently, Nighttime Entertainment Uses are a principally permitted use on all stories in the C-3-O zoning district. The only other areas of the City where these uses are principally permitted on all stories is in industrially-zoned areas or PDR (Production, Distribution, and Repair) zoning districts. In most other zoning districts in the City, Nighttime Entertainment is either restricted to the ground floor and/or requires a conditional use authorization, or is not permitted at all. The existing entertainment uses at One Maritime Plaza regularly activate the upper public mezzanine area after dark (approximately 40 hours a week).
- (3) In addition to enlivening the area at night, Nighttime Entertainment Uses in the area of One Maritime Plaza are an important source of employment for City residents, providing at least 40 service-industry jobs. This does not include the individual talent bookings, which number at least 300 paid gigs a year.
- (4) In addition to encouraging public patronage after dark, the existing Nighttime Entertainment Uses at and around One Maritime Plaza employ three to four

security guards in addition to a doorman, depending on the size of programmed events, which augment limited site staffing by One Maritime Plaza's two security guards.

- (5) The existing Nighttime Entertainment Uses in the One Maritime Plaza area, in addition to generating nighttime foot traffic, attract an average of 180 people a night, who then patronize the limited number of restaurants and bars in the immediate downtown vicinity.
- (6) The adjacent Embarcadero Center complex is currently undergoing renovations that make access to the top floor movie theater more difficult after hours, making the existing Nighttime Entertainment Uses at One Maritime Plaza even more critical to the public activation and overall safety and well-being of the surrounding area.

(c) Findings Related to Imposition of an Interim Moratorium.

- (1) Planning Code Section 306.7 provides for the imposition of interim zoning controls to accomplish several objectives, which include (A) preserving areas of mixed residential and commercial uses in order to preserve the existing character of those neighborhoods and areas and (B) conserving the commerce and industry of the City in order to maintain the City's economic vitality and provide its citizens with adequate jobs and business opportunities.
- (2) The imposition of interim zoning controls in this ordinance is designed to ameliorate the problems and conditions identified in subsection (b) above by imposing a temporary moratorium on changes from a Nighttime Entertainment Use to any other permissible use.
- (3) This Board of Supervisors has considered the impact on the public health, safety, peace, and general welfare if the interim controls proposed herein are not imposed. It has determined that the public interest will be best served by imposing these interim controls at this time to ensure that the legislative scheme that may be ultimately

adopted for the One Maritime Plaza area is not undermined during the planning and legislative process for permanent controls, which process shall be conducted within a reasonable time.

- (d) Planning Code Section 101.1 Findings. This interim zoning moratorium advances and is consistent with Priority Policy 5 of Planning Code Section 101.1 in that it attempts to maintain a diverse economic base by protecting an important service sector from displacement due to commercial office development. With respect to Policies 1-4 and 6-8, the Board finds that the interim zoning moratorium does not, at this time, have an effect upon these policies and thus will not conflict with said policies.
- Section 2. The following interim zoning moratorium is hereby adopted as an Urgency Ordinance:
- (a) Neither the Planning Department nor the Planning Commission shall issue an approval or authorization for any change in use from an existing Nighttime Entertainment Use to any other Principal Use, Conditional Use, or Accessory Use, including Non-Retail Sales & Service or Office Uses, authorized in the zoning district (as these terms are defined in Section 102 of the Planning Code), nor shall any private clubs be permitted, in the One Maritime Plaza area bounded by Jackson Street to the north, Sacramento Street to the south, Drumm Street to the west, and Sansome Street to the east.
- (b) This interim zoning moratorium shall remain in effect for 45 days unless it is extended by the Board of Supervisors in accordance with California Government Code Section 65858 or permanent controls are adopted to address changes in use that better protect neighborhood character, maintain the City's economic vitality, and conserve existing uses in the defined area, whichever first occurs.

By:

- (c) If application of this ordinance would have the effect of denying approvals needed for the development of a project with a significant component of multifamily housing, as described in California Government Code Section 65858, this moratorium shall not apply to that use, but otherwise shall be unaffected.
- (d) Due to the urgency of establishing this interim zoning moratorium and notwithstanding the requirements of Planning Code Section 306.7(g), the Board finds that the standard public notice for Board of Supervisors hearings is adequate to inform the public of any hearing(s) on this ordinance.

Section 3. Within 25 days of the Board's adoption of this Urgency Ordinance, the Planning Department shall submit to the Clerk of the Board of Supervisors a written report describing the measures taken to alleviate the conditions that led to the adoption of the ordinance. Upon receipt of the report, the Clerk shall calendar a motion for the full Board to consider and approve said report. Said hearing and the action taken thereon shall be no later than 35 days after this ordinance is effective.

Section 4. Effective Date. This urgency ordinance shall become effective immediately after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within 10 days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance by a 4/5ths vote.

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

WIDITH A POVALIAN

Deputy City Attorney

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City and County of San Francisco **Tails** Ordinance

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

File Number:

190567

Date Passed: June 04, 2019

Urgency ordinance approving an interim zoning moratorium for 45 days on changes of nighttime entertainment use in the One Maritime Plaza area bounded by Jackson Street to the north, Sacramento Street to the south, Drumm Street to the west, and Sansome Street to the east; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

June 03, 2019 Land Use and Transportation Committee - RECOMMENDED AS **COMMITTEE REPORT**

June 04, 2019 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton and Yee

File No. 190567

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 6/4/2019 by the Board of Supervisors of the City and County of San Francisco.

> Angela Calvillo Clerk of the Board

London N. Breed Mayor

Date Approved