



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 18107 HEARING DATE: JUNE 17, 2010

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Project Name: Amendments relating to the Castro NCD:
Restaurant and Eating Uses
Case Number: 2010.0273T [Board File No. 10-0434]
Initiated by: Supervisor Dufty / Introduced April 6, 2010
Staff Contact: Tara Sullivan, Legislative Affairs
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Recommendation: **Recommend Approval**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE CASTRO NEIGHBORHOOD COMMERCIAL DISTRICT PLANNING CODE SECTIONS 715.1 (ZONING CONTROL TABLE), 715.42 (FULL-SERVICE RESTAURANTS), 715.43 (LARGE FAST FOOD RESTAURANTS), 715.44 (SMALL SELF-SERVICE RESTAURANTS), AND 715.69A (SPECIALTY FOOD, SELF-SERVICE) TO ALLOW NEW FULL-SERVICE RESTAURANTS AND SMALL SELF-SERVICE RESTAURANTS WITH A CONDITIONAL USE AUTHORIZATION, PERMIT SELF-SERVICE SPECIALTY FOOD ESTABLISHMENTS AS-OF-RIGHT, AND REMOVE LARGE FAST FOOD RESTAURANTS FROM THE CASTRO NCD.

PREAMBLE

Whereas, on April 6, 2010, Supervisor Dufty introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 10-0434 which would amend the Castro NCD Code Sections 715.1 (Zoning Control Table), 715.42 (full-service restaurants), 715.43 (large fast food restaurant), 715.44 (small self-service restaurants), and 715.69A (specialty food, self-service) to allow new full-service restaurants and small self-service restaurants with a Conditional Use Authorization; permit self-service specialty food establishments as-of-right, and to prohibit new large fast food restaurants in the Castro NCD; and

Whereas, on June 17, 2010, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed zoning changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

Whereas, the 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 the applicant, Department staff, and other interested parties; and

Whereas, the 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 Commission has reviewed the proposed Ordinance; and

MOVED, that the Commission hereby recommends that the Board of Supervisors recommends *approval of the proposed Ordinance* and adopts the attached Draft Resolution to that effect.

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. The Castro NCD Controls have not been substantially revised since their adoption in 1987;
2. The Castro NCD prohibits new restaurants and bar uses of any type;
3. The one exception is for large fast food restaurants, which is permitted only in one particular lot at the corner of Castro and Market Street;
4. Under Section 179(a) of the Planning Code, those restaurants and bar uses which lawfully existed on the effective date of Ordinance No. 69-87, enacting the Castro NCD in 1987, are nonconforming and permitted to remain in use;
5. Any nonconforming use in the Castro NCD is considered to be 'abandoned' pursuant to Section 178(d) after 18 months rather than three years, as with the majority of other NCDs;
6. A Self-Service Specialty Food establishment is a new use definition that was enacted in December 2008. New self-service specialty food establishments are also prohibited in the Castro NCD;
7. Over the past several years, the Commission has received requests to look at particular NCDs and the controls for eating and drinking uses. The intent of the prohibition on eating and drinking uses was to slowly decrease the number of these uses over time; however, the Department found that in particular NCDs, this prohibition often created a stagnant restaurant scene, with the few remaining restaurants not catering to the needs of the community. While the number and quality of restaurants decreased, the role of food, particular restaurants, in San Francisco grew;
8. In addition, there has been a shift in recent years more towards food and drink facilities as being integral components of a thriving neighborhood. The result of the prohibition of new restaurants has resulted in an accumulation of demand for these types of establishments;

9. The Commission believes that opening up the full-service restaurant and small self-service restaurant uses to a Conditional Use Authorization will allow the Commission to analyze each application on a case-by-case basis;
10. Allowing specialty food, self-service uses as-of-right will encourage these neighborhood-serving uses to locate in the NCD;
11. The removal of the control for one large fast food restaurant will not have a negative impact on the NCD for these uses are generally not permitted and are not desirable for the Castro NCD;
12. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

I. COMMERCE & INDUSTRY ELEMENT

THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN SETS FORTH OBJECTIVES AND POLICIES THAT ADDRESS THE BROAD RANGE OF ECONOMIC ACTIVITIES, FACILITIES, AND SUPPORT SYSTEMS THAT CONSTITUTE SAN FRANCISCO'S EMPLOYMENT AND SERVICE BASE.

GOALS

THE THREE GOALS OF THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN RELATE TO CONTINUED ECONOMIC VITALITY, SOCIAL EQUITY, AND ENVIRONMENTAL QUALITY.

OBJECTIVE 6

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

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.

POLICY 6.3

Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

POLICY 6.10

Promote neighborhood commercial revitalization, including community-based and other economic development efforts where feasible.

The character of the Castro NCD has changed over the past 20 years. Permitting new full-service restaurants and small self-service restaurant uses through the Conditional Use Authorization process, will help to bring these important uses back to the NCD, while allowing community involvement in the approval process.

The proposed Ordinance seeks to remedy the existing conditions while also accommodating the demand for full-service restaurants, small self-service restaurants, and specialty food, self-service establishment uses for residents in the Castro NCD. The proposed Ordinance promotes small business enterprises by fostering the growth of full-service restaurants, small self-service restaurants, and specialty food, self-service establishments in the Castro NCD.

The proposed Ordinance promotes the mixed commercial-residential character in the Castro NCD by allowing a new full-service restaurants and small self-service restaurants on a case-by-case basis, and by allowing specialty food, self-service establishments' as-of-right, all of which will serve the residents in the neighborhood and contribute to the existing mix of businesses in the Castro NCD.

13. The proposed replacement project is consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

- A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

The proposed Ordinance will encourage neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses in the Castro NCD by allowing new eating and drinking uses through the Conditional Use Authorization process and as-of-right.

- B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

The proposed legislation contains requires the Planning Commission to use the conditional use criteria when evaluating each proposed full-service restaurant and small self-service restaurant. The conditional use process will allow for the continued presence and economic viability of existing neighborhood establishments while not negatively affecting existing residential development, housing or neighborhood character. Further, any specialty food, self-service establishment will require a 312 neighborhood notice which will enable the community to have input in the placement of these uses.

- C) The City's supply of affordable housing will be preserved and enhanced:

The proposed Ordinance will have no adverse effect on the City's supply of affordable housing.

- D) The commuter traffic will 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.

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments. Any new construction or alteration associated with a use would be executed in compliance with all applicable construction and safety measures.


- G) That landmark and historic buildings will be preserved:

Landmarks and historic buildings would be unaffected by the proposed amendments. Should a proposed use be located within a landmark or historic building, such site would be evaluated under typical Planning Code provisions and comprehensive Planning Department policies.

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed amendments. It is not anticipated that permits would be such that sunlight access, to public or private property, would be adversely impacted.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on June 17, 2010.


Linda Avery
Commission Secretary

AYES: Miguel, Olague, Moore, Sugaya, Lee, Antonini

NAYS:

ABSENT: Borden

ADOPTED: June 17, 2010