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(Revised 07/26/16)

DEPARTMENT OF ELECTIONS

[Initiative Ordinance - Planning Code - Conditional Use Requiring Replacement of Production, Distribution, Repair, Institutional Community, and Arts Activities Uses]

Motion ordering submitted to the voters, at an election to be held November 8, 2016, “Ordinance amending the Planning Code to require replacement space and Conditional Use authorization for conversion of Production, Distribution, and Repair Use, Institutional Community Use, and Arts Activities Use”; and affirming the Planning Department’s determination under the California Environmental Quality Act.

Existing Law

The Planning Code contains various provisions for conversion of Production, Distribution and Repair (PDR) uses, depending on where such uses are located. There is no general requirement for conditional use authorization for conversion of an Institutional Community use or an Arts Activities use. Planning Code Section 202.7 requires replacement of certain PDR space in the PDR zoning districts.

Amendments to Current Law

If this motion is approved, this measure would be placed on the November 2016 general election ballot as an initiative ordinance.

The measure would require conditional use authorization in certain zoning districts for conversion of a PDR use of at least 5,000 square feet, an Institutional Community use of at least 2,500 square feet, or an Arts Activities use of any size if the property where the use would be lost is within the following Eastern Neighborhoods Plans Areas: Mission; Eastern SoMa, Western SoMa, and, if adopted, Central SoMa.

Additionally, the measure would require replacement of the space proposed for conversion on-site as part of the new project. The zoning districts and the replacement requirements are as follows:

(1) In the areas that, as of July 1, 2016, are zoned SALI, the replacement space shall include one square foot of PDR, Institutional Community, or Arts Activities use for each square foot of the use proposed for conversion.

(2) In the areas that, as of July 1, 2016, are zoned UMU, MUO, or SLI, the replacement space shall include 0.75 square foot of PDR, Institutional Community, or Arts Activities use for each square foot of the use proposed for conversion.

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(3) In the areas that, as of July 1, 2016, are zoned MUG or MUR, the replacement space shall include 0.50 square foot of PDR, Institutional Community, or Arts Activities use for each square foot of the use proposed for conversion.

If a project is located in one of the three categories of zoning districts listed above, and it would convert at least 15,000 square feet of PDR, Institutional Community, or Arts Activities use, but the project sponsors submitted an Environmental Evaluation application to the Planning Department by June 14, 2016, then the replacement requirement is 0.4 square foot for each square foot lost to conversion. But, if such a project's environmental review is overturned on appeal, then the replacement requirement reverts to whatever is required under (1), (2), or (3) above.

The measure allows the replacement space to be used for PDR or Arts Activities if the use proposed for conversion is either of those two. If the use proposed for conversion is Institutional Community, the replacement space may only be used for Institutional Community.

The measure only applies to developed building space, not vacant lots or the parts of a property that are not developed with building space.

If a space has been used for a temporary use, such as a "pop-up" restaurant, seasonal market, or craft fair, that temporary use would not get rid of the requirement to meet this measure's conditional use and replacement requirements if the prior permanent use of the property was PDR, Institutional Community, or Arts Activities.

If the proposed project is the subject of a contract or agreement with the City of one of the types listed in California Civil Code section 1954.28(d) (which is the state law prohibiting commercial rent control), including a development agreement, the required replacement space may be reduced by 0.25 if the agreement also requires the replacement space be rented, leased, or sold at 50% below market rate for at least 55 years.

In order to approve any conversions, the Planning Commission must make findings required under Planning Code Section 303 for conditional use authorization and must consider the suitability of the replacement space for the use proposed.

Certain property is exempt from the requirements of this ordinance, specifically: any property under the jurisdiction of the Port of San Francisco or the Recreation and Park Commission; Redevelopment Plan Areas in effect as of July 1, 2016; any parcel zoned P (Public) on or after July 1, 2016; any site where the use that is subject to conversion commenced after June 14, 2016; any project that has been approved by the Planning Department or Planning Commission by June 14, 2016, as long as any subsequent appeal is denied; any project that would convert less than 15,000 square feet of PDR, Institutional Community, or Arts Activities uses that submitted an environmental evaluation application to the Planning Department by June 14, 2016; any public transportation project; any project that receives affordable housing credits associated with retention of affordable units at the South Beach Marina Apartments;

any project for 100% affordable housing; and any property in the Western SoMa Plan Area if the actual use functioning on the property as of September 8, 2014, as determined by the Zoning Administrator, was principally permitted, and not a PDR, Institutional Community, or Arts Activities use, such that a legal conversion of less than 25,0000 could have been approved prior to October 9, 2014.

The measure states that the Board of Supervisors may adopt an in lieu fee and/or off-site replacement provisions to meet the replacement requirements. The fee would be used for the preservation and rehabilitation of existing PDR, Institutional Community, and Arts Activities uses.

The measure provides that the Board of Supervisors may amend it at any time by a two-thirds vote of all of its members.

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