

FILE NO. 010271

AS AMENDED IN COMMITTEE
5/11/01
AMENDMENT OF THE WHOLE
5/11/01 ORDINANCE NO.
As amended in Board
5/14/01

121-01

1 [Conditional Use Appeal Procedure.]

2
3 Ordinance amending Article 3 of the Planning Code by amending Section 308.1 to
4 authorize five members of the Board of Supervisors to subscribe to a Conditional Use
5 Appeal as an alternative to obtaining the signatures of 20% of the property owners
6 within 300 feet of the subject property. Providing for the new procedure to be
7 applicable to decisions made by the Planning Commission on or after February 9, 2001
8 and providing that the code amendments made by this ordinance shall be repealed
9 automatically upon the effective date of legislation that would provide residential and
10 commercial tenants with the right to appeal a conditional use decision to the Board of
11 Supervisors that is equivalent to that afforded to property owners.

12 Note: Additions are single-underline italics Times New Roman;
13 deletions are ~~strikethrough italics Times New Roman~~.
14 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

16 Section 1. Article 3 of the Planning Code is hereby amended by amending Section
17 308.1, to read as follows:

18 Sec. 308.1 Appeals: Amendments to the Planning Code and Conditional Uses.

19 (a) Right of Appeal. The action of the Planning Commission, in disapproving in
20 whole or in part an amendment to the Planning Code initiated by application as described in
21 Section 302 and Sections 306 through 306.5, or in approving or disapproving in whole or in
22 part an application for conditional use authorization as described in Sections 303 and 304,
23 Sections 306 through 306.5, and Sections 316 through 316.6 of this Code, shall be subject to
24 appeal to the Board of Supervisors in accordance with this Section. An action of the
25

1 Commission so appealed from shall not become effective unless and until approved by the
2 Board of Supervisors in accordance with this Section.

3 (b). Notice of Appeal. Any appeal under this Section shall be taken by filing written
4 notice of appeal with the Board of Supervisors within 30 days after the date of action by the
5 Planning Commission. The notice of appeal shall be subscribed by either (i) the owners of at
6 least 20 percent of the property affected by the proposed amendment or conditional use or (ii)
7 four five members of the Board of Supervisors, one of whom shall represent the supervisorial
8 district in which the subject property is located. The signature on the appeal of members of
9 the Board shall not be deemed to be any indication of their position on the merits of the
rt 10 appeal but rather shall indicate only that they believe there is sufficient public interest and
11 concern in the matter to warrant a hearing by the Board of Supervisors. For the purposes of
12 this Section, the property affected shall be calculated as follows:

13 (1) When a proposed amendment or conditional use has been disapproved
14 by the Planning Commission, the property affected shall be deemed to be all property within
rt 15 the area that is the subject of the application for amendment or conditional use, and within
16 300 feet of all exterior boundaries of the property that is the subject of the application;

17 (2) When a proposed conditional use has been approved by the Planning
18 Commission, the property affected shall be deemed to be all property within 300 feet of all
19 exterior boundaries of the property for which the conditional use has been approved by the
20 Planning Commission, excluding the property for which the approval has been given;

21 (3) In either of the above cases, when any property is owned by the City and
22 County of San Francisco, the United States Government or the State of California, or any
23 department or agency thereof, or by any special district, and is located within 300 feet of the
24 area that is the subject of the application for amendment or conditional use, such property
25 shall itself be a subscriber of the notice of appeal; and

1 (4) Wherever a property is held in joint ownership, the signatures of joint
2 owners shall be calculated as representing affected property in direct proportion to the amount
3 of the total ownership of that property attributable to the joint owner or owners subscribing to
4 the notice of appeal. For the purposes of this calculation, the term "joint ownership" shall
5 include joint tenancies, interests in common, community property, partnerships, stock
6 cooperatives, condominiums, community apartments and planned unit developments. Where
7 each owner has exclusive rights to a portion of the property, the proportion of the total
8 ownership attributable to that owner shall be calculated in terms of a ratio of the floor area and
9 land area in which that owner has exclusive, joint and common rights to the total floor area
10 and land area of that property. Under these calculations, the land area of an affected property
11 in joint ownership shall be given the same weight as the land area of an affected property not
12 in joint ownership, in determining whether 20 percent of the property affected is represented
13 by signatures to the notice of appeal.

14 (c) Hearing. Upon the filing of such written notice of appeal so subscribed, the
15 Board of Supervisors or the Clerk thereof shall set a time and place for hearing such appeal,
16 which shall be not less than 10 nor more than 30 days after such filing. The Board of
17 Supervisors must decide such appeal within 30 days of the time set for the hearing thereon,
18 provided that, if the full membership of the Board is not present on the last day on which said
19 appeal is set or continued for hearing within said period, the Board may postpone said hearing
20 and decision thereon until, but not later than, the full membership of the Board is present;
21 provided further, that the latest date to which said hearing and decision may be so postponed
22 shall be not more than 90 days from the date of filing of the appeal. Failure of the Board of
23 Supervisors to act within such time limit shall be deemed to constitute approval by the Board
24 of the action of the Planning Commission.

1 (d) Decision. In acting upon an appeal of a Planning Commission determination on
2 a request for reclassification by an interested party, the Board of Supervisors may disapprove
3 the action of the Planning Commission only by a vote of not less than 2/3 of all members of
4 the Board. In acting upon any other appeal of a Planning Commission determination on a
5 Planning Code amendment, the Board of Supervisors may disapprove the action of the
6 Planning Commission by a majority vote of the Board. In both cases, in the event that one or
7 more of the full membership of the Board is disqualified or excused from voting because of an
8 interest prohibited by general law or the San Francisco Charter, any such disapproval shall be
9 by a vote of all members of the Board that are not disqualified or excused; provided, however,
10 that in the event that a quorum of all members of the Board is disqualified or excused from
11 voting because of an interest prohibited by general law or the Charter, the action of the
12 Planning Commission shall be deemed approved. In the event the Board disapproves the
13 action of the Commission when the Commission has disapproved in whole or in part a
14 proposed amendment, the Board shall, not later than its next regularly scheduled meeting,
15 adopt the proposed ordinance. In the event the Board disapproves the action of the
16 Commission when the Commission has disapproved in whole or in part a proposed
17 conditional use, the Board shall prescribe in its resolution such conditions as are in its opinion
18 necessary to secure the objectives of this Code, in accordance with Section 303(d).

19 Section 2. Applicability of New Procedure; 20 day Appeal Period.

20 This Ordinance shall apply to conditional use determinations rendered by the Planning
21 Commission on or after February 9~~4~~, 2001. With respect to any such decision, where no
22 appeal to the Board of Supervisors has been made within the 30-day appeal period provided
23 by Section 308.1 and the time for appeal has expired or will expire before the effective date of
24 this Ordinance, a project opponent may file a notice of appeal with the Clerk of the Board
25

1 subscribed by five ~~four~~ members of the Board pursuant to Section 308.1(b) above. Such
2 notice of appeal must be filed within 20 days of the effective date of this ordinance.

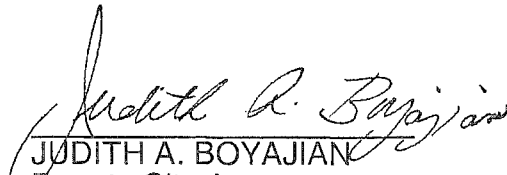
5/11/01
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4 Section 3. The Code amendments made by this ordinance shall be repealed
5 automatically upon the effective date of legislation that would provide residential and
6 commercial tenants with the right to appeal a conditional use decision to the Board of
7 Supervisors that is equivalent to that afforded to property owners.

8 APPROVED AS TO FORM:

9 LOUISE H. RENNE, City Attorney

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11
12 By:


13 JUDITH A. BOYAJIAN
14 Deputy City Attorney
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City and County of San Francisco

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

Tails

Ordinance

File Number: 010271

Date Passed:

Ordinance amending Article 3 of the Planning Code by amending Section 308.1 to authorize five members of the Board of Supervisors to subscribe to a Conditional Use Appeal as an alternative to obtaining the signatures of 20% of the property owners within 300 feet of the subject property. Providing for the new procedure to be applicable to decisions made by the Planning Commission on or after February 2, 2001 and providing that the code amendments made by this ordinance shall be repealed automatically upon the effective date of legislation that would provide residential and commercial tenants with the right to appeal a conditional use decision to the board of Supervisors that is equivalent to that afforded to property owners.

May 14, 2001 Board of Supervisors — AMENDED

Ayes: 10 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick,
Newsom, Peskin, Sandoval
Absent: 1 - Yee

May 14, 2001 Board of Supervisors — PASSED ON FIRST READING AS AMENDED

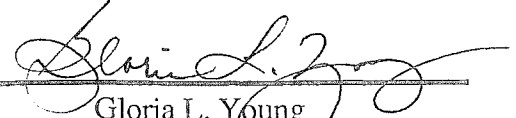
Ayes: 8 - Ammiano, Daly, Gonzalez, Leno, Maxwell, McGoldrick, Peskin,
Sandoval
Noes: 2 - Hall, Newsom
Absent: 1 - Yee

May 21, 2001 Board of Supervisors — FINALLY PASSED

Ayes: 8 - Ammiano, Daly, Gonzalez, Leno, Maxwell, McGoldrick, Peskin,
Sandoval
Noes: 1 - Hall
Absent: 2 - Newsom, Yee

File No. 010271

I hereby certify that the foregoing Ordinance was FINALLY PASSED on May 21, 2001 by the Board of Supervisors of the City and County of San Francisco.

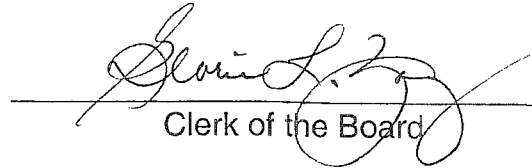

Gloria L. Young
Clerk of the Board

Date Approved

Mayor Willie L. Brown Jr.

June 1, 2001

I hereby certify that the foregoing ordinance, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, became effective without his approval in accordance with the provision of said Section 3.103 of the Charter.


Clerk of the Board

File No.
010271