[Coffee Shops in West Portal Neighborhood Commercial District]

AMENDING PART II, CHAPTER II, OF THE SAN FRANCISCO MUNICIPAL CODE
("PLANNING CODE") BY AMENDING SECTION 790.102 TO MODIFY THE
DEFINITION OF "SALES AND SERVICES, OTHER RETAIL" BY ALLOWING, AS
A CONDITIONAL USE, A LIMITED EXCEPTION TO THE PROHIBITION ON THE
USE OF COOKING EQUIPMENT AND ON-SITE FOOD PREPARATION NOT
CONNECTED WITH BEVERAGE PREPARATION FOR RETAIL BEVERAGE STORES IN
THE WEST PORTAL NEIGHBORHOOD COMMERCIAL DISTRICT (NCD).
(Note: additions are underlined. Deletions are indicated by
((double parenthesis)).

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

Section 1. FINDINGS.

(a) The Board of Supervisors hereby finds and declares
that the following conditions exist which create a need to amend
Planning Code Sections 729.40 and 790.102 and the “Specific
Provisions for the West Portal District”, at the end of the West
Portal Zoning Control Table which constitutes Sections 729.10
through Section 729.95 of the Planning Code:

(1) Planning Code Section 729.1 states that the West
Portal Avenue zoning controls are designed to preserve the
existing family oriented, village character of West Portal Avenue
and that special controls on food service uses are designed to
protect the existing mix of retail uses and prevent
further intensification and congestion in the district.

Supervisor Newsom

BOARD OF SUPERVISORS
(2) At present, the West Portal NCD, pursuant to Planning Code Section 729.40, allows, on the first and second floors, "Other Retail Sales and Services". Part of the definition of "Other Retail Sales and Services" in Planning Code Section 790.102 is a retail drinking use that contains no more than 15 seats and no more than 400 square feet of floor area devoted to seating and which involves no on-site food preparation or cooking.

(3) Beverage stores in the West Portal NCD are seen as desirable uses and some of these, especially those not part of a national chain, cannot compete well for retail space when limited to the menu offerings provided by the "Retail Coffee Store" portion of the "Other Retail Sales and Services" definition of Section 790.102. The West Portal NCD is smaller than most Individual Area Neighborhood Commercial Districts while serving a large residential area, which results in a greater demand for space, making it more difficult for small, independent operators to compete in the West Portal District. The proposed amendment would exempt beverage stores in the West Portal NCD that otherwise meet the definition and limitations of Subsection 790.102(n) from the prohibition on cooking, food preparation or serving ready-to-eat food.

(4) The proposed exception allowing on-site preparation of food would apply only to uses that meet the other limitations qualifying the use as a beverage store ("Retail coffee store")
under Section 790.102. The potential impacts sought to be
mitigated by the general prohibition on additional eating
establishments in the West Portal NCD can be addressed by review
by the Planning Commission and the addition of conditions
attached to the granting of a conditional use needed for the
exception.

(5) One of the Priority General Plan Policies passed by
the voters as an Initiative Ordinance in 1986 and found in
Planning Code Section 101.1(b)(1) states, “That existing
neighborhood-serving retail uses be preserved and enhanced and
future opportunities for resident employment in and ownership of
such businesses [be] enhanced”.

(6) The Board finds that it is necessary to the public
health, safety and welfare that existing neighborhood-serving
retail uses be preserved and enhanced in the West Portal NCD in
order to ensure that residents of the neighborhood are not
needlessly inconvenienced in shopping for everyday needs.

(b) Priority Policy Findings. Pursuant to Section 101.1
of the Planning Code, the Board of Supervisors makes the
following findings:

(1) The legislation is consistent with Priority Policy 1
in that it will help enhance the viability of a type of
commercial use in the West Portal NCD that is neighborhood
serving.

(2) The legislation is consistent with Priority Policy 2
In that it will help preserve the existing neighborhood character and the cultural and economic diversity of the West Portal NCD by helping a greater variety of uses to compete for limited commercial space.

(3) The legislation is consistent with Priority Policy 3 in that it will not affect the City's supply of affordable housing.

(4) The legislation is consistent with Priority Policy 4 in that the conditional use provision will allow City review of the exception to help avoid operations that may cause conflicts with the public transit lines that operate in the West Portal NCD.

(5) By helping the economic viability of a slightly new type of retail business in the West Portal NCD, the legislation is consistent with Priority Policy 5 in that it will help maintain a diverse economic base in that district.

(6) The legislation will have no effect on earthquake preparedness, landmark preservation and light access to parks and open spaces which are the subjects of Priority Policies 6, 7 and 8, respectively.

Section 2. Part II, Chapter II of the San Francisco Municipal code ("Planning Code"), is hereby amended by adding the "pound" symbol [#] after the letter "P" in the "1st" [floor] column of Section 729.40 in the West Portal NCD Zoning Control Table to read as follows:
Section 3. Part II, Chapter II of the San Francisco Municipal Code ("Planning Code"), is hereby amended by adding language to the "Specific Provisions for the West Portal District", at the end of the West Portal Zoning Control Table which constitutes Sections 729.10 through Section 729.95 so the "Specific Provisions" will read as follows:

SPECIFIC PROVISIONS FOR THE WEST PORTAL DISTRICT

Article 7     Other
Code Section  Code Section     Zoning Controls
§ 729.40      790.102     Boundaries: The entire West Portal Neighborhood Commercial District

Controls: A Retail Coffee Store or other non-alcoholic beverage store as defined by Subsection 790.102(n) may be granted a conditional use to be exempt from the prohibition described in that subsection of cooking devices and on-site food preparation
not connected with beverage
preparation, provided that
the cooking device allowed
shall be limited to one small
device for warming sandwich
ingredients and provided that
all other provisions of
Subsection 790.102(n) are met.

§ 729.53 Boundaries: The entire West Portal
Neighborhood Commercial
District

Controls: Applicable only for the use
of stock brokerage. A stock
brokerage may apply for
Conditional Use if there are
no more than a total of seven
financial uses and/or stock
brokerages within the
district. If there are more
than seven financial services
and/or stock brokerages in
the district, stock
brokerages shall not be
permitted.

Section 4. Part II, Chapter II of the San Francisco Municipal
code ("Planning Code"), is hereby amended by amending Section 790.102 to read as follows.

SEC. 790.102. SALES AND SERVICES, OTHER RETAIL. A retail use which provides goods and/or services but is not listed as a separate zoning category in zoning category numbers .41 through .63 listed in Article 7 of this Code, including, but not limited to, sale or provision of the following goods and services:

(a) General groceries;
(b) Specialty groceries such as cheese, confections, coffee, meat, produce;
(c) Pharmaceutical drugs and personal toiletries;
(d) Personal items such as tobacco and magazines;
(e) Self-service laundromats and dry cleaning, where no portion of a building occupied by such use shall have any opening other than fixed windows and exits required by law within 50 feet of any R District;
(f) Household goods and service (including paint, fixtures and hardware, but excluding other building materials);
(g) Variety merchandise;
(h) Florists and plant stores;
(i) Apparel and accessories;
(j) Antiques, art galleries and framing service;
(k) Home furnishings, furniture and appliances;
(l) Books, stationery, music and sporting goods;
(m) Toys, gifts, and photographic goods and services; and
(n) Retail coffee stores. As used herein, retail coffee store means:

1. A retail drinking use which provides ready-to-drink coffee and/or other nonalcoholic beverages for consumption on or off the premises, which may or may not provide seating. Its intended design is not to serve prepared ready-to-eat food for consumption on or off the premises, except where a conditional use is granted for an exception in the West Portal NCD pursuant to the "Specific Provisions for the West Portal District." Such use exhibits the following characteristics:

   A. Contains no more than 15 seats with no more than 400 square feet of floor area devoted to seating,

   B. A limited menu of beverages prepared on the premises and able to be quickly prepared for consumption on or off the premises,

   C. Beverages served in disposable or nondisposable containers for consumption on or off the premises,

   D. Beverages are ordered and served at a customer service counter,

   E. Beverages are paid for prior to consumption,

   F. Public service area, including queuing areas and service counters, which counters are designed specifically for the sale and distribution of beverages;

   G. Beverages are available upon a short waiting time,

   H. Equipment to prepare beverages for consumption,
Limited amount of nonprepackaged food goods may be served, such as pastries or similar goods.

No on-site food preparation, and no equipment to cook or reheat food or prepare meals other than that connected to beverage preparation, except where a conditional use is granted for an exception in the West Portal NCD pursuant to the “Specific Provisions for the West Portal District”.

Coffee beans, tea, syrups, herbs and other beverage-based products and equipment to make and/or reconstitute beverages or consume coffee, tea and/or other beverages may be sold.

It may include any use permitted for specialty grocery, as defined in Section 790.102(b), but if so, such use shall not include accessory take-out food activity, as described in Section 703.2(b)(1)(C) of this Code, except to the extent permitted by this Subsection 790.102(n). It is distinct and separate from a small self-service or large fast-food restaurant, as defined in Section 790.90 and 790.91 of this Code, or a full-service restaurant as defined in Section 790.92 of this Code.

It shall be conducted in accordance with the following conditions:

1. All debris boxes shall be kept in enclosed structures,
2. The operator shall be responsible for cleaning the sidewalk in front of or abutting the building to maintain the...
sidewalk free of paper or other litter during its business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code,

Noise and odors shall be contained within the premises so as not to be a nuisance to nearby residents or neighbors.

This Section excludes tourist motels, as distinguished from tourist hotels in Section 790.46 of this Code, amusement game arcades as defined in Section 790.4 of this Code and household goods self-storage facilities, which are included in storage as defined in Section 790.117 of this Code. It also excludes the sale of heating fuel and the sale or rental of commercial equipment (excluding office equipment) and construction materials, other than paint, fixtures and hardware.
Tails
Ordinance

Ordinance amending Planning Code by amending Section 790.102 to modify the definition of "Sales and Services, Other Retail" by allowing, as a conditional use, a limited exception to the prohibition on the use of cooking equipment and on-site food preparation not connected with beverage preparation for retail beverage stores in the West Portal Neighborhood Commercial District (NCD).

April 12, 1999 Board of Supervisors — PASSED, ON FIRST READING
   Ayes: 10 - Ammiano, Becerril, Bierman, Katz, Kaufman, Leno, Newsom, Teng, Yaki, Yee
   Absent: 1 - Brown

April 19, 1999 Board of Supervisors — SEVERED FROM CONSENT AGENDA
April 19, 1999 Board of Supervisors — CONTINUED
   Ayes: 10 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Teng, Yaki, Yee
   Absent: 1 - Newsom

May 3, 1999 Board of Supervisors — FINALLY PASSED
   Ayes: 10 - Ammiano, Becerril, Bierman, Brown, Kaufman, Leno, Newsom, Teng, Yaki, Yee
   Absent: 1 - Katz
I hereby certify that the foregoing Ordinance was FINALLY PASSED on May 3, 1999 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board

Date: May 17, 1999

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. 990188