FILE NO. 230767

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

[Administrative Code - Treatment of Seating Area at Taraval Street and 46th Avenue as Sidewalk for Shared Spaces Program]

Ordinance waiving specified requirements in the Administrative Code to allow seating area designated as a curbside traffic island on Taraval Street at 46th Avenue to be defined as two sidewalk shared spaces, subject to certain requirements; and affirming the Planning Department's determination under the California Environmental Quality Act.

NOTE: Unchanged Code text and uncodified text are in plain Arial font. Additions to Codes are in <u>single-underline italics Times New Roman font</u>. Deletions to Codes are in <u>strikethrough italies Times New Roman font</u>. Board amendment additions are in <u>double-underlined Arial font</u>. 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.

(a) Environmental Findings. The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 230767 and is incorporated herein by reference. The Board affirms this determination

|||

|||

|||

(b) General Findings.

(1) The two areas that are the subject of this ordinance are located at the northeast corner of Taraval Street and 46th Avenue, generally in front of 3600 through 3608 Taraval Street ("Taraval Hybrid Spaces").

(2) During the COVID-19 emergency, one business associated with 3608 Taraval Street installed seating for patrons on a portion of the Taraval Hybrid Spaces as a shared space in accordance with Public Works Code Article 5.2 (Sections 176, et seq.), applicable Public Works Orders, and Permit No. 20TC-01181.

(3) The area occupied by the Taraval Hybrid Spaces was constructed by the San Francisco Municipal Transportation Authority ("SFMTA"), through the Public Works Department, as part of the Taraval Streetscape Improvement Project ("Streetscape Project") in or around 2015. The Streetscape Project spanned the two westernmost blocks of Taraval Street and included public art, landscaping, roadway improvements, and sidewalk improvements.

(4) The Streetscape Project included eight raised landscaped areas along the sidewalk that are separated from the driving and parking lanes by a curb. These areas are or resemble "bulb-outs," or, extensions of the sidewalk into the vehicular travelway, often used for traffic calming and street beautification. Seven of the bulb-outs are essentially landscaping enclosed by a curb and are situated a few inches from the sidewalk curb, separated by a gutter. The eighth bulb-out is different.

(5) The eighth bulb-out — which is the site of the Taraval Hybrid Spaces — was designed and built as a community gathering and seating area, and includes a deck-like walking surface and decorative boulders designed for public seating. The ground surface portion of the Taraval Hybrid Spaces is flush with and immediately adjacent to the existing sidewalk and curb; this preserves an Americans with Disabilities Act ("ADA") compliant pedestrian path of travel width on the sidewalk. The Taraval Hybrid Spaces are functionally

two seating areas next to each other on a single bulb-out, each seating area visually and physically separated from the other by landscaping. One of the Taraval Hybrid Spaces is generally in front of 3600 Taraval Street and the other is generally in front of 3606 - 3608 Taraval Street. The Taraval Hybrid Spaces are enclosed by a continuous curb that separates the area from the travelway (the portion of the street for driving, transit, and parking). Decorative boulders and landscaping provide further visual and physical separation between the travelway and the seating areas.

(6) SFMTA designated all eight bulb-outs, including the Taraval Hybrid Spaces, as "Traffic Islands (Curbside)" by Resolution No. 13-210, adopted on September 17, 2013. As built, the Taraval Hybrid Spaces — unlike the other seven bulb-outs — are physically and visually connected to the sidewalk, and were designed and built to function as seating areas.

(7) The sidewalks on Taraval Street were not formally widened to encompass the Taraval Hybrid Spaces or the other seven bulb-outs or "Traffic Islands (Curbside)." Accordingly, the Taraval Hybrid Spaces are not officially designated as "sidewalks," despite the fact that they visually appear to be and functionally operate as extensions of the sidewalk.

(8) The Shared Spaces Program authorizes designated City departments to authorize Shared Spaces only on the sidewalk, in the curbside lane (usually the parking lane), or on City-owned lots. The Taraval Hybrid Spaces are not officially on the sidewalk, although they visually appear to be sidewalk extensions; they are not clearly part of the curbside lane since they are not in a parking space and are separated from the travelway by a curb; and they are not on a City-owned lot.

(9) Notwithstanding the visual and functional similarity between the Taraval
Hybrid Spaces and the sidewalk, the spaces are not located within the designated sidewalk
area but rather are located in a portion of the right-of-way SFMTA described as "Traffic
Islands (Curbside)." The Taraval Hybrid Spaces share few if any similarities with traditional

traffic islands; they were not designed as pedestrian refuges for crossing multi-lane roadways and they are immediately adjacent to the sidewalk, not located in the middle of the street.

(10) A Curbside Shared Space under Administrative Code Section 94A.2 is "a Shared Space occurring in a portion of the curbside lane of a City street." The Taraval Hybrid Spaces are outside of the sidewalk zone, but they are also outside of any "lane," as they are not within either a vehicular travel lane or parking lane. They were designed and designated to be separate from the travelway. A Curbside Shared Space also requires SFMTA approval of the curbside lane closure pursuant to Section 204 of Division II of the Transportation Code. No such "closure of the curbside lane" would be required or applicable to the Taraval Hybrid Spaces since they are not in a travel lane. Additionally, if the Taraval Hybrid Spaces were treated as Curbside Shared Spaces, they would need to be activated as more structurally substantial "parklets," including safety features designed to separate patrons from passing vehicles. Such a deployment would be redundant for the Taraval Hybrid Spaces which are already physically separated from the travelway by a curb, landscaping, and boulders, and include recent public streetscape improvements that could be obscured by parklet construction.

(11) Consequently, the Taraval Hybrid Spaces are Shared Spaces that do not fall within the definitions or permitting scheme of the existing categories of Shared Spaces.

(12) In recognition of the economic, health, safety, and recreational contributions that Shared Spaces have provided to commercial enterprises, neighborhood businesses, and City residents and visitors, the Board of Supervisors intends to allow the Taraval Hybrid Spaces to operate as viable extensions of the associated businesses in the same manner as similarly situated Sidewalk Spaces. To accomplish this objective, this ordinance waives specific provisions of the Administrative Code governing Shared Spaces that otherwise would be applicable to the Taraval Hybrid Spaces, conditioned on the Taraval

Supervisor Engardio BOARD OF SUPERVISORS

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Hybrid Spaces undergoing minor physical modifications to make them compliant with applicable laws and similarly situated Shared Spaces.

Section 2. Waiver of Certain Administrative Code Provisions.

(a) Notwithstanding Administrative Code Sections 94A.2, 94A.4, and 94A.5, the Taraval Spaces shall be treated as sidewalks for purposes of eligibility for a Shared Spaces permit. Administrative Code Sections 94A.2, 94A.4, and 94A.5 are hereby waived to the extent they would otherwise require an application for Taraval Hybrid Spaces to be processed as a Curbside Shared Space or denied for failure to meet the definition of a Sidewalk Shared Space.

(b) In implementing these waivers, the Public Works Director shall process permits for the Taraval Hybrid Spaces in accordance with the other requirements of Administrative Code Sections 94A et seq., Public Works Code Sections 793 et seq., and Public Works regulations for Sidewalk Shared Spaces and shall ensure that the Taraval Hybrid Spaces are compliant with these laws and regulations. To the extent that implementation of these waivers presents a conflict with Public Works Code Sections 176 et seq. or Sections 793 et seq., the provisions of this ordinance shall prevail, and the Public Works Director is authorized to exercise discretion to amend or waive any design guidelines or other regulations in conflict with this ordinance; provided, however, that the Taraval Hybrid Spaces shall comply with all regulations, as may be modified by the Public Works Director, regarding public health and safety design features for Shared Spaces.

|||

|||

Section 3. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

APPROVED AS TO FORM: DAVID CHIU, City Attorney

By: <u>/s/ HEATHER L. GOODMAN</u> HEATHER L. GOODMAN Deputy City Attorney

n:\legana\as2023\2300341\01686091.docx



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

File Number: 230767

Date Passed: September 26, 2023

Ordinance waiving specified requirements in the Administrative Code to allow seating area designated as a curbside traffic island on Taraval Street at 46th Avenue to be defined as two sidewalk shared spaces, subject to certain requirements; and affirming the Planning Department's determination under the California Environmental Quality Act.

September 11, 2023 Land Use and Transportation Committee - RECOMMENDED

September 19, 2023 Board of Supervisors - PASSED ON FIRST READING

Ayes: 11 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

September 26, 2023 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 230767

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 9/26/2023 by the Board of Supervisors of the City and County of San Francisco.

J

Angela Calvillo Clerk of the Board

London N. Breed Mayor

Date Approved