File No. 120471 Committee Item No. 3
Board Item No. 44

COMMITTEE/BOARD OF SUPERVISORS

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Completed by: Alisa Miller **Date** July 20, 2012
Completed by: Derek Evans **Date** July 24, 2012

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

[Planning Code - Bicycle Parking; Automotive Service Station Conversions]

Ordinance amending the San Francisco Planning Code Sections 102.9, 155.1, 155.4, and 228 et. seq. to: 1) expand the applicability of bicycle parking requirements; 2) exempt bicycle parking from Floor-Area ratio calculations; 3) permit the conversion of Automotive Service Stations located on Primary Transit Streets and Citywide Pedestrian Network Streets to another use without Conditional Use authorization; and 4) adopting environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

NOTE: Additions are *single-underline italics Times New Roman*; deletions are ~~*strike-through italics Times New Roman*~~. Board amendment additions are double-underlined; Board amendment deletions are ~~strikethrough normal~~.

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

Section 1. Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 120471 and is incorporated herein by reference.

(b) Pursuant to Planning Code Section 302, this Board finds that these Planning Code amendments will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 18553 and the Board incorporates such reasons herein by reference. A copy of Planning Commission Resolution No. 18553 is on file with the Clerk of the Board of Supervisors in File No. 110548.

(c) This Board finds that these Planning Code amendments are consistent with the General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set forth in Planning Commission Resolution No. 18553, and the Board hereby incorporates such reasons herein by reference.

Section 2. The San Francisco Planning Code is hereby amended by amending Sections 102.9, 155.1, 155.4, and 228 et seq., to read as follows:

SEC. 102.9. FLOOR AREA, GROSS.

In districts other than C-3, the sum of the gross areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the centerlines of walls separating two buildings. Where columns are outside and separated from an exterior wall (curtain wall) which encloses the building space or are otherwise so arranged that the curtain wall is clearly separate from the structural members, the exterior face of the curtain wall shall be the line of measurement, and the area of the columns themselves at each floor shall also be counted.

In C-3 Districts and the Van Ness Special Use District, the sum of the gross areas of the several floors of a building or buildings, measured along the glass line at windows at a height of four feet above the finished floor and along a projected straight line parallel to the overall building wall plane connecting the ends of individual windows; provided, however, that such line shall not be inward of the interior face of the wall.

(a) Except as specifically excluded in this definition, "gross floor area" shall include, although not be limited to, the following:

(1) Basement and cellar space, including tenants' storage areas and all other space except that used only for storage or services necessary to the operation or maintenance of the building itself;

(2) Elevator shafts, stairwells, exit enclosures and smokeproof enclosures, at each floor.

(3) Floor space in penthouses except as specifically excluded in this definition;

(4) Attic space (whether or not a floor has been laid) capable of being made into habitable space;

(5) Floor space in balconies or mezzanines in the interior of the building;

(6) Floor space in open or roofed porches, arcades or exterior balconies, if such porch, arcade or balcony is located above the ground floor or first floor of occupancy above basement or garage and is used as the primary access to the interior space it serves;

(7) Floor space in accessory buildings, except for floor spaces used for accessory off-street parking or loading spaces as described in Section 204.5 of this Code, and driveways and maneuvering areas incidental thereto; and

(8) Any other floor space not specifically excluded in this definition.

(b) "Gross floor area" shall not include the following:

(1) Basement and cellar space used only for storage or services necessary to the operation or maintenance of the building itself;

(2) Attic space not capable of being made into habitable space;

(3) Elevator or stair penthouses, accessory water tanks or cooling towers, and other mechanical equipment, appurtenances and areas necessary to the operation or maintenance of the building itself, if located at the top of the building or separated therefrom only by other space not included in the gross floor area;

(4) Mechanical equipment, appurtenances and areas, necessary to the operation or maintenance of the building itself (i) if located at an intermediate story of the building and forming a complete floor level; or (ii) in C-3 Districts, if located on a number of intermediate stories occupying less than a full floor level, provided that the mechanical equipment,

appurtenances and areas are permanently separated from occupied floor areas and in aggregate area do not exceed the area of an average floor as determined by the Zoning Administrator;

(5) Outside stairs to the first floor of occupancy at the face of the building which the stairs serve, or fire escapes;

(6) Floor space used for accessory off-street parking and loading spaces as described in Section 204.5 of this Code and up to a maximum of one hundred fifty percent (150%) of the off-street accessory parking permitted by right in Section 151.1 of this Code for C-3 Districts, and driveways and maneuvering areas incidental thereto;

(7) *Bicycle parking which meets the standards of Sections 155.1 through 155.5 of this Code.*

(8) Arcades, plazas, walkways, porches, breezeways, porticos and similar features (whether roofed or not), at or near street level, accessible to the general public and not substantially enclosed by exterior walls; and accessways to public transit lines, if open for use by the general public; all exclusive of areas devoted to sales, service, display, and other activities other than movement of persons;

~~(8)~~ *(9)* Balconies, porches, roof decks, terraces, courts and similar features, except those used for primary access as described in Paragraph (a)(6) above, provided that:

(A) If more than 70 percent of the perimeter of such an area is enclosed, either by building walls (exclusive of a railing or parapet not more than three feet eight inches high) or by such walls and interior lot lines, and the clear space is less than 15 feet in either dimension, the area shall not be excluded from gross floor area unless it is fully open to the sky (except for roof eaves, cornices or belt courses which project not more than two feet from the face of the building wall).

(B) If more than 70 percent of the perimeter of such an area is enclosed, either by building walls (exclusive of a railing or parapet not more than three feet eight inches high), or

by such walls and interior lot lines, and the clear space is 15 feet or more in both dimensions, (1) the area shall be excluded from gross floor area if it is fully open to the sky (except for roof eaves, cornices or belt courses which project no more than two feet from the face of the building wall), and (2) the area may have roofed areas along its perimeter which are also excluded from gross floor area if the minimum clear open space between any such roof and the opposite wall or roof (whichever is closer) is maintained at 15 feet (with the above exceptions) and the roofed area does not exceed 10 feet in depth; (3) in addition, when the clear open area exceeds 625 square feet, a canopy, gazebo, or similar roofed structure without walls may cover up to 10 percent of such open space without being counted as gross floor area.

(C) If, however, 70 percent or less of the perimeter of such an area is enclosed by building walls (exclusive of a railing or parapet not more than three feet eight inches high) or by such walls and interior lot lines, and the open side or sides face on a yard, street or court whose dimensions satisfy the requirements of this Code and all other applicable codes for instances in which required windows face upon such yard, street or court, the area may be roofed to the extent permitted by such codes in instances in which required windows are involved;

~~(9)~~ *(10)* On lower, nonresidential floors, elevator shafts and other life-support systems serving exclusively the residential uses on the upper floors of a building;

~~(10)~~ *(11)* One-third of that portion of a window bay conforming to the requirements of Section 136(d)(2) which extends beyond the plane formed by the face of the facade on either side of the bay but not to exceed seven square feet per bay window as measured at each floor;

~~(11)~~ *(12)* Ground floor area in the C-3-0, C-3-O(SD), C-3-S, C-3-S(SU) and C-3-G Districts devoted to building or pedestrian circulation and building service;

~~(12)~~ *(13)* In the C-3-0, C-3-O(SD), C-3-S, C-3-S(SU) and C-3-G Districts, space devoted to personal services, restaurants, and retail sales of goods intended to meet the convenience shopping and service needs of downtown workers and residents, not to exceed 5,000 occupied square feet per use and, in total, not to exceed 75 percent of the area of the ground floor of the building plus the ground level, on-site open space. Said uses shall be located on the ground floor, except that, in order to facilitate the creation of more spacious ground floor interior spaces, a portion of the said uses, in an amount to be determined pursuant to the provisions of Section 309, may be located on a mezzanine level;

~~(13)~~ *(14)* An interior space provided as an open space feature in accordance with the requirements of Section 138

~~(14)~~ *(15)* Floor area in C-3, South of Market Mixed Use Districts, and Eastern Neighborhoods Mixed Use Districts devoted to child care facilities provided that:

(A) Allowable indoor space is no less than 3,000 square feet and no more than 6,000 square feet, and

(B) The facilities are made available rent free, and

(C) Adequate outdoor space is provided adjacent, or easily accessible, to the facility. Spaces such as atriums, rooftops or public parks may be used if they meet licensing requirements for child care facilities, and

(D) The space is used for child care for the life of the building as long as there is a demonstrated need. No change in use shall occur without a finding by the City Planning Commission that there is a lack of need for child care and that the space will be used for a facility described in Subsection 15 below dealing with cultural, educational, recreational, religious, or social service facilities;

~~(15)~~ *(16)* Floor area in C-3, South of Market Mixed Use Districts, and Eastern Neighborhoods Mixed Use Districts permanently devoted to cultural, educational, recreational,

religious or social service facilities available to the general public at no cost or at a fee covering actual operating expenses, provided that such facilities are:

(A) Owned and operated by a nonprofit corporation or institution, or

(B) Are made available rent free for occupancy only by nonprofit corporations or institutions for such functions. Building area subject to this subsection shall be counted as occupied floor area, except as provided in Subsections 102.10(a) through (f) of this Code, for the purpose of calculating the off-street parking and freight loading requirements for the project;

~~*(16) In C-3 Districts, floor space used for short-term parking and aisles incidental thereto when required pursuant to Section 309 in order to replace short-term parking spaces displaced by the building or buildings;*~~

(17) Floor space in mezzanine areas within live/work units where the mezzanine satisfies all applicable requirements of the San Francisco Building Code;

(18) Floor space suitable primarily for and devoted exclusively to exhibitions or performances by live/work tenants within the structure or lot, provided that such facilities will be available rent-free to live/work tenants within the property for the life of the structure; and

(19) In South of Market Mixed Use Districts, live/work units and any occupied floor area devoted to mechanical equipment or appurtenances or other floor area accessory to live/work use provided that:

(A) The nonresidential use within each live/work unit shall be limited to uses which are principal permitted uses in the district or otherwise are conditional uses in the district and are approved as a conditional use,

(B) The density, enforcement, open space, parking and freight loading and other standards specified in Sections 124(j), 135.2, 151 and 152.1 shall be satisfied, along with all other applicable provisions of this Code, and

(C) For the purpose of calculating the off-street parking and freight loading requirement for the project, building area subject to this subsection shall be counted as occupied floor area, except as provided in Subsections 102.10(a) through (f) of this Code.

SEC. 155.1. BICYCLE PARKING REQUIREMENTS FOR CITY-OWNED AND LEASED BUILDINGS.

In all City-owned and leased buildings, regardless of whether off-street parking is available, the responsible City official, as defined in Section 155.1(a)(11) below, shall provide bicycle parking according to the schedule in Section 155.1(c) below, except as otherwise provided in Section 155.2. The provisions of this Section shall not apply in any case where the City occupies property as a tenant under a lease the term of which does not exceed six months. In the event that a privately owned garage, as defined in Section 155.2, is in a building in which the City leases space, Section 155.2 and not this Section shall apply. All required bicycle parking shall conform to the requirements of Sections 155.1(b) (Location of Facilities) and 155.1(c) (Number of Spaces) set forth below:

(a) **Definitions.**

(1) **Locker.** A fully enclosed, secure and burglar-proof bicycle parking space accessible only to the owner or operator of the bicycle.

(2) **Check-in Facility.** A location in which the bicycle is delivered to and left with an attendant with provisions for identifying the bicycle's owner. The stored bicycle is accessible only to the attendant.

(3) **Monitored Parking.** A location where Class 2 parking spaces are provided within an area under constant surveillance by an attendant or security guard or by a monitored camera.

(4) **Restricted Access Parking.** A location that provides Class 2 parking spaces within a locked room or locked enclosure accessible only to the owners of bicycles parked within.

(5) **Personal Storage.** Storage within the view of the bicycle owner in either the operator's office or a location within the building.

(6) **Class 1 Bicycle Parking Space(s).** Facilities which protect the entire bicycle, its components and accessories against theft and against inclement weather, including wind-driven rain. Examples of this type of facility include (1) lockers, (2) check-in facilities, (3) monitored parking, (4) restricted access parking, and (5) personal storage.

(7) **Class 2 Bicycle Parking Space(s).** Bicycle racks which permit the locking of the bicycle frame and one wheel to the rack and, which support the bicycle in a stable position without damage to wheels, frame or components.

(8) **Director.** Director of ~~*the Department of City*~~ Planning.

(9) **Landlord.** Any person who leases space in a building to the City. The term "landlord" does not include the City.

(10) **Employees.** Individuals employed by the City and County of San Francisco.

(11) **Responsible City Official.** The highest ranking City official of an agency or department which has authority over a City-owned building or parking facility or of an agency or department for which the City is leasing space.

(12) **Person.** Any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that may enter into leases.

(b) **Location of Facilities.**

(1) ***Majority of Spaces Are Long-Term.*** At locations where the majority of parking spaces will be long-term (e.g., occupied by building employees for eight hours or more), at least ½ of the required bicycle parking spaces shall be Class 1 spaces. The remaining spaces

may be Class 2 spaces. The Director may approve alternative types of parking spaces that provide an equivalent measure of security.

(2) **Alternative Locations.** In the event that compliance with Section 155.1(b)91) may not be feasible because of demonstrable hardship, the responsible city official may apply to the Director for approval of an alternative storage location. In acting upon such applications, the Director shall be guided by the following criteria: Such alternative facilities shall be well-lighted and secure. The entrance shall be no more than 50 feet from the entrance of the building, unless there are no feasible locations within a 50 foot zone that can be provided without impeding sidewalk or pedestrian traffic. However, in no event shall an alternative location be approved that is farther from the entrance of the building than the closest automobile parking space.

(3) **Exemptions.** If no feasible alternative parking facility exists nearby which can be approved pursuant to Section 155.1(b)(1) or (2), no Class 1 bicycle parking is provided in the building, or, securing an alternative location would be unduly costly and pose a demonstrable hardship on the landlord, or on the City, where the City owns the building, the Director may issue an exemption. In order to obtain an exemption, the responsible City official shall certify to the Director in writing that the landlord, or the City, where the City owns the building, will not prohibit bicycle operators from storing bicycles within their office space, provided that they are stored in such a way that the Fire Code is not violated and that the normal business of the building is not disrupted.

(c) **Required Number of Bicycle Parking Spaces.**

(1) **Class 1 Bicycle Parking Spaces.** The following standards shall govern the number of Class 1, long-term, bicycle parking spaces a responsible City official must provide:

(A) In buildings with one to 20 employees, at least two bicycle parking spaces shall be provided.

(B) In buildings with 21 to 50 employees, at least four bicycle parking spaces shall be provided.

(C) In buildings with 51 to 300 employees, the number of bicycle parking spaces provided shall be equal to at least five percent of the number of employees at that building, but in no event shall fewer than five bicycle spaces be provided.

(D) In buildings with more than 300 employees, the number of bicycle parking spaces provided shall be equal to at least three percent of the number of employees at that building but in no event shall fewer than 16 bicycle parking spaces be provided.

(2) ***Class 2 Bicycle Parking Spaces.*** In addition to the Class 1 bicycle parking spaces required above, a responsible City official shall also provide Class 2 bicycle parking spaces according to the below enumerated schedule:

(A) In buildings with one to 40 employees, at least two bicycle parking spaces shall be provided.

(B) In buildings with 41 to 50 employees, at least four bicycle parking spaces shall be provided.

(C) In buildings with 51 to 100 employees, at least six bicycle parking spaces shall be provided.

(D) In buildings with more than 100 employees, at least eight bicycle parking spaces shall be provided. Wherever a responsible City official is required to provide eight or more Class 2 bicycle parking spaces, at least 50 percent of those parking spaces shall be covered.

(3) ***Public Buildings.*** In public buildings where the City provides a public service to members of the public who are patrons or users of the buildings, such as libraries, museums, and sports facilities, the responsible City official shall provide the number of bicycle parking spaces as set out in Section 155.1(c)(1) and (2), except that the average patron load in a building during peak use hours as determined by the Director, rather than the number of

employees, shall determine the number of spaces required. This Section shall not apply where a public building has a "garage" (as such term is defined in Section 155.2(a)) that is open to the general public, in which case Section 155.2 shall apply.

(4) ***Annual Survey.*** The Director shall annually survey the amount, location, and usage of provided bicycle parking spaces in all buildings subject to the requirements of this Section in order to ascertain whether current requirements are adequate to meet demand for such parking spaces. If current requirements are inadequate, the Director shall draft and submit to the Board of Supervisors proposed legislation that would remedy the deficiency.

(5) **Reductions.** The Director may grant a reduction from the number of bicycle parking spaces required by this Section where the applicant shows based upon the type of patronage, clientele, or employees using the building that there is no reason to expect a sufficient number of bicycle-riding patrons, clientele or employees to justify the number of spaces otherwise required by the Section.

(d) **Layout of Spaces.** Class 1 and Class 2 bicycle parking spaces or alternative spaces approved by the Director shall be laid out according to the following:

(1) An aisle or other space to enter and leave the facility shall be provided. The aisle shall provide a width of five feet to the front or rear of a standard six-foot bicycle parked in the facility.

(2) Each bicycle parking space shall provide an area at least two feet wide by six feet deep. Vertical clearance shall be at least 78 inches.

(3) Bicycle parking shall be at least as conveniently located as the most convenient nondisabled car parking. Safe and convenient means of ingress and egress to bicycle parking facilities shall be provided. Safe and convenient means include, but are not limited to stairways, elevators and escalators.

(4) Bicycle parking and automobile parking shall be separated by a physical barrier or sufficient distance to protect parking bicycles from damage. The number of required automobile parking spaces may be lowered in buildings where Class 1 bicycle parking is provided. The number of otherwise required automobile parking spaces may be reduced, commensurate with the space necessary to provide Class 1 or Class 2 bicycle parking spaces, in an amount that meets or exceeds the requirements of this section. This provision only applies to the explicit area used for Class 1 or Class 2 bicycle parking.

(5) Class 2 bicycle racks shall be located in highly visible areas to minimize theft and vandalism.

(6) Where Class 2 bicycle parking areas are not clearly visible to approaching bicyclists, signs shall indicate the locations of the facilities.

(7) The surface of bicycle parking spaces need not be paved, but shall be finished to avoid mud and dust.

(8) All bicycle racks and lockers shall be securely anchored to the ground or building structure.

(9) Bicycle parking spaces may not interfere with pedestrian circulation.

(e) **Lease Provisions.**

(1) All City leases of buildings that are subject to the requirements of this Section and under which the City is a tenant shall specifically provide that the landlord agrees to make space available in the building for the term of the lease within which the responsible City official may install, at no cost to the landlord, bicycle parking facilities that are in compliance with this Section.

(2) This Subsection (e) does not in any way limit the ability of the Director to approve alternative storage locations under Subsection (b)(2) or exemptions under Subsection (b)(3). In the event that an exemption is granted or an alternative location is approved allowing the

installation of bicycle parking facilities on property that is not included (i) in a building leased by the responsible city official or (ii) on property that belongs to the landlord, Subsection (e)(1) does not apply. If the alternative location is on property that is owned by the landlord, but is not inside the building to be leased by the responsible city official, the lease provision of Subsection (e)(1) is required and shall identify that property as the location of the bicycle parking spaces.

~~*(f)* ***Enforcement.*** *Article 1.5, Section 151.1 shall be enforced by the Zoning Administrator. Upon complaint, the Zoning Administrator shall investigate. If the Zoning Administrator concludes that a violation exists, he or she shall provide written notice to the responsible City official offering thirty days to cure the violation. The written notice shall inform the responsible City official of the grounds for the Zoning Administrator's conclusion that this Section has been violated. The notice shall afford the responsible City official an opportunity to meet with the Zoning Administrator to explain why penalties should not be assessed. The Zoning Administrator shall assess penalties upon the responsible City official's agency or department according to the following provisions:*~~

~~*(1) If the responsible City official's violation has not been cured within the 30 days, a penalty of $50/day shall be assessed by the Zoning Administrator, commencing with the first date of the violation.*~~

~~*(2) All fines collected for violations of this Section shall be deposited with the Department of Parking and Traffic for expenditure by and for the Department's Bicycle Program*~~.

(f) ~~*(g)*~~ **Miscellaneous Requirements.**

(1) The responsible City official shall not, and shall encourage landlords not to, establish or enforce any building policy that restricts or discourages building tenants, employees, or visitors from utilizing their bicycle storage spaces.

(2) In any building that contains more than the required number of bicycle parking spaces as set forth in Article 1.5, Section 155.1, the responsible City official shall not remove such additional bicycle parking spaces without petitioning the Director. Such a petition may

not be filed until at least one year has elapsed following the effective date of this Section. That petition shall demonstrate that the spaces the responsible City official seeks authority to remove have not been necessary to meet the demand of employees and other building users.

(3) The responsible City official shall be responsible for full compliance with this Section. The Board of Supervisors does not intend to impose requirements of this Section on any responsible City official where such application would impair obligations of contract.

(4) Buildings with existing traditional-type racks which support only one wheel shall have two years from the effective date of this Section to replace them with conforming racks.

(5) In addition to imposing requirements pursuant to this Section, the Board of Supervisors declares it the official policy of the City and County of San Francisco that all property owners and responsible City officials in control of buildings housing employees or members of the public who use bicycles shall provide bicycle parking spaces and shall encourage and facilitate bicycle usage.

~~*(h) In adopting this Section, the Board of Supervisors intends that General Fund Revenues not be used to pay for the purchase of bicycle storage facilities or for installation of bicycle storage facilities, that private building owners not be required to use their own funds to implement the requirements of this Section, and that the implementation of this Section be funded primarily through the use of public and private donations, grants and other available programmatic funding.*~~

SEC. 155.4. BICYCLE PARKING REQUIRED IN NEW AND RENOVATED COMMERCIAL BUILDINGS.

(a) **Definitions.**

~~*(1)*~~ All definitions set forth in Section 155.1(a) and Section 155.3(a) are incorporated into this Section. *For the purposes of this Section, commercial shall mean commercial, industrial, and institutional uses.*

(b) ***Applicability.***

(1) ~~(2)~~ **New Commercial Buildings.** A commercial or industrial building for which a building permit is issued on or ~~*at least six months*~~ after the effective date of this Section.

(2) ~~(3)~~ **Major Renovation.** Any construction or renovation project (i) for which a building permit is issued commencing on or ~~*at least six months*~~ after the effective date of this Section (ii) which involves an enlargement of an existing commercial building and (iii) which has an estimated construction cost of at least $1,000,000.00.

(3) ***Major Change of Use.*** *Any change of use involving half or more of the building's square footage, or 10,000 or more square feet.*

(4) ***Addition of Parking.*** *Any increase in the amount of off-street automobile parking.*

~~(b)~~ *(c)* **Requirements** ~~***for New Commercial Buildings and Commercial Buildings with Major Renovations.***~~ ~~*New c*~~*C*ommercial buildings *making any of the changes specified in subsection (b)* ~~*and commercial buildings with major renovations*~~, as a condition of approval, shall provide bicycle parking in that building in accordance with this Section. Where a building undergoes major renovations, its total square footage after the renovation shall be used in calculating how many, if any, bicycle parking spaces are required.

~~(c)~~ *(d)* **Types of Bicycle Parking.** New commercial buildings and commercial buildings with major renovations shall offer either Class 1 bicycle parking, as defined in Section 155.1(a)(6), or Class 2 bicycle parking, as defined in Section 155.1(a)(7), or a combination of Class 1 and Class 2 bicycle parking.

~~(d)~~ *(e)* **Bicycle Parking Spaces—Professional Services.** For new commercial buildings and commercial buildings with major renovations, including individual buildings of large, multiple-building developments, whose primary use consists of medical or other professional services, general business offices, financial services, general business services, business and trade schools, colleges and universities, research and development or manufacturing, the following schedule of required bicycle parking applies:

(1) Where the gross square footage of the floor area exceeds 10,000 square feet but is no greater than 20,000 feet, 3 bicycle spaces are required.

(2) Where the gross square footage of the floor area exceeds 20,000 square feet but is no greater than 50,000 feet, 6 bicycle spaces are required.

(3) Where the gross square footage of the floor area exceeds 50,000 square feet, 12 bicycle spaces are required.

~~(e)~~ *(f)* **Bicycle Parking Spaces—Retail *and Hotel*.** For new commercial buildings and commercial buildings with major renovations whose primary use consists of retail, eating and drinking or personal service, the following schedule of required bicycle parking applies:

(1) Where the gross square footage of the floor area exceeds 25,000 square feet but is no greater than 50,000 feet, 3 bicycle spaces are required.

(2) Where the gross square footage of the floor area exceeds 50,000 square feet but is no greater than 100,000 feet, 6 bicycle spaces are required.

(3) Where the gross square footage of the floor area exceeds 100,000 square feet, 12 bicycle spaces are required.

~~(f)~~ *(g)* **Notice of Bicycle Parking.** New commercial buildings and commercial buildings with major renovations subject to this Section must provide adequate signs or notices to advertise the availability of bicycle parking.

~~(g)~~ *(h)* **Layout of Spaces.** Owners of new commercial buildings and commercial buildings with major renovations subject to this Section are encouraged to follow the requirements set forth in Section 155.1(d) (Layout of Spaces) in installing Class 1 and Class 2 bicycle parking. The number of required automobile parking spaces may be lowered in buildings where Class 1 bicycle parking is provided. The number of otherwise required automobile parking spaces may be reduced, commensurate with the space necessary to provide Class 1 or Class 2 bicycle parking spaces, in an amount that meets or exceeds the

provide Class 1 or Class 2 bicycle parking spaces, in an amount that meets or exceeds the requirements of this section. This provision only applies to the explicit area used for Class 1 or Class 2 bicycle parking.

~~(h)~~ *(i)* **Owners of Existing Buildings Encouraged to Provide Bicycle Parking Spaces.** The City encourages building owners whose buildings are not subject to this Section to provide bicycle parking spaces in such buildings.

~~(i)~~ *(j)* **Exemption.** Where a new commercial building or building with major renovations includes residential uses, the building's total non-residential square footage shall be used in calculating how many, if any, bicycle parking spaces are required. Building owners shall be required to allow tenants to bring their bicycles into buildings unless Class 1 bicycle parking is provided.

~~(j)~~ *(k)* This Section shall not be interpreted to interfere with the *Planning* Department*'s* ~~*of Planning's*~~ authority to require more than the minimum bicycle parking spaces required by this Section as a condition of approval of a project, where appropriate.

~~*(k) For the purposes of this Section, commercial shall mean commercial and industrial.*~~

SEC. 228. ***CONVERSION OF AUTOMOTIVE SERVICE STATIONS*** ~~***FINDINGS***~~**.**

(a) ***Findings.***

(1) The recent trend toward conversion of service stations to non-service station use has resulted in the curtailment of essential services, including automobile refueling and emergency services, and is contrary to the public health, safety, peace and general welfare.

~~*(b)*~~ *(2)* To address this problem, the Board of Supervisors adopted Resolution No. 759-89 to impose interim controls on the conversion of service stations and to create a task force to study this problem and make recommendations to this Board regarding how to address this problem.

~~(c)~~ *(3)* In the 17 months since Resolution 759-89, 11 more service stations have been converted to other uses. The Service Station Conversion Task Force has recommended that the Board of Supervisors adopt permanent legislation to address this problem.

~~(d)~~ *(4)* The Board of Supervisors recognizes that service station operators and those who own property on which such stations are located are entitled to earn a fair rate of return on their investment. Where a fair rate of return is being earned, the Board finds that service stations should be allowed to convert to other uses only where it is determined that the conversion would benefit the public.

~~***SEC. 228.1. DEFINITIONS.***~~

(b) ***Definitions.*** Whenever used in *this* Section~~*s 228.2 through 228.5*~~, unless a different meaning clearly appears from the context:

~~(a)~~ *(1)* "~~*Gasoline*~~ *Automotive* ~~s~~*S*ervice ~~s~~*S*tation" *or "service station"* shall mean *a retail automotive service use which provides* ~~*an establishment that sells and dispenses gasoline and other*~~ motor fuels and lubricating fluids directly into motor vehicles and *performs minor auto repairs and services* which *remain incidental to the principal sale of motor fuel, as defined in* ~~*may, in addition, provide the types of services specified in*~~ Sections ~~*223(f) or 223(g)*~~ *790.17 and 890.18* of this Code.

~~(b)~~ *(2)* "Conversion" shall mean to change the use of a property from a service station use to a different type of use.

~~(c)~~ *(3) "Return on investment" shall mean:*

(A) ~~W~~*w*here the property owner does not own the *Automotive* ~~s~~*S*ervice ~~s~~*S*tation business, ~~*"return on investment" shall mean*~~ the before income tax total annual rent and other compensation received from the service station business for the lease of the land and buildings, less the expenses of the lessor, on a cash basis.

~~(d)~~ *(B)* ~~W~~*w*here the property owner also owns the *Automotive* ~~s~~*S*ervice ~~s~~*S*tation business, ~~*"return on investment" shall mean*~~ the before income tax profit on the sale of all goods and

services at the service station, including the sale of gasoline, less the cost of goods sold and operating costs, on a cash basis.

~~(e)~~ *(4)* "Total investment in the property" shall mean the fair market value of the property at the time the application is filed with the Zoning Administrator.

~~(f)~~ *(5)* "Demolition" shall mean the physical removal of underground, and/or surface tanks used in storage and dispensing of gasoline and/or any building or canopy without the replacement of such equipment or structures to allow continued operation of the ~~*gasoline*~~ service station.

~~***SEC. 228.2. LIMITATION ON CONVERSIONS.***~~

(c) Limitation on Conversions.

~~(a)~~ *(1)* No owner of a property used as ~~a~~ *an Automotive* ~~s~~*S*ervice ~~s~~*S*tation shall change the use of the property to a different type of use without first applying for and receiving either a conditional use authorization from the City Planning Commission, or a conversion determination from the Zoning Administrator. Such authorizations shall be in addition to any other permit or authorization required for a proposed service station conversion under any applicable City, State or federal law or regulation. *Automotive Service Stations which front on Primary Transit Streets or Citywide Pedestrian Network Streets, as designated in the General Plan, shall be exempt from the conversion limitations of this Section.* The procedures for service station conversion applications shall be as described in Sections 306 and 306.1 of this Code for conditional use and variance actions.

~~(b)~~ *(2)* Either the ~~City~~ Planning Commission or the Zoning Administrator shall determine at a public hearing whether an applicant is entitled to convert the ~~*gasoline*~~ service station, depending on the grounds on which the permit is sought. The ~~City~~ Planning Commission shall make conditional use authorization determinations based on the criteria set forth in ~~*Section 228.3*~~. *Subsection (d)*. The Zoning Administrator shall make service station

conversion determinations under the grounds set forth in Subsection ~~228.4(a)~~ *(e)*. An applicant may, but need not, apply to the ~~*City*~~ Planning Commission for a conditional use authorization pursuant to ~~*Section 228.3*~~ *Subsection (d)* and apply to the Zoning Administrator for a conversion authorization pursuant to ~~*Section 228.4(a)*~~ *Subsection (e)*, provided that if either one approves the application at the first hearing held on it, no hearing shall be necessary before the other. The procedures for service station conversion hearings shall be as described in Sections 306 through 306.5 and 306.8 of this Code for conditional use action (~~*City*~~ Planning Commission hearings) and variance action.

~~***SEC. 228.3. CRITERIA FOR PLANNING COMMISSION CONDITIONAL USE AUTHORIZATION.***~~

(d) ***Criteria for Planning Commission Conditional Use Authorization.*** In acting on any application for conditional use authorization for conversion, the Commission shall consider the following criteria in lieu of the criteria set forth in Section 303(c) of this Code.

(1) The ~~*City*~~ Planning Commission shall approve the application and authorize the service station conversion if it determines from the facts presented that the reduction in availability of automotive goods and services resulting from the service station conversion would not be unduly detrimental to the public because either:

~~*(a)*~~ *(A)* Comparable automotive goods and services are available at other reasonably accessible locations; or

~~*(b)*~~ *(B)* The benefits to the public of the service station conversion would outweigh any reduction in automotive goods and services availability because the proposed new use is more necessary or desirable for the neighborhood or community than continued service station use.

~~*(c)*~~ *(2)* In making determinations under Subsection ~~*(a)*~~ *(1)(A)*, the ~~*City*~~ Planning Commission shall consider the following factors:

~~(1)~~ *(A)* The types of services offered by the ~~*gasoline*~~ service station sought to be converted and the hours and days during which such goods and services are available;

~~(2)~~ *(B)* The volume of gasoline and other motor fuel sold and the number of vehicles serviced at such ~~*gasoline*~~ service station during each of the 24 months preceding the filing of the conditional use authorization application;

~~(3)~~ *(C)* Whether the volume of gasoline and other motor fuel sold and the number of vehicles serviced each month has increased or decreased during the 24-month period immediately preceding the conditional use authorization;

~~(4)~~ *(D)* The accessibility of comparable automotive goods and services offered by other ~~*gasoline*~~ service stations and repair garages which serve the same geographic area and population segments (e.g., neighborhood residents, in-town or out-of-town commuters, tourists) as the service station sought to be converted.

~~(d)~~ *(3)* In making determinations under Subsection ~~(b)~~ *(1)(B)*, the Planning Commission shall consider the following factors:

~~(1)~~ *(A)* If the proposed use is a residential use, the total number of units to be provided and the number of those units that are affordable units;

~~(2)~~ *(B)* If the proposed new use is a commercial use, the types of goods and services to be offered and the availability of comparable products and services in the vicinity;

~~(3)~~ *(C)* *The importance of the street on which the service station fronts to walking, cycling, and public transit, and the impact of automobile access and egress to the service station and of the proposed new uses and structures on the safety and comfort of pedestrians, cyclists, and transit riders.*

(D) The relative environmental dangers posed by the current and proposed uses, including but not limited to the quality and character of waste generated, noxious or offensive emissions, fire and explosion hazards and noise, and whether the service station conversion would facilitate the cleanup of existing contamination at the property;

~~(4)~~ *(E)* The relative employment opportunities offered by the ~~*gasoline*~~ service station and the proposed new use;

~~(5)~~ *(F)* The relative amount of taxes or other revenues to be received by the City or other governmental bodies from service station use and the proposed new use;

(G) The compatibility of the existing service station and of the proposed new use or structure with the General Plan and area plan urban design policies and the street frontage standards of this Code;

~~(6)~~ *(H)* Whether the service station use and the proposed use are permitted principal uses, conditional use*s* or nonconforming use*s*.

~~***SEC. 228.4. CRITERIA FOR ZONING ADMINISTRATOR CONVERSION DETERMINATION.***~~

~~*(a)*~~ *(e)* ***Criteria for Zoning Administrator Conversion Determination.*** The Zoning Administrator shall approve the application and authorize the service station conversion if the Zoning Administrator determines from the facts presented that the owner of the subject property is not earning a fair return on investment. The owner shall bear the burden of proving that the owner is not earning a fair return on investment.

(1) ***Application.*** A property owner's application under this Section shall be signed by the owner or an authorized representative of the owner and, under penalty of perjury, declared to contain true and correct information. The application shall be accompanied by:

~~(1)~~ *(A)* An independent appraisal of the property stating its value;

~~(2)~~ *(B)* A written statement from an independent Certified Public Accountant summarizing the applicant's financial records, including the property appraisal and stating the return on investment calculated pursuant to this *Section* ~~*ordinance*~~;

~~(3)~~ *(C)* A certified statement from the Certified Public Accountant identifying the owner of the property and the owner of the service station business;

~~(4)~~ *(D)* Such other financial information as the Zoning Administrator may reasonably determine is necessary to make the determination provided for in this Section.

~~(b)~~ *(2)* ***Rebuttable Presumption.*** There shall be a rebuttable presumption that the property owner is earning a fair return on investment if the property owner has earned at least a nine percent return on the property owner's total investment in the property for the 24-month period immediately preceding the filing of the application, or in the case of a service station business that ceased operations after October 12, 1989, for the 24-month period immediately preceding the date the service station ceased operations. The property owner may rebut this presumption by offering evidence demonstrating that because of special facts regarding his or her property the property owner is not earning a fair return on investment or that because of special demonstrated circumstances the applicant would not earn a fair return on investment from service station use during that 12-month period after the filing of the service station conversion application.

~~(c)~~ *(3)* ***Notice of Hearing.*** Prior to conducting ~~such~~ *the* hearing *required by Subsection (c)(1)*, the Zoning Administrator shall provide ~~public~~ *written* notice of the hearing ~~prior to the date of the hearing. Such notice shall include written notice~~ to each property owner within 300 feet in every direction from the ~~gasoline~~ service station, as shown in the last equalized assessment roll, such notice to be mailed at least 10 days before the hearing. The applicant also shall provide posted notice in a visible location on the ~~gasoline~~ service *station* site at least 20 days before the hearing.

~~(d)~~ *(4)* ***Determination.*** The Zoning Administrator shall render written determination within 60 days of the hearing.

~~(e)~~ *(5)* ***Consultation With Other City Departments.*** If necessary, the Zoning Administrator shall have the authority to consult with or retain the assistance of the staffs of the Department of Public Works, Real Estate Department, *and* Mayor's Office of ~~Business~~ *Workforce and*

Economic Development~~, and Office of Community Development~~ in the review of applications for service station conversion.

~~***SEC. 228.5. DEMOLITION AND TANK REMOVAL.***~~

~~(a)~~ *(f)* ***Demolition and Tank Removal.***

(1) No service station shall be demolished except to enable a new service station to be constructed on the property, unless:

~~(1)~~ *(A)* The property owner has first obtained a conditional use authorization from the Planning Commission pursuant to ~~Section 228.3~~ *Subsection (d) above* or a conversion determination from the Zoning Administrator pursuant to ~~Section 228.4~~ *Subsection (e) above*; or

~~(2)~~ *(B)* The ~~Bureau~~ *Department* of Building Inspection and the Bureau of Fire Prevention and Public Safety determines that the building is unsafe or dangerous and that demolition is the only feasible means to secure the public safety.

~~(b)~~ *(2)* Notwithstanding Subsections ~~(a)(1)~~ *(f)(1)(A)* and ~~(a)(2)~~ *(f)(1)(B)* above, if a service station is owned by a lessee of the property and the property lease was signed prior to the effective date of ~~this~~ ~~o~~*O*rdinance *288-91*, which lease permits or requires the lessee to remove the service station from the property before or after the expiration or termination of the lease, and the lease has expired or terminated or will do so within 60 days, the lessee may cease operation of the service station as permitted or required in the lease. Nothing in this provision, however, shall relieve the property owner from continued use of property as ~~a~~ ~~gasoline~~ *an Automotive* ~~s~~*S*ervice ~~s~~*S*tation as defined by Section*s* ~~228.1(f)~~ *790.17 and 890.18 of this Code* or the requirements of Subsection ~~(a)(1)~~ *(f)(1)(A)* above.

~~(c)~~ *(3)* This ~~ordinance~~ *Section* shall not limit the removal of any underground storage tank at a service station where removal of the tank is required to comply with any other local, State or federal law or regulation or where the Director of Public Health or a State or federal regulatory agency with jurisdiction over underground storage tanks determines that the tank

poses, or removal of the tank is necessary to mitigate, a threat to public health or safety, including but not limited to waters of the State. All appropriate permits (other than the authorizations required by this ~~ordinance~~ *Section* for conversions) shall be obtained prior to such authorized tank removals. The removal of an underground tank pursuant to this Section does not otherwise exempt a property owner from the requirement of obtaining conditional use authorization to convert ~~a gasoline~~ an *Automotive* ~~s~~Service ~~s~~Station.

Section 3. Effective Date. This Ordinance shall become effective 30 days from the date of passage.

Section 4. This section is uncodified. In enacting this Ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any other constituent part of the Planning Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the legislation.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: Judith A. Boyajian
JUDITH A. BOYAJIAN
Deputy City Attorney

FILE NO. 120471

LEGISLATIVE DIGEST

[Planning Code - Bicycle Parking; Automotive Service Station Conversions]

Ordinance amending the San Francisco Planning Code Sections 102.9, 155.1, 155.4, and 228 et. seq. to: 1) expand the applicability of bicycle parking requirements; 2) exempt bicycle parking from Floor-Area ratio calculations; 3) permit the conversion of Automotive Service Stations located on Primary Transit Streets and Citywide Pedestrian Network Streets to another use without Conditional Use authorization; and 4) adopting environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1

Existing Law

Section 102.9 of the Planning Code defines gross floor area ratio (FAR) as a ratio of a building's floor area to the area of the lot, and specifies the building uses and features that are included or are exempt from FAR calculations. Space dedicated to bicycle parking counts towards building gross FAR. Section 102.9 also exempts replacement parking in Downtown Commercial (C-3) districts from gross floor area ratio if the replacement parking is required under Section 309. Section 309 was amended by a prior ordinance to no longer require replacement parking.

Section 155.1 sets forth the bicycle parking requirements of City-owned and leased buildings. It tasks the Zoning Administrator with enforcing Bicycle Parking requirements, and specifies is a $50/day fine imposed on violations if they have not been abated within 30 days. Fines are deposited with the Department of Parking and Traffic for expenditure by and for the Department's Bicycle Program. It also provides that General Fund revenues be used to pay for the purchase or installation of bicycle storage facilities.

Section 155.4 requires secure bicycle parking in newly constructed commercial buildings, and in enlarged commercial buildings that have a construction cost of at least $1,000,000.00. Hotels are exempted from bicycle parking requirements.

Sections 228 et seq. require conditional use authorization to convert an Automobile Service Station to another use, and establish criteria for consideration by the Planning Commission when deliberating a conditional use application for such conversions.

Amendments to Current Law

Section 102.9 is amended to exempt Bicycle parking from gross FAR calculations, and to remove the obsolete reference to exemptions for replacement parking.

Section 155.1 is amended so that enforcement of bicycle parking requirements will be handled through the regular Planning Department enforcement procedures, and fees for violating this section of the Code will, like other enforcement fees, remain with the Planning Department to support code enforcement. It deletes the provision for use of General Fund revenues for the purchase and installation of bicycle storage facilities.

Section 155.4 is amended to require bicycle parking when a building undergoes a major change of use, involving half or more of the building's square footage, or 10,000 or more square feet. Bicycle parking will also be required for any increase in the amount of off-street automobile parking. Bicycle parking will be required for hotel uses in the same manner as for retail uses.

Sections 228 et seq. are consolidated into a single section, and amended to permit automobile service stations on transit-priority and major pedestrian streets to be converted to another use without conditional use authorization. The conditional use criteria for conversion are amended to include consideration of transportation impacts of the existing and proposed use.

Background

San Francisco has adopted a goal of having 20% of trips by bicycle by 2012. The purpose of this ordinance is to help achieve that goal by ensuring that bike commuters have a safe and secure place to park their bikes when they get to work. The ordinance expands applicability of bicycle parking requirements to more projects and to additional uses. It also provides incentives for both voluntary compliance and for exceeding minimum bicycle parking requirements by removing bicycle parking from FAR calculations, thereby removing a perceived "penalty" for including bike parking in a development and creating an incentive to dedicate more space to bike parking than required.

The ordinance also seeks to improve enforcement of bicycle parking requirements by treating bicycle parking violations like any other Planning Code violation, and keeping the fees generated from enforcement with the Planning Department to cover costs associated with that enforcement.

The revisions to the Planning Code's provisions for conversion of Automotive Service Stations seek to balance the desire to retain these uses with City policies which support walking, cycling, and public transportation, and which encourage new jobs and housing to be located in transit corridors. The Conditional Use requirement for converting Automotive Service Stations on the most important walking and public transit streets is removed, and consideration of pedestrian, cycling, and public transit access and safety are added to the conditional use criteria for conversion.

The ordinance seeks to simplify and clarify the Planning Code by removing obsolete sections, consolidating controls for a single use or feature into a single code sections, and harmonizing similar definitions and controls across use districts.

BOARD of SUPERVISORS

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TDD/TTY No. 554-5227

MEMORANDUM

TO: John Rahaim, Director, Planning Department
Linda Avery, Secretary, Planning Commission

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: May 17, 2012

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation introduced by Supervisor Chiu on May 8, 2012.

This matter is being referred to your department and commission for informational purposes only since the Planning Commission held a public hearing on March 1, 2012 (BOS File Nos. 110547 and 110548) and recommended approval by Planning Resolution No. 18553.

File No. 120471

Ordinance amending the San Francisco Planning Code Sections 102.9, 155.1, 155.4, and 228, et. seq. to: 1) expand the applicability of bicycle parking requirements; 2) exempt bicycle parking from Floor-Area ratio calculations; 3) permit the conversion of Automotive Service Stations located on Primary Transit Streets and Citywide Pedestrian Network Streets to another use without Conditional Use authorization; and 4) adopting environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

If you wish to submit any comments or reports, please forward those to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

SAN FRANCISCO DEPARTMENT OF CITY PLANNING
EXEMPT FROM ENVIRONMENTAL REVIEW

Non-physical exemption per CEQA Guidelines Section 15060 (c)(2).
J Navarrete
May 22, 2012

c: Bill Wycko, Chief, Major Environmental Analysis
Scott Sanchez, Zoning Administrator
AnMarie Rodgers, Manager, Legislative Affairs
Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning