

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Mohammed Nuru, Director, Public Works
Ed Reiskin, Executive Director, Municipal Transportation Agency

FROM: Erica Major, Assistant Clerk
Land Use and Transportation Committee

DATE: September 28, 2017

SUBJECT: SUBSTITUTE LEGISLATION

The Board of Supervisors' Land Use and Transportation Committee has received the following substitute legislation, introduced by Supervisor Peskin on September 26, 2017:

File No. 170418-2

Ordinance amending the Planning Code to 1) limit lot sizes in the Pacific Avenue Neighborhood Commercial District ("Pacific NCD") and the Polk Street Neighborhood Commercial District ("Polk NCD"); 2) limit the size of Non-Residential Uses in the Pacific NCD and Polk NCD, and exempting movie theaters in the Polk NCD from certain size limits; 3) restrict lot mergers in the Pacific NCD and Polk NCD; 4) require ground floor Commercial Uses in the Polk NCD and on certain portions of Pacific Avenue; 5) modify residential and non-residential off-street parking requirements in the Pacific NCD and Polk NCD; 6) prohibit garage entries, driveways, or other vehicular access to off-street parking or loading on certain streets and alleys in the Pacific NCD and Polk NCD; 7) deem nonconforming uses in the Polk NCD to be discontinued after 18 months of non-use; 8) modify the maximum concentration of Eating and Drinking Uses in the Polk NCD; 9) prohibit massage establishment, chair/foot massage, and kennel uses in the Polk Street NCD; 10) restrict medical services in the Polk NCD and Pacific NCD; 11) prohibit storefront mergers in the Polk NCD; 12) require a dwelling unit mix in the Pacific NCD and Polk NCD; 13) prohibit the loss of residential units through demolition, merger, or conversion and allow division if it meets a dwelling unit mix requirement in the Polk NCD and Pacific NCD; 14) require Conditional Use authorization before replacing a legacy business in the Polk NCD and Pacific NCD; 15) correct, clarify, and simplify language in other Planning Code Sections; and affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public convenience, necessity, and welfare under Planning Code, Section 302.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: Erica.Major@sfgov.org.

Referral from the Board of Supervisors
Land Use and Transportation Committee

- c: David Steinberg, Public Works
- Jeremy Spitz, Public Works
- Jennifer Blot, Public Works
- John Thomas, Public Works
- Lena Liu, Public Works
- Janet Martinsen, Municipal Transportation Agency
- Kate Breen, Municipal Transportation Agency
- Dillon Auyoung, Municipal Transportation Agency

1 [Planning Code - Commercial Uses in Polk Street and Pacific Avenue Neighborhood
Commercial Districts; Technical and Other Amendments]

2 **Ordinance amending the Planning Code to 1) limit lot sizes in the Pacific Avenue**
3 **Neighborhood Commercial District (“Pacific NCD”) and the Polk Street Neighborhood**
4 **Commercial District (“Polk NCD”); 2) limit the size of Non-Residential Uses in the**
5 **Pacific NCD and Polk NCD, and exempting movie theaters in the Polk NCD from certain**
6 **size limits; 3) restrict lot mergers in the Pacific NCD and Polk NCD; 4) require ground**
7 **floor Commercial Uses in the Polk NCD and on certain portions of Pacific Avenue; 5)**
8 **modify residential and non-residential off-street parking requirements in the Pacific**
9 **NCD and Polk NCD; 6) prohibit garage entries, driveways, or other vehicular access to**
10 **off-street parking or loading on certain streets and alleys in the Pacific NCD and Polk**
11 **NCD; 7) deem nonconforming uses in the Polk NCD to be discontinued after 18 months**
12 **of non-use; 8) modify the maximum concentration of Eating and Drinking Uses in the**
13 **Polk NCD; 9) prohibit massage establishment, chair/foot massage, and kennel uses in**
14 **the Polk Street NCD; 10) restrict medical services in the Polk NCD and Pacific NCD; 11)**
15 **prohibit storefront mergers in the Polk NCD; 12) require a dwelling unit mix in the**
16 **Pacific NCD and Polk NCD; 13) prohibit the loss of residential units through demolition,**
17 **merger, or conversion and allow division if it meets a dwelling unit mix requirement in**
18 **the Polk NCD and Pacific NCD; 14) require Conditional Use authorization before**
19 **replacing a legacy business in the Polk NCD and Pacific NCD; 15) correct, clarify, and**
20 **simplify language in other Planning Code Sections; and affirming the Planning**
21 **Department’s determination under the California Environmental Quality Act; and**
22 **making findings of consistency with the General Plan, and the eight priority policies of**
23 **Planning Code, Section 101.1, and findings of public convenience, necessity, and**
24 **welfare under Planning Code, Section 302.**
25

1 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
2 **Additions to Codes** are in *single-underline italics Times New Roman font*.
3 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
4 **Board amendment additions** are in double-underlined Arial font.
5 **Board amendment deletions** are in ~~strikethrough Arial font~~.
6 **Asterisks (* * * *)** indicate the omission of unchanged Code
7 subsections or parts of tables.

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

9 Section 1. Findings.

10 (a) The Planning Department has determined that the actions contemplated in this
11 ordinance are categorically exempt from environmental review under Sections 15060(c) and
12 15378 of the California Environmental Quality Act (California Public Resources Code Sections
13 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File
14 No. 1700418 and is incorporated herein by reference. The Board affirms this determination.

15 (b) On July 13, 2017, the Planning Commission, in Resolution No. 19959, adopted
16 findings that the actions contemplated in this ordinance are consistent, on balance, with the
17 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
18 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
19 Board of Supervisors in File No. 1700418, and is incorporated herein by reference.

20 (c) On July 13, 2017, the Planning Commission, in Resolution No. 19959, approved
21 this legislation, recommended it for adoption by the Board of Supervisors, and adopted
22 findings that it will serve the public necessity, convenience, and welfare. Pursuant to Planning
23 Code Section 302, the Board adopts these findings as its own. A copy of said Resolution is
24 on file with the Clerk of the Board of Supervisors in File No. 1700418, and is incorporated by
25 reference herein.

1 Section 2. The Planning Code is hereby amended by revising Sections 121.1, 121.2,
2 121.7, and 145.4, to read as follows:

3 **SEC. 121.1. DEVELOPMENT OF LARGE LOTS, NEIGHBORHOOD COMMERCIAL**
4 **DISTRICTS.**

5 (a) **Purpose.** In order to promote, protect, and maintain a scale of development
6 which is appropriate to each district and compatible with adjacent buildings, new construction
7 or significant enlargement of existing buildings on lots of the same size or larger than the
8 square footage stated in the table below shall be permitted only as Conditional Uses.

9

District	Lot Size Limits
<i>Pacific Avenue</i>	
<i>Polk Street</i>	<u>2,500 sq. ft.</u>
NC-1, NCT-1 24th Street-Mission 24th Street-Noe Valley Broadway Castro Street Glen Park Haight Street Inner Clement Street Inner Sunset Irving Street Judah Street Noriega Street North Beach	5,000 sq. ft.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1	Outer Clement Street	
2	Sacramento Street	
3	Taraval Street	
4	Union Street	
5	Upper Fillmore Street	
6	West Portal Avenue	
7	NC-2, NCT-2	
8	NC-3, NCT-3	
9	Divisadero Street	
10	Excelsior Outer Mission Street	
11	Fillmore Street	
12	Folsom Street	
13	Hayes-Gough	
14	Japantown	
15	Mission Street	10,000 sq. ft.
16	Ocean Avenue	
17	<i>Pacific Avenue</i>	
18	<i>Polk Street</i>	
19	Regional Commercial District	
20	SoMa	
21	Upper Market Street	
22	Valencia Street	
23	NC-S	Not Applicable
24	* * * *	
25		

1 **SEC. 121.2. NON-RESIDENTIAL USE SIZE LIMITS IN NEIGHBORHOOD COMMERCIAL**
2 **AND NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICTS.**

3 * * * *

4 (b) In order to protect and maintain a scale of development appropriate to each
5 district, Non- Residential Uses that exceed the square footage stated in the table below shall
6 not be permitted, except in the following circumstances:

7 (1) In the Castro Street Neighborhood Commercial District, a Child Care
8 Facility, School, Post-Secondary Educational Institution, Religious Institution, Social Service
9 or Philanthropic Facility, Community Facility, or a Residential Care Facility as defined in
10 Section 102 of this Code that is operated by a non-profit and is neighborhood-serving may
11 exceed this Subsection 121.2(b) with Conditional Use authorization.

12 (2) In the Regional Commercial District, Schools and Childcare Facilities as
13 defined in Section 102 may exceed this Subsection 121.2(b) with Conditional Use
14 authorization.

15 (3) In the Polk Street Neighborhood Commercial District, this subsection 121.2(b)
16 shall not apply to a Movie Theater use as defined in Section 102 of this Code.

17 The use area shall be measured as the Gross Floor Area for each individual Non-
18 Residential use.

19

District	Use Size Limits
West Portal Avenue North Beach Castro Street <u>Polk Street</u> <u>Pacific Avenue</u>	4,000 sq. ft.
Regional Commercial District	25,000 square feet

20
21
22
23
24
25

1 **SEC. 121.7. RESTRICTION OF LOT MERGERS IN CERTAIN DISTRICTS AND ON**
 2 **PEDESTRIAN-ORIENTED STREETS.**

3 In order to promote, protect, and maintain a fine-grain scale of development in
 4 residential districts and on important pedestrian-oriented commercial streets which is
 5 appropriate to each district, compatible with adjacent buildings; provide for a diverse
 6 streetscape; ensure the maintenance and creation of multiple unique buildings and building
 7 frontages rather than large single structures superficially treated; promote diversity and
 8 multiplicity of land ownership and discourage consolidation of property under single
 9 ownership, merger of lots is regulated as follows:

10 (a) In RTO Districts, merger of lots creating a lot greater than 5,000 square feet
 11 shall not be permitted except according to the procedures and criteria in subsections (d) and
 12 (e) below.

13 (b) In those NCT, NC and Mixed Use Districts listed below, merger of lots resulting
 14 in a lot with a single street frontage greater than that stated in the table below on the specified
 15 streets or in the specified Districts is prohibited except according to the procedures and
 16 criteria in subsections (c) and (d) below.

Street or District	Lot Frontage Limit
Hayes, from Franklin to Laguna	50 feet
RED and RED-MX	50 feet
Church Street, from Duboce to 16th Street	100 feet
Divisadero Street NCT except for the east and west blocks between Oak and Fell, Fillmore Street NCT, Folsom Street NCT, RCD, WMUG, WMUO, and SALI	100 feet
Market, from Octavia to Noe	150 feet
Ocean Avenue in the Ocean Avenue NCT	See subsection (e)
Inner and Outer Clement NCDs	50 feet
North Beach NCD and SUD, <i>and</i> Telegraph Hill-North Beach Residential SUD, <i>Polk Street NCD, and Pacific Avenue NCD*</i>	25 feet*

NC-2 districts on Balboa Street between 2nd Avenue and 8th Avenue, and between 32nd Avenue and 38th Avenue	50 feet
--	---------

* For lots that do not have street frontage, the merger would not result in a lot with a width greater than 25 feet.

* * * *

SEC. 145.4 REQUIRED GROUND FLOOR COMMERCIAL USES.

(a) **Purpose.** To support active, pedestrian-oriented commercial uses on important commercial streets.

(b) **Applicability.** The requirements of this Section 145.4 apply to the following street frontages.

* * * *

(25) Post Street, between Fillmore Street and Laguna Street on the south side and between Webster Street and Laguna Street on the north side; ~~and~~

(26) Divisadero Street for the entirety of the Divisadero Street NCT District;

(27) The entirety of the North Beach Neighborhood Commercial District and North Beach Special Use District;

(28) Any street frontage that is in the Polk Street Neighborhood Commercial District; and.

(29) Pacific Avenue, between Van Ness Avenue and Jones Street, on lots where the last known ground floor use was a commercial or retail use.

(c) **Definitions.**

"Active commercial uses" shall include those uses specifically identified below in Table 145.4, and:

(1) Shall not include Automotive Uses except for Automobile Sale or Rental uses where curb-cuts, garage doors, or loading access are not utilized or proposed, and such

1 sales or rental activity is entirely within an enclosed building and does not encroach on
2 surrounding sidewalks or open spaces;

3 (2) Shall include Public Facilities as defined in Section 102 and ~~a~~ Public Uses as
4 defined in Section 890.80, except for Utility Installations; and

5 (3) Shall not include Residential Care Facilities as defined in Sections 102 and
6 890.50.

7 * * * *

8
9 Section 3. The Planning Code is hereby amended by revising Sections 151, 151.1,
10 and 155, to read as follows:

11 **SEC. 151. SCHEDULE OF REQUIRED OFF-STREET PARKING SPACES.**

12 (a) **Applicability.** Off-street parking spaces shall be provided in the minimum
13 quantities specified in Table 151, except as otherwise provided in Section 151.1 and Section
14 161 of this Code. Where the building or lot contains uses in more than one of the categories
15 listed, parking requirements shall be calculated in the manner provided in Section 153 of this
16 Code. Where off-street parking is provided which exceeds certain amounts in relation to the
17 quantities specified in Table 151, as set forth in subsection (c), such parking shall be
18 classified not as accessory parking but as either a ~~p~~PPrincipal or a Conditional Use, depending
19 upon the use provisions applicable to the district in which the parking is located. In
20 considering an application for a Conditional Use for any such parking, due to the amount
21 being provided, the Planning Commission shall consider the criteria set forth in Section 303(t)
22 or 303(u) of this Code. Minimum off-street parking requirements shall be reduced, to the
23 extent needed, when such reduction is part of a Development Project's compliance with the
24 Transportation Demand Management Program set forth in Section 169 of ~~the Planning~~ this
25 Code.

(b) Minimum Parking Required.

Table 151 OFF-STREET PARKING SPACES REQUIRED	
Use or Activity	Number of Off-Street Parking Spaces Required
Dwelling, except as specified below, and except in the Bernal Heights Special Use District as provided in Section 242	One for each Dwelling Unit.
Dwelling, in the Telegraph Hill - North Beach Residential Special Use District	None required. P up to three cars <u>0.5 parking spaces</u> for each four Dwelling Units, <u>subject to the controls and procedures of Section 249.49(c) and Section 155(t)</u> ; C up to one car for each Dwelling Unit, <u>subject to the criteria and procedures of Section 303(u)</u> ; NP above.
<u>Dwelling, in the Polk Street Neighborhood Commercial District</u>	<u>None required. P up to 0.5 cars for each Dwelling Unit; NP above preceding ratio.</u>
<u>Dwelling, in the Pacific Avenue Neighborhood Commercial District</u>	<u>None required. P up to 0.5 cars for each Dwelling Unit; C up to one car for each Dwelling Unit; NP above preceding ratios.</u>
* * * *	* * * *

* * * *

SEC. 151.1. SCHEDULE OF PERMITTED OFF-STREET PARKING SPACES IN SPECIFIED DISTRICTS.

(a) **Applicability.** This Section 151.1 shall apply only to NCT, RC, RCD, RTO, Mixed Use, M-1, PDR-1-D, PDR-1-G, and C-3 Districts, and to the Broadway, Excelsior Outer Mission Street, Japantown, ~~and~~ North Beach, Polk, and Pacific Neighborhood Commercial Districts.

* * * *

SEC. 155. GENERAL STANDARDS AS TO LOCATION AND ARRANGEMENT OF OFF-STREET PARKING, FREIGHT LOADING AND SERVICE VEHICLE FACILITIES.

1 Required off-street parking and freight loading facilities shall meet the following
2 standards as to location and arrangement. In addition, facilities which are not required but are
3 actually provided shall meet the following standards unless such standards are stated to be
4 applicable solely to required facilities. In application of the standards of this Code for off-street
5 parking and loading, reference may be made to provisions of other portions of the Municipal
6 Code concerning off-street parking and loading facilities, and to standards of the Better
7 Streets Plan and the Bureau of Engineering of the Department of Public Works. Final authority
8 for the application of such standards under this Code, and for adoption of regulations and
9 interpretations in furtherance of the stated provisions of this Code shall, however, rest with the
10 Planning Department.

11 * * * *

12 (r) **Protected Pedestrian-, Cycling-, and Transit-Oriented Street**
13 **Frontages.** In order to preserve the pedestrian character of certain downtown and
14 neighborhood commercial districts and to minimize delays to transit service, *regulation of*
15 garage entries, driveways or other vehicular access to off-street parking or loading (except for
16 the creation of new publicly-accessible Streets and Alleys) *shall be regulated* on development
17 lots *shall be* as follows on the following street frontages:

18 (1) Folsom Street, from Essex Street to the Embarcadero, not permitted except
19 as set forth in Section 827.

20 (2) Not permitted:

21 * * * *

22 (GG) Polk Street between Filbert Street and Golden Gate Avenue.

23 (HH) California Street between Van Ness Avenue and Hyde Street.

24 (II) Hyde Street between California Street and Pine Street.

25 (JJ) Broadway between Van Ness Avenue and Larkin Street.

1 (KK) Bush Street between Van Ness Avenue and Larkin Street, and

2 (LL) Pine Street between Van Ness Avenue and Larkin Street.

3 * * * *

4 (§ 4) Parking and Loading Access.

5 * * * *

6
7 Section 4. The Planning Code is hereby amended by revising Section 186.1, to read
8 as follows:

9 **SEC. 186.1. EXEMPTION OF NONCONFORMING USES IN NEIGHBORHOOD**
10 **COMMERCIAL DISTRICTS.**

11 * * * *

12 (d) **Discontinuance.** A nonconforming use that is discontinued for a period of three
13 years, or otherwise abandoned or changed to another use that is listed in Article 7 of this
14 Code as a ~~p~~Principal or ~~e~~Conditional ~~u~~Use for the district in which the use is located shall not
15 be reestablished, except ~~for~~ in the following instances:

16 (1) In the North Beach, Polk Street, Castro Street, and Haight Street
17 Neighborhood Commercial Districts the period of non-use for a nonconforming use to be
18 deemed discontinued shall be 18 months.

19 * * * *

20
21 Section 5. The Planning Code is hereby amended by revising Sections 207.6 and
22 207.8, to read as follows:

23 **SEC. 207.6. REQUIRED MINIMUM DWELLING UNIT MIX IN RTO, RCD, NCT, DTR, ~~AND~~**
24 **EASTERN NEIGHBORHOODS MIXED USE DISTRICTS, THE POLK STREET AND PACIFIC**
25 **AVENUE NEIGHBORHOOD COMMERCIAL DISTRICTS.**

1 (a) **Purpose.** In order to foster flexible and creative infill development while
2 maintaining the character of the district, dwelling unit density is not controlled by lot area in
3 RTO, NCT, and Eastern Neighborhoods Mixed Use Districts but rather by the physical
4 constraints of this Code (such as height, bulk, setbacks, open space, and dwelling unit
5 exposure). However, to ensure an adequate supply of family-sized units in existing and new
6 housing stock, new residential construction must include a minimum percentage of units of at
7 least two bedrooms. In the Pacific Avenue and Polk Street Neighborhood Commercial Districts, a
8 dwelling unit mix requirement addresses the need for family-sized housing production in these districts.

9 (b) **Applicability.**

10 (1) This Section shall apply in the RTO, RCD, NCT, DTR, *and* Eastern
11 Neighborhoods Mixed Use Districts, and the Pacific Avenue and Polk Street NCDs.

12 * * * *

13 (c) **Controls.** For all RTO, RCD and NCT districts, as well as DTR, *and* Eastern
14 Neighborhoods Mixed Use Districts and the Pacific Avenue and Polk Street NCDs, one of the
15 following three must apply;:

16 (1) no less than 40% of the total number of proposed Dwelling Units shall contain
17 at least two bedrooms. Any fraction resulting from this calculation shall be rounded to the
18 nearest whole number of Dwelling Units, or

19 (2) no less than 30% of the total number of proposed Dwelling Units shall contain
20 at least three bedrooms. Any fraction resulting from this calculation shall be rounded to the
21 nearest whole number of Dwelling Units, or

22 (3) no less than 35% of the total number of proposed Dwelling Units shall contain
23 at least two or three bedrooms with at least 10% of the total number of proposed Dwelling
24 Units containing three bedrooms. Any fraction resulting from this calculation shall be rounded to
25 the nearest whole number of Dwelling Units.

1 (d) Modifications.

2 (1) In NCT, RCD, ~~and~~ RTO and the Pacific Avenue and Polk Street NC Districts, these
3 requirements may be waived or modified with Conditional Use Authorization. In addition to
4 those conditions set forth in Section 303, the Planning Commission shall consider the
5 following criteria:

6 (A) The project demonstrates a need or mission to serve unique populations,
7 or

8 (B) The project site or existing building(s), if any, feature physical constraints
9 that make it unreasonable to fulfill these requirements.

10 * * * *

11 (e) **Monitoring.** The Department shall monitor projects that choose Option (2 B) or (3
12 C) in subsection (c)(2) above and shall include that data in the annual Housing Inventory
13 starting in 2019.

14 **SEC. 207.8. DIVISION OF DWELLING UNITS IN THE RTO, POLK STREET NCD, PACIFIC**
15 **AVENUE NCD, UPPER MARKET NCD, AND NCT DISTRICTS.**

16 In order to ensure an adequate supply of family-sized units in existing and new housing
17 stock, the subdivision of existing units is restricted. The division of any existing ~~d~~dwelling
18 ~~u~~Unit into two or more units in RTO, Polk Street NCD, Pacific Avenue NCD Upper Market NCD,
19 and NCT districts shall be permitted only if it meets both of the following conditions:
20
21
22
23
24
25

1 (a) The existing unit exceeds 2,000 occupied square feet or contains more than 3
2 bedrooms; and

3 (b) At least one of the resulting units is no less than 2 bedrooms and 1,250 square
4 feet in size.

5
6 Section 6. The Planning Code is hereby amended by revising Section 303, to read as
7 follows:

8 **SEC. 303. CONDITIONAL USES.**

9 (a) **General.** The Planning Commission shall hear and make determinations
10 regarding applications for the authorization of Conditional Uses in the specific situations in
11 which such authorization is provided for elsewhere in this Code. The procedures for
12 Conditional Uses shall be as specified in this Section 303 and in Sections 306 through 306.6,
13 except that Planned Unit Developments shall in addition be subject to Section 304, Hospitals
14 and Post-Secondary Educational Institutions shall in addition be subject to the Institutional
15 Master Plan requirements of Section 304.5.

16 * * * *

17 (f) **Conditional Use Abatement.** The Planning Commission may consider the
18 possible revocation of a Conditional Use or the possible modification of or placement of
19 additional conditions on a Conditional Use when the Planning Commission determines, based
20 upon substantial evidence, that the applicant for the Conditional Use had submitted false or
21 misleading information in the application process that could have reasonably had a substantial
22 effect upon the decision of the Commission or the Conditional Use is not in compliance with a
23 eCondition of aApproval, is in violation of law if the violation is within the subject matter
24 jurisdiction of the Planning Commission, or operates in such a manner as to create
25 hazardous, noxious, or offensive conditions enumerated in Section 202(c) if the violation is

1 within the subject matter jurisdiction of the Planning Commission and these circumstances
2 have not been abated through administrative action of the Director, the Zoning Administrator
3 or other City authority. Such consideration shall be the subject of a public hearing before the
4 Planning Commission but no fee shall be required of the applicant or the subject Conditional
5 Use operator.

6 * * * *

7 (o) **Eating and Drinking Uses.** With regard to a Conditional Use authorization
8 application for a Restaurant, Limited-Restaurant and Bar uses the Planning Commission shall
9 consider, in addition to the criteria set forth in §subsection (c) above, the existing
10 concentration of eating and drinking uses in the area. Such concentration should not exceed
11 25% percent of the total commercial frontage as measured in linear feet within the immediate
12 area of the subject site except as otherwise provided in this subsection (o). The concentration of
13 eating and drinking uses in the Polk Street Neighborhood Commercial District shall not exceed 35% of
14 the total commercial frontage as measured in linear feet within the immediate area of the subject site.
15 For the purposes of this Section 303 of the Code, the immediate area shall be defined as all
16 properties located within 300' of the subject property and also located within the same zoning
17 district.

18 * * * *

19
20 Section 7. The Planning Code is hereby amended by revising Sections 723 and 726,
21 to read as follows:

22 **SEC. 723. POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT.**

23 (a) Background. Sitting in the gulch between Nob and Russian Hills and Pacific
24 Heights, the Polk Street Neighborhood Commercial District extends for a mile as a north-
25 south linear strip, and includes a portion of Larkin Street between Post and California Streets.

1 Polk Street's dense mixed-use character consists of buildings with residential units above
2 ground-story commercial use. The district has an active, pedestrian-oriented, and continuous
3 commercial frontage along Polk Street for almost all of its length. Larkin Street and side
4 streets in the district have a greater proportion of residences than Polk Street itself. California
5 Street and Hyde Street also have active, pedestrian-oriented, and commercial frontage that is small-
6 scale. The district is well served by transit and includes the historic California Cable Car. To preserve
7 and maintain the district's small-scale, fine grain storefronts, the consolidation or merger of existing
8 retail or commercial spaces or storefronts is prohibited and lot mergers are controlled. The district
9 provides convenience goods and services to the residential communities in the Polk Gulch
10 neighborhood and to the residents on the west slopes of Nob and Russian Hills. It has many
11 apparel and specialty stores, as well as some automobile uses, which serve a broader trade
12 area. Commercial uses also include offices, as well as movie theaters, restaurants, and bars
13 which keep the district active into the evening.

14 (b) Controls.

15 (1) Purposes. The Polk Street District controls are designed to encourage and
16 promote development ~~which that~~ is compatible with the surrounding neighborhood. The
17 building standards monitor large-scale development and protect rear yards at residential
18 levels. Consistent with Polk Street's existing mixed-use character, new buildings may contain
19 most commercial uses at the ~~ff~~first two stories Story. The controls encourage neighborhood-
20 serving businesses, but limit new eating, drinking, other entertainment, and financial service
21 uses, which can produce parking congestion, noise, and other nuisances or displace other
22 types of local-serving convenience goods and services. They also prohibit new adult
23 entertainment uses. Restrictions on drive-up and most automobile uses protect the district's
24 continuous retail frontage and prevent further traffic congestion.

Housing developed in new buildings is encouraged above the ~~second~~ First ~~s~~Story, especially in the less intensely developed portions of the district along Larkin Street and on large lots throughout the district. New housing development requires 40% or more two-bedroom plus units to encourage families to live in the district. Parking is limited in new developments given the district's transit access and the proximity to bus rapid transit along Van Ness Avenue parallel to the district. Existing housing units are protected by ~~limitations~~ prohibitions on demolitions and upper-story conversions. Accessory ~~d~~Welling ~~#~~Units are permitted within the district pursuant to ~~S~~ubsection 207(c)(4) of this Code.

(2) Replacement of a Legacy Business Requires Conditional Use Authorization.

Where an immediately prior use was a Legacy Business, as defined under Administrative Code Section 2A.242, the controls require any new Non-Residential Use to obtain Conditional Use authorization; this requirement shall not apply where: (A) the subject non-residential space has had no occupant and has not been open to the public for three or more years from the date the application for the new use is filed, or (B) where the Legacy Business has removed itself or has been otherwise removed from the Legacy Business Registry.

(3) Merger of Storefronts Prohibited. To preserve and maintain the district's small-scale, fine grain storefronts, the consolidation or merger of existing ground floor retail or commercial spaces or storefronts shall be prohibited.

(4) Loss of Residential Units. To prevent the loss of existing Residential Units, the removal, demolition, merger, or conversion of Residential Units above the First Story are prohibited even if such loss of Residential Units would otherwise be allowed pursuant to Section 317 of this Code.

Table 723. POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT

ZONING CONTROL TABLE

		Polk Street NCD
Zoning Category	§ References	Controls
BUILDING STANDARDS		

* * * *

Street Frontage and Public Realm

* * * * *

Lot Size (Per Development)	§§ 102, 121.1	P up to 9,999 <u>2,499</u> square feet; C 10,000 <u>2,500</u> square feet and above	
----------------------------	---------------	---	--

* * * *

RESIDENTIAL STANDARDS AND USES

Development Standards

Usable Open Space [Per Dwelling Unit]	§§ 135, 136	60 square feet per unit if private, or 80 square feet per unit if common	
---------------------------------------	-------------	--	--

Off-Street Parking Requirements	§§ 145.1, 150, 151, 153 - 156, 159 - 161, 166, 204.5	<i>A minimum of one car parking space for every Dwelling Unit required. Certain exceptions permitted per § 161. No car parking required.</i> Bike parking required per § 155.2. If car parking is provided, car share spaces are required when a project has 50 units or more per § 166.	
---------------------------------	--	--	--

Dwelling Unit Mix	§ 207.6	<i>Not required. No less than 40% of the total number of proposed Dwelling Units shall contain at least two bedrooms; or no less than 30% of the total number of proposed Dwelling Units shall contain at least three bedrooms.</i>	
-------------------	---------	---	--

Use Characteristics

Single Room Occupancy	§ 102	P	
-----------------------	-------	---	--

Student Housing	§ 102	P	
-----------------	-------	---	--

Residential Uses		Controls By Story		
		1st	2nd	3rd+

Residential Uses	§ 102	P	P	P
------------------	-------	---	---	---

* * * * *

Loss and Division of Dwelling Units

Residential Conversion	§ 317	€ NP	€ NP	NP
------------------------	-------	------	------	----

1 2 3 4	Residential Demolition and Merger	§ 317	€ <u>NP</u>	€ <u>NP</u>	€ <u>NP</u>
5	<u>Division of Dwelling Units</u>	§ <u>207.8</u>	<u>Division of existing Dwelling Units P per §207.8.</u>		

Zoning Category	§ References	Controls		
NON-RESIDENTIAL STANDARDS AND USES (7)				
Development Standards				
* * * *	* * * *	* * * *		
Use Size	§§102, 121.2	P up to 2,499 <u>1,999</u> square feet; C 2,500 <u>2,000</u> square feet and above		
* * * *	* * * *	* * * *		
* * * *				
		Controls by Story		
		1st	2nd	3rd+
* * * *				
Sales and Service Use Category				
Retail Sales and Service Uses*	§§102, 202.2(a), 202.3	P	P	NP
* * * *	* * * *	* * * *	* * * *	* * * *
Kennel	§102	€ <u>NP</u>	NP	NP
* * * *	* * * *	* * * *	* * * *	* * * *
Massage Establishment	§102	€ <u>NP</u>	NP	NP
Massage, Foot/Chair	§102	P <u>NP</u>	NP	NP
* * * *	* * * *	* * * *	* * * *	* * * *
<u>Services, Health</u>	<u>§102</u>	<u>NP</u>	<u>C</u>	<u>C</u>
* * * *	* * * *	* * * *	* * * *	* * * *
<u>Trade Shop</u>	§102	P	C	NP
* * * *	* * * *	* * * *	* * * *	* * * *

1 * Not listed below.

2 * * * *

3 **(7) REPLACEMENT OF LEGACY BUSINESSES REQUIRES CONDITIONAL USE**

4 **AUTHORIZATION.** *Where an immediately prior use was a Legacy Business, as defined under*
5 *Administrative Code Section 2A.242, the controls require any new Non-Residential Use to obtain*
6 *Conditional Use authorization; this requirement shall not apply where: (A) the subject non-residential*
7 *space has had no occupant and has not been open to the public for three or more years from the date*
8 *the application for the new use is filed, or (B) where the Legacy Business has removed itself or has*
9 *been otherwise removed from the Legacy Business Registry.*

10 **SEC. 726. PACIFIC AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT.**

11 **(a) Background.** The Pacific Avenue Neighborhood Commercial District, on Pacific
12 Avenue from just east of Polk Street to all four corners of Pacific Avenue and Jones Street, is
13 situated on the north slope of the Nob Hill neighborhood and south of the Broadway Tunnel.
14 Pacific Avenue is a multi-purpose, small-scale mixed-use neighborhood shopping district on a
15 narrow street that provides limited convenience goods to the adjacent neighborhoods.

16 **(b) Controls.**

17 **(1) Purposes.** The Pacific Avenue Neighborhood Commercial District controls
18 are designed to promote a small, neighborhood serving mixed-use commercial street that
19 preserves the surrounding neighborhood residential character. These controls are intended to
20 preserve livability in a largely low-rise development residential neighborhood, enhance solar
21 access on a narrow street right-of-way, and protect residential rear yard patterns at the
22 ground floor. Accessory dwelling units are permitted within the district pursuant to §Subsection
23 207(c)(4) of this Code.

24 **(2) Replacement of a Legacy Business Requires Conditional Use Authorization.**

25 *Where an immediately prior use was a Legacy Business, as defined under Administrative Code Section*

1 2A.242, the controls require any new Non-Residential Use to obtain Conditional Use authorization;
 2 this requirement shall not apply where: (A) the subject non-residential space has had no occupant and
 3 has not been open to the public for three or more years from the date the application for the new use is
 4 filed, or (B) where the Legacy Business has removed itself or has been otherwise removed from the
 5 Legacy Business Registry.

6 (3) **Loss of Residential Units.** To prevent the loss of existing Residential Units, the
 7 removal, demolition, merger, or conversion of Residential Units above the First Story are prohibited
 8 even if such loss of Residential Units would otherwise be allowed pursuant to Section 317 of this Code.

9 **Table 726. PACIFIC AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT**
 10 **ZONING CONTROL TABLE**

		Pacific Avenue NCD
Zoning Category	§ References	Controls
BUILDING STANDARDS		
* * * *		
Street Frontage and Public Realm		
Lot Size (Per Development)	§§ 102, 121.1	P up to 9,999 <u>2,499</u> square feet; C 10,000 <u>2,500</u> square feet and above
* * * *	* * * *	* * * *
* * * *		
RESIDENTIAL STANDARDS AND USES		
Development Standards		
Usable Open Space [Per Dwelling Unit]	§§ 135, 136	100 square feet per unit if private, or 133 square feet per unit if common
Off-Street Parking Requirements	§§ 145.1, 150, 151, 153 - 156, 159 - 161, 166, 204.5	<i>A minimum of one car parking space for every Dwelling Unit required. Certain exceptions permitted per § 161. No car parking required.</i> Bike parking required per § 155.2. If car parking is provided, car share spaces are required when a project has 50 units or more per § 166.

1	Dwelling Unit Mix	§ 207.6	<i>Not required No less than 40% of the total number of proposed Dwelling Units shall contain at least two bedrooms; or no less than 30% of the total number of proposed Dwelling Units shall contain at least three bedrooms.</i>		
---	-------------------	---------	--	--	--

Use Characteristics

5	Single Room Occupancy	§ 102	P		
6	Student Housing	§ 102	P		

8	Residential Uses	Controls By Story			
		1st	2nd	3rd+	

9	Residential Uses	§ 102	P	P	P
10	* * * *	* * * *	* * * *		

Loss and Division of Dwelling Units

12	Residential Conversion	§ 317	€ <u>NP</u>	NP	NP
13	Residential Demolition	§ 317	€ <u>NP</u>	NP	NP
14	Residential Merger	§ 317	€ <u>NP</u>	€ <u>NP</u>	€ <u>NP</u>
15	<i>Division of Dwelling Units</i>	<u>§ 207.8</u>	<i>Division of existing Dwelling Units P per §207.8.</i>		

18	Zoning Category	§ References	Controls		
19	NON-RESIDENTIAL STANDARDS AND USES (6)				
20	Development Standards				
21	* * *				
22					
23	Use Size	§ 102, 121.2	P up to 1,999 square feet; C 2,000 square feet and above		
24	* * *	* * * *	* * * *		
25	*				

* * * *				
		Controls by Story		
		1st	2nd	3rd+
* * * *				
Sales and Service Use Category				
* * * *	* * * *	* * * *	* * * *	* * * *
<i>Services, Health</i>	<i>§102</i>	<i>€ NP</i>	<i>C</i>	<i>NP</i>
* * * *	* * * *	* * * *	* * * *	* * * *

(6) REPLACEMENT OF LEGACY BUSINESSES REQUIRES CONDITIONAL USE

AUTHORIZATION. *Where an immediately prior use was a Legacy Business, as defined under Administrative Code Section 2A.242, the controls require any new Non-Residential Use to obtain Conditional Use authorization; this requirement shall not apply where: (A) the subject non-residential space has had no occupant and has not been open to the public for three or more years from the date the application for the new use is filed, or (B) where the Legacy Business has removed itself or has been otherwise removed from the Legacy Business Registry.*

Section 8. 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.

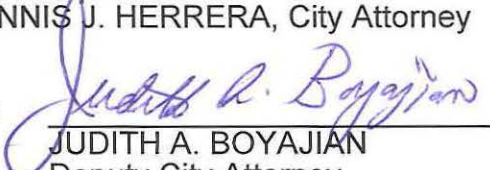
Section 9. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

1 additions, and Board amendment deletions in accordance with the "Note" that appears under
2 the official title of the ordinance.

3
4 Section 10. Severability. If any section, subsection, sentence, clause, phrase, or word
5 of this ordinance, or any application thereof to any person or circumstance, is held to be
6 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
7 shall not affect the validity of the remaining portions or applications of the ordinance. The
8 Board of Supervisors hereby declares that it would have passed this ordinance and each and
9 every section, subsection, sentence, clause, phrase, and word not declared invalid or
10 unconstitutional without regard to whether any other portion of this ordinance or application
11 thereof would be subsequently declared invalid or unconstitutional.

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

14 By:


15 JUDITH A. BOYAJIAN
16 Deputy City Attorney

n:\legana\as2017\1700533\01220621.docx

REVISED LEGISLATIVE DIGEST

(9/26/2017, Substituted in Board)

[Planning Code - Commercial Uses in Polk Street and Pacific Avenue Neighborhood Commercial Districts; Technical and Other Amendments]

Ordinance amending the Planning Code to 1) limit lot sizes in the Pacific Avenue Neighborhood Commercial District (“Pacific NCD”) and the Polk Street Neighborhood Commercial District (“Polk NCD”); 2) limit the size of Non-Residential Uses in the Pacific NCD and Polk NCD, and exempting movie theaters in the Polk NCD from certain size limits; 3) restrict lot mergers in the Pacific NCD and Polk NCD; 4) require ground floor Commercial Uses in the Polk NCD and on certain portions of Pacific Avenue; 5) modify residential and non-residential off-street parking requirements in the Pacific NCD and Polk NCD; 6) prohibit garage entries, driveways, or other vehicular access to off-street parking or loading on certain streets and alleys in the Pacific NCD and Polk NCD; 7) deem nonconforming uses in the Polk NCD to be discontinued after 18 months of non-use; 8) modify the maximum concentration of Eating and Drinking Uses in the Polk NCD; 9) prohibit massage establishment, chair/foot massage, and kennel uses in the Polk Street NCD; 10) restrict medical services in the Polk NCD and Pacific NCD; 11) prohibit storefront mergers in the Polk NCD; 12) require a dwelling unit mix in the Pacific NCD and Polk NCD; 13) prohibit the loss of residential units through demolition, merger, or conversion and allow division if it meets a dwelling unit mix requirement in the Polk NCD and Pacific NCD; 14) require Conditional Use authorization before replacing a legacy business in the Polk NCD and Pacific NCD; 15) correct, clarify, and simplify language in other Planning Code Sections; and affirming the Planning Department’s determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public convenience, necessity, and welfare under Planning Code, Section 302.

Amendments to Current Law

This ordinance would amend the Planning Code as described below.

Section 121.1

- Existing Code: Establishes size limits (in square feet) above which Conditional Use authorization would be required for development of large lots in Neighborhood Commercial and Neighborhood Commercial Transit Districts.
- Proposed Amendments would: Reduce the current size limits in the Polk NCD and Pacific NCD.

Section 121.2

- Existing Code: Establishes Non-Residential Use Size limits in Neighborhood Commercial and Neighborhood Commercial Transit Districts that can be exceeded only with a Conditional Use Authorization. In the West Portal, North Beach, and Castro NCDs and the Regional Commercial District, there is an additional limit that cannot be exceeded except in the circumstances specified.
- Proposed Amendments would: Add the Polk NCD and Pacific NCD to the list with the additional limit, and exempt Movie Theaters in the Polk NCD.

Section 121.7

- Existing Code: Restricts lot mergers on certain streets in certain districts.
- Proposed Amendments would: Restrict lot mergers in the Polk NCD and Pacific NCD.

Section 145.4

- Existing Code: Requires Active Commercial uses on certain street frontages.
- Proposed Amendments would: Require Active Commercial uses on street frontages in the Polk NCD and on portions of Pacific Avenue.

Sections 151 and 151.1

- Existing Code: Establishes off-street parking requirements.
- Proposed Amendments would: Reduce parking requirements for dwellings and for Non-Residential Uses in the Polk NCD and Pacific NCD.

Section 155

- Existing Code: Prohibits garage entries, driveways, or other vehicular access to off-street parking or loading on certain specified streets and alleys.
- Proposed Amendments would: Prohibit garage entries, driveways, or other vehicular access to off-street parking or loading on portions of Polk Street, California Street, Hyde Street, Broadway, and Bush Street.

Section 186.1

- Existing Code: Provides that in certain NCDs, a nonconforming use that ceases for 18 months will be deemed discontinued.
- Proposed Amendments would: Provide that a nonconforming use in the Polk NCD that ceases for 18 months will be deemed discontinued.

Section 207.6

- Existing Code: Requires that new residential construction must include a minimum percentage of units of at least two bedrooms in order to ensure an adequate supply of family-sized units in existing and new housing stock.

- Proposed Amendments would: Add dwelling unit mix requirements for the Pacific Avenue and Polk Street NCDs.

Section 207.8

- Existing Code: Restricts division of Dwelling Units in certain districts.
- Proposed Amendments would: Apply restrictions on division of Dwelling Units to the Polk NCD and Pacific NCD.

Section 303

- Proposed Amendments would: Increase the allowable concentration of eating and drinking uses in the Polk NCD from 25% to 35%.

Section 723

- Existing Code: Sets forth zoning controls for the Polk NCD.
- Proposed Amendments would:
 - Update the description of the Polk NCD and its active, pedestrian-oriented storefronts.
 - Establish requirements and conditions for replacing Legacy Businesses and conditions under which Conditional Use authorization would not be required.
 - Prohibit storefront mergers.
 - Prohibit removal, demolition, merger, or conversion of Residential Units and permit division.
 - Make various changes and clarifications to the Polk NCD Zoning Control Table.

Section 726

- Existing Code: Sets forth zoning controls for the Pacific NCD.
- Proposed Amendments would:
 - Establish requirements and conditions for replacing Legacy Businesses and conditions under which Conditional Use authorization would not be required.
 - Prohibit removal, demolition, merger, or conversion of Residential Units and permit division.
 - Make various changes and clarifications to the Pacific NCD Zoning Control Table.