

BOARD of SUPERVISORS



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MEMORANDUM

TO: Mohammed Nuru, Director, Public Works
Kate Hartley, Acting Director, Mayor's Office of Housing and Community Development
William Scott, Police Chief, Police Department

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

DATE: September 7, 2017

SUBJECT: SUBSTITUTE LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following substitute legislation, introduced by Supervisor Peskin on July 11, 2017:

File No. 170419-4

Ordinance amending the Planning Code to support Legacy Businesses; expand the definition of historic buildings and impose additional requirements in the Broadway Neighborhood Commercial District (NCD) and North Beach Special Use District (SUD); prohibit certain uses in the North Beach SUD; reduce the lot size limit in the North Beach SUD; modify the requirements for approval of parking garages in the Telegraph Hill-North Beach Residential SUD, the North Beach NCD, and Chinatown Mixed Use Districts; reduce off-street parking spaces permitted for residential uses in the Telegraph Hill-North Beach Residential SUD, and the Broadway and North Beach NCDs; revise the definition of Formula Retail; 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: alisa.somera@sfgov.org.

Land Use and Transportation
Referral from the Board of Supervisors

- c: David Steinburg, Public Works
- Jeremy Spitz, Public Works
- Jennifer Blot, Public Works
- Eugene Flannery, Mayor's Office of Housing and Community Development
- Amy Chan, Mayor's Office of Housing and Community Development
- Rowena Carr, Police Department
- Kristine Demafeliz, Police Department

1 [Planning Code - North Beach, Telegraph Hill, Broadway and Chinatown Area Controls;
2 Formula Retail]

3 **Ordinance amending the Planning Code to support Legacy Businesses; expand the**
4 **definition of historic buildings and impose additional requirements in the Broadway**
5 **Neighborhood Commercial District (NCD) and North Beach Special Use District (SUD);**
6 **prohibit certain uses in the North Beach SUD; reduce the lot size limit in the North**
7 **Beach SUD; modify the requirements for approval of parking garages in the Telegraph**
8 **Hill-North Beach Residential SUD, the North Beach NCD, and Chinatown Mixed Use**
9 **Districts; reduce off-street parking spaces permitted for residential uses in the**
10 **Telegraph Hill-North Beach Residential SUD, and the Broadway and North Beach**
11 **NCDs; revise the definition of Formula Retail; and affirming the Planning Department's**
12 **determination under the California Environmental Quality Act and making findings of**
13 **consistency with the General Plan, and the eight priority policies of Planning Code,**
14 **Section 101.1, and findings of public convenience, necessity, and welfare under**
15 **Planning Code, Section 302.**

16 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
17 **Additions to Codes** are in *single-underline italics Times New Roman font*.
18 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
19 **Board amendment additions** are in double-underlined Arial font.
20 **Board amendment deletions** are in ~~strikethrough Arial font~~.
21 **Asterisks (* * * *)** indicate the omission of unchanged Code
22 subsections or parts of tables.

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

22 Section 1. Findings.

23 (a) The Planning Department has determined that the actions contemplated in this
24 ordinance comply with the California Environmental Quality Act (California Public Resources
25 Code Sections 21000 *et seq.*). Said determination is on file with the Clerk of the Board of

Supervisors in File No. _____, and is incorporated herein by reference. The Board affirms this determination.

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

(c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code Amendment will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. _____, and the Board incorporates such reasons herein by reference.

Section 2. The Planning Code is hereby amended by revising Sections 121.1, 151, 151.1, 155, 249.25, 249.49, 253.1, 303.1, 722, and 780.3, to read as follows:

SEC. 121.1. DEVELOPMENT OF LARGE LOTS, NEIGHBORHOOD COMMERCIAL DISTRICTS.

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

District	Lot Size Limit
* * * *	* * * *
North Beach	5,000 2,500 sq. ft.

* * * *	* * * *
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* * * *

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

* * * *

(b) **Minimum Parking Required.**

Table 151

OFF-STREET PARKING SPACES REQUIRED

Use or Activity	Number of Off-Street Parking Spaces Required
RESIDENTIAL USES	
* * * *	* * * *
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> € up to one car for each Dwelling Unit, subject to the criteria and procedure of 303(u); NP above.
* * * *	* * * *

* * * *

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

* * * *

Table 151.1

OFF-STREET PARKING PERMITTED AS ACCESSORY

Use or Activity	Number of Off-Street Car Parking Spaces or Space Devoted to Off-Street Car Parking Permitted
RESIDENTIAL USES	
* * * *	* * * *
Dwelling Units and SRO Units in NCT, RC, RCD, RSD, Chinatown Mixed Use Districts, and the Broadway, and North Beach Neighborhood Commercial Districts , except as specified below	P up to one car for each two Dwelling or SRO Units; C up to 0.75 cars for each Dwelling Unit, subject to the criteria and procedures of Section 151.1 (e); NP above 0.75 cars for each Dwelling Unit.
<u>Dwelling Units and SRO Units in the Telegraph Hill - North Beach Residential Special Use District</u>	<u>P up to 0.5 parking spaces for each Dwelling Unit, subject to the controls and procedures of Section 249.49(c) and Sections 155(r) and 155(t); NP above.</u>
<u>Dwelling Units and SRO Units in the Broadway and North Beach Neighborhood Commercial Districts outside of the boundaries of the Telegraph Hill - North Beach Residential Special Use District</u>	<u>P up to 0.5 parking spaces for each Dwelling Unit, C up to 0.75 cars for each Dwelling Unit; NP above 0.75 cars for each Dwelling Unit, subject to the controls and procedures of Sections 155(r), 155(t) and Section 151.1(e).</u>
* * * *	* * * *

* * * *

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

3 * * * *

4 **(t) Garage Additions in the North Beach Neighborhood Commercial District,**
5 **North Beach-Telegraph Hill Special Use District, and Chinatown Mixed Use Districts.**

6 Notwithstanding any other provision of this Code to the contrary, a mandatory discretionary
7 review hearing by the Planning Commission is required in order to install a garage in an
8 existing or proposed structure of ~~four~~ two units or more in the North Beach NCD, the North
9 Beach-Telegraph Hill Residential SUD, and the Chinatown Mixed Use Districts; ~~Section 311~~
10 ~~notice is required for a building of less than four units.~~

11 In ~~approving order to approve the~~ installation of ~~the any~~ garage in these districts, the ~~Commission~~
12 ~~City~~ shall find that: (1) the proposed garage opening/addition of off-street parking will not
13 cause the elimination or reduction of ground-story retail or commercial space; the "removal" or
14 "conversion of residential unit," as those terms are defined in Section 317 of this Code; (2) the
15 proposed garage opening/addition of off-street parking will not substantially eliminate or
16 decrease the livability of a square footage of any dwelling unit ~~without increasing the floor area in a~~
17 ~~commensurate amount~~; (3) the building has not had two or more evictions with each eviction
18 associated with a separate unit(s) within the past ten years, and (4) the garage would not front
19 on an Alley pursuant to Section 155(r)(2) of this Code or on a public right-of-way narrower than 41
20 feet, and (5) the proposed garage/addition of off-street parking is consistent with the Priority
21 Policies of Section 101.1 of this Code. Prior to ~~the Commission hearing, or prior to~~ the issuance
22 of notification under Section 311~~(e)(2)~~ or 312 of this Code, the ~~Planning~~ Department shall
23 require a signed affidavit by the project sponsor attesting to (1), (2), and (3) above, which the
24 Department shall independently verify, and the Department shall determine whether The
25 ~~Department shall also have made a determination that~~ the project complies with subsection (4)

1 above. If the project sponsor does not provide such signed affidavit, or the garage would front on an
2 Alley or on a public right-of-way narrower than 41 feet, the Department shall disapprove the
3 application and no Planning Commission hearing shall be required.

4
5 **SEC. 249.49. TELEGRAPH HILL - NORTH BEACH RESIDENTIAL SPECIAL USE**
6 **DISTRICT.**

7 (a) **Purposes.** To regulate the amount of off street parking and limit the installation of
8 garages in existing all residential structures in order to ensure that they do not significantly
9 increase the level of automobile traffic, increase pollution, cause the removal of on-street parking
10 spaces, or impair pedestrian use on narrow public rights-of-way in the District, and to preserve
11 existing affordable housing by preventing the ability to add parking from providing the addition of off-
12 site parking, which provides an incentive to convert existing affordable residential buildings from
13 rental buildings to market-rate tenancies-in-common housing.

14 * * * *

15 (c) **Controls.**

16 * * * *

17 (2) Installation of a Parking Garage. Installation of a garage in an existing or
18 proposed residential building of four-two or more units requires a mandatory discretionary
19 review hearing by the Planning Commission; ~~Section 311 Notice is required for a building of less~~
20 ~~than four units.~~ In approving order to approve the installation of the-any garage in these districts, the
21 Commission shall find that: (1) the proposed garage opening/addition of off-street parking will
22 not cause the elimination or reduction of ground-story retail or commercial space; ~~the "removal" or~~
23 ~~"conversion of residential unit," as those terms are defined in Section 317 of this Code;~~ (2) the
24 proposed garage opening/addition of off-street parking will not substantially eliminate or
25 decrease the livability of a square footage of any dwelling unit without increasing the floor area in a

1 ~~commensurate amount~~; (3) the building has not had two or more "no fault" evictions, ~~as defined in~~
2 ~~37.9(a)(78) (1316) of the San Francisco Administrative Code, with each eviction associated with a~~
3 ~~separate unit(s) within the past 10ten years, with each eviction associated with a separate unit(s).~~ (4)
4 the garage would not front on an Alley pursuant to Section 155(r)(2) of this Code or on a public
5 right-of-way narrower than 41 feet, and (5) the proposed garage or addition of off-street
6 parking ~~installation~~ is consistent with the Priority Policies of Section 101.1 of this Code.

7 ~~Prior to the Planning Commission hearing, or prior to issuance of any required~~
8 ~~notification under Section 311(e)(2) or 312 of this Code, the Planning Department shall require~~
9 ~~a signed affidavit by the project sponsor attesting to (1), (2), and (3) above, which the~~
10 ~~Department shall independently verify, and the Department shall determine whether. The~~
11 ~~Department shall also have made a determination that~~ the project complies with (4) and (5) above.
12 If the project sponsor does not provide such signed affidavit, or the garage would front on an Alley or
13 public right-of-way narrower than 41 feet, the Department shall disapprove the application and no
14 Planning Commission hearing shall be required.

15
16 **SEC. 253.1. REVIEW OF PROPOSED BUILDINGS AND STRUCTURES IN THE**
17 **BROADWAY NEIGHBORHOOD COMMERCIAL DISTRICT.**

18 * * * *

19 (b) In authorizing any such proposal for a building or structure exceeding 40 feet in
20 height, the Planning Commission shall find, in addition to the criteria of Section 303(c), that
21 the proposal is consistent with the expressed purposes of this Code, of the Broadway
22 Neighborhood Commercial District, and of the height and bulk districts, set forth in Sections
23 101, 714 and 251 of this Code, and that the following criteria are met:

24 (1) The height of the new or expanding development will be compatible with the
25 individual neighborhood character and the height and scale of the adjacent buildings.

1 (2) When the height of the new or expanding development exceeds twice the
2 existing height of adjacent buildings, transitions will be provided between the taller and shorter
3 buildings.

4 (3) The height and bulk of the new or expanding development will be designed
5 to allow maximum sun access to nearby parks, plazas, and major pedestrian corridors.

6 (4) The architectural and cultural character and features of existing buildings shall be
7 preserved and enhanced. The Historic Preservation Commission or its staff shall review any proposed
8 alteration of historic resources and must determine that such alterations comply with the Secretary of
9 Interior's Standards for the Treatment of Historic Properties before the City approves any permits to
10 alter such buildings. For purposes of this section, "historic resources" shall include Article 10
11 Landmarks and buildings located within Article 10 Historic Districts, buildings and districts identified
12 in surveys adopted by the City, buildings listed or potentially eligible for individual listing on the
13 National or California Registers, and buildings located within listed or potentially eligible National
14 Register or California Register historic districts. The Planning Department shall also consult
15 materials available through the California Historical Resources Information System (CHRIS) and
16 Inventory to determine eligibility.

17
18 **SEC. 303.1. FORMULA RETAIL USES.**

19 * * * *

20 (c) **Retail Sales or Service Activity or Retail Sales or Service**
21 **Establishment."** For the purposes of this Section 303.1, a retail sales or service activity or
22 retail sales or service establishment shall include the following uses whether functioning as a
23 principal or accessory use, as defined in Articles 1, 2, 7, and 8 of this Code:

- 24 - Bar, §102;
25 - Drive-up Facility, §§ 102, 890.30;

- 1 - Eating and Drinking Use, §102;
- 2 - Liquor Store, §102;
- 3 - Sales and Service, Other Retail, § 890.102, and Retail Sales and Service,
- 4 General;
- 5 - Restaurant, §102;
- 6 - Limited-Restaurant, §102;
- 7 - Sales and Service, Retail, §§ 102, 890.104, including but not limited to the
- 8 following specific uses: Adult Business, Animal Hospital, Bar, Cat Boarding, Chair and Foot Massage,
- 9 Tourist Oriented Gift Store, General Grocery, Specialty Grocery, Gym, Hotel, Jewelry Store, Kennel,
- 10 Liquor Store, Massage Establishment, Chair and Foot Massage, Mobile Food Facility, Mortuary
- 11 (Columbarium), Motel, Non-Auto Sales, Pharmacy, Restaurant, Limited Restaurant, General Retail
- 12 Sales and Service, Financial Services, Fringe Financial Services, Limited Financial Services, Health
- 13 Services, Instructional Service, Personal Service, Retail Professional Service, Self-Storage, Tobacco
- 14 Paraphernalia Establishment, and Trade Shop;
- 15 - Service, Financial, §§ 102, 890.110;
- 16 - Movie Theater, §§ 102, 890.64;
- 17 - Amusement and Game Arcade, §§ 102, 890.4;
- 18 - Service, Limited Financial, except single automated teller machines at the street
- 19 front that meet the Commission's adopted Performance-Based Design Guidelines and
- 20 automated teller machines located within another use that are not visible from the street,
- 21 §102;
- 22 - Service, Fringe Financial, §§ 102, 890.113;
- 23 - Tobacco Paraphernalia Establishment, §§ 102, 890.123;
- 24 - Massage Establishment, §§ 102, 890.60;
- 25 - Service, Personal, §§ 102, 890.116;

- Service, Instructional, §102;
- Gym, §102;
- General Grocery, §102;
- Specialty Grocery, §102;
- Pharmacy, §102;
- Jewelry Store, §§ 102, 890.51;
- Tourist Oriented Gift Store, §§ 102, 890.39; and
- Non-Auto Vehicle Sales or Rental, §§ 102, 890.69.

* * * *

SEC. 722. NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT.

* * * *

**Table 722. NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

Zoning Category	§ References	North Beach NCD Controls
BUILDING STANDARDS		
* * * *		
Street Frontage and Public Realm		
* * * *		
Vehicular Access Restrictions	§§ 155(r) and (t)	Prohibited on Columbus Avenue between Washington and North Point Streets, Grant Avenue between Columbus Avenue and Filbert Street, and Green

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Street between Grant Avenue and Columbus/Stockton Streets, and Alleys in the NBNCD and Telegraph Hill-NB Residential SUD. Mandatory discretionary review required to install garages in buildings with ~~four~~two or more units.

Miscellaneous

Lot Size (Per Development)	§§ 102, 121.1	P up to 4,999 <u>2,499</u> square feet; C 5,000 <u>2,500</u> square feet and above
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* * * *

NON-RESIDENTIAL STANDARDS AND USES

* * * *

Sales and Service Use Category	<u>Controls by Story</u>		
	<u>1st</u>	<u>2nd</u>	<u>3rd+</u>

* * * *

<u>Services, Health</u>	<u>§102</u>	<u>NP</u>	<u>C</u>	<u>C</u>
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* * * *

(1) NORTH BEACH OFF-STREET PARKING, RESIDENTIAL (Section 155(t))
Boundaries: North Beach NCD, North-Beach Telegraph Hill SUD
Controls:
 (a) Installing a garage in an existing or proposed residential building of ~~four~~two or more units requires a mandatory Discretionary Review by the Planning Commission; ~~Section 311~~

1 ~~notice is required for a building of less than four units.~~ In ~~approving order to approve the~~ installation
2 of ~~the any~~ garage ~~in these districts~~, the Commission shall find that:

3 (i) the proposed garage opening/addition of off-street parking will not cause the
4 ~~elimination or reduction of ground-story retail or commercial space; the "removal" or "conversion of~~
5 ~~residential unit," as those terms are defined in Section 317 of this Code;~~

6 (ii) the proposed garage opening/addition of off-street parking will not substantially
7 decrease the livability of a square footage of any dwelling unit ~~without increasing the floor area in~~
8 ~~a commensurate amount;~~

9 (iii) the building has not had two or more "no-fault" evictions, ~~as defined in Sections~~
10 ~~37.9(a)(78)-(1316) of the San Francisco Administrative Code~~, with each eviction associated with a
11 separate unit(s) within the past 10~~ten~~ years;

12 (iv) the garage would not front on an Alley pursuant to Section 155(r)(2) of this Code or
13 on a public right-of-way narrower than 41 feet, and

14 (v) the proposed garage/addition of off-street parking ~~installation~~ is consistent with
15 the Priority Policies of Section 101.1 of this Code.

16 (b) Prior to ~~scheduling the Planning Commission hearing, or prior to~~ issuance of any required
17 notification under Section 311~~(e)(2)~~ or 312 of this Code, the ~~Planning~~ Department shall require
18 a signed affidavit by the project sponsor attesting to ~~(1), (2), and (3)~~ (i) (ii) and (iii) above,
19 which the Department shall independently verify, and the Department shall determine whether-
20 ~~The Department shall also have made a determination that. The Department shall also have made a~~
21 ~~determination that~~ the project complies with ~~(4) and (5)~~ (iv) and (v) above. If the project sponsor
22 does not provide such affidavit or the Department determines that the garage would violate
23 subsection (iv) above, the Department shall disapprove the application and no Planning Commission
24 hearing shall be required.

25 * * * *

1
2 **SEC. 780.3. NORTH BEACH SPECIAL USE DISTRICT.**

3 (a) **Purposes.** In order to (1) preserve and maintain the mix and variety of
4 neighborhood-serving retail sales and personal services of a type that supplies commodities
5 or offers personal services to residents of North Beach and nearby neighborhoods; ~~(2); to~~
6 preserve and maintain the District's small-scale, fine grain storefronts; ~~(3); and to~~ protect and
7 encourage upper-story Residential Uses; ~~(4) preserve and enhance the architectural and cultural~~
8 ~~heritage of North Beach; and (5) preserve the contributions of Legacy Businesses to the history and~~
9 ~~identity of North Beach,~~ there shall be a North Beach Special Use District applicable to the
10 North Beach Neighborhood Commercial District, as designated on the Sectional Map SU01 of
11 the Zoning Map of the City and County of San Francisco.

12 (b) **Definitions.** The following definitions ~~applies shall apply~~ only to the North Beach
13 Special Use District:

14 (1) **Specialty Food Manufacturing.** A Commercial Use that includes the
15 manufacturing and processing of foods on the premises for retail and/or wholesale sales and
16 also provides a customer service counter for sale of such manufactured or processed food
17 directly to the consumer. It may have seating as a minor and incidental use that occupies less
18 than 15% of the Occupied Floor Area of the establishment. It includes, but is not limited to,
19 bakeries, coffee roasters, confectionaries, chocolatiers, makers of homemade ice cream and
20 handmade gelato or sorbet. It shall not provide any alcohol sales for consumption on or off
21 the premises.

22 (2) **Legacy Business.** A business as defined under Administrative Code Section
23 2A.242 and included in the Legacy Business Registry.

24 (3) **Historic Buildings.** "Historic buildings" shall include Planning Code Article 10
25 Landmarks and buildings located within Article 10 Historic Districts, buildings and districts identified

1 by surveys adopted by the City, buildings listed or potentially eligible for individual listing on the
2 National or California Registers, and buildings located within listed or potentially eligible National
3 Register or California Register historic districts. The Planning Department shall also consult
4 materials available through the California Historical Resources Information System (CHRIS) and
5 Inventory to determine eligibility.

6 (c) **Controls.** The following provisions shall apply within such district:

7 * * * *

8 (6) **Legacy Business.** Unless otherwise prohibited by this Section 780.3, Section
9 722, or any other section of this Code, any new Non-Residential Use proposed where the immediately
10 prior Commercial Use was a Legacy Business shall require Conditional Use authorization pursuant to
11 Section 303 of this Code.

12 (7) **Architectural and Cultural Heritage of North Beach.** Section 101.1 of the
13 Planning Code includes the priority policy that historic buildings be preserved. The architectural and
14 cultural character and features of existing historic buildings shall be preserved and enhanced. The
15 Historic Preservation Commission or its staff shall review any proposed alterations to historic
16 buildings, as defined in subsection 780.3(b)(3), and must determine that such alterations comply with
17 the Secretary of Interior's Standards for the Treatment of Historic Properties before the City approves
18 any permits to alter such buildings.

19 (8) **Additional Controls:** The following additional controls shall apply in the North
20 Beach Special Use District. (1) A Planned Unit Development shall not be permitted; (2) Large-Scale
21 Urban Agriculture uses shall not be permitted; (3) Hours of Operation shall not be permitted from 2
22 a.m. to 6 a.m.; (4) Unless otherwise prohibited or limited by this Section 780.3, Section 722, or any
23 other section of this Code, active commercial uses, as defined in Planning Code Section 145.4(c), shall
24 be required at the Ground Floor; and (5) A Health Service use, as defined in Section 102 of this Code,
25 shall be prohibited on the ground floor. On the second floor and above, a Health Service use shall

1 require Conditional Use authorization pursuant to Section 303 of this Code.

2 (9) Conditional Use Authorizations. In addition to the findings required under
3 Section 303 of this Code, for any use or project within the District that is subject to Conditional Use
4 authorization under this Section 780.3, Section 722, or any other section of this Code, the Planning
5 Commission shall find that the proposed project supports the purposes of the North Beach SUD set
6 forth in this Section 780.3.

7
8 Section 3. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor's veto of the ordinance.

12
13 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
17 additions, and Board amendment deletions in accordance with the "Note" that appears under
18 the official title of the ordinance.

19
20 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

21
22 By:  for

KATE H. STACY
Deputy City Attorney

23
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REVISED LEGISLATIVE DIGEST

(Substituted, 9/5/2017)

[Planning Code - North Beach, Telegraph Hill, Broadway and Chinatown Area Controls;
Formula Retail]

Ordinance amending the Planning Code to support Legacy Businesses; expand the definition of historic buildings and impose additional requirements in the Broadway Neighborhood Commercial District (NCD) and North Beach Special Use District (SUD); prohibit certain uses in the North Beach SUD; reduce the lot size limit in the North Beach SUD; modify the requirements for approval of parking garages in the Telegraph Hill-North Beach Residential SUD, the North Beach NCD, and Chinatown Mixed Use Districts; reduce off-street parking spaces permitted for residential uses in the Telegraph Hill-North Beach Residential SUD, and the Broadway and North Beach NCDs; revise the definition of Formula Retail; 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.

Existing Law

The Planning Code contains many provisions that guide development in the North Beach, Telegraph Hill, Broadway and Chinatown Areas. Relevant provisions for this proposed ordinance are the following provisions.

Lot Size: Permitted lot size in North Beach without a conditional use permit is 5,000 square feet.

Off-Street Parking: Permitted off-street parking for dwelling units in the Telegraph Hill - North Beach Residential Special Use District is 3 cars for each 4 dwelling units, and could increase to 1 car for each dwelling unit with conditional use authorization. Residential uses may not provide additional parking.

Garage Installation: Mandatory discretionary review is required when a building consisting of 4 dwelling units or more installs a parking garage in the North Beach NCD, the North Beach-Telegraph Hill Residential SUD, and the Chinatown Mixed Use Districts. The project must meet certain criteria for approval.

Historic Buildings: Buildings and sites in these areas are subject to general City, state and federal laws applicable to certain identified historic buildings.

Legacy Businesses: Legacy Businesses may be identified, but there are no controls applicable to Legacy Business sites.

Permitted Uses:

- (1) Health Service Uses are permitted in the North Beach NCD.
- (2) Planned Unit Developments are permitted in the North Beach Special Use District, in compliance with Planning Code Section 304.5.
- (3) Large Scale Urban Agriculture is permitted in the North Beach Special Use District.
- (4) There is no requirement for “active commercial uses,” as defined in Planning Code Section 145.4, on the ground floor in the North Beach Special Use District.

City-Wide Formula Retail Definition: The formula retail provisions of Section 303.1 apply to retail sales and service, among other uses. The retail sales and service category includes the following uses: Adult Business, Animal Hospital, Bar, Cat Boarding, Chair and Foot Massage, Tourist Oriented Gift Store, General Grocery, Specialty Grocery, Gym, Hotel, Jewelry Store, Kennel, Liquor Store, Massage Establishment, Chair and Foot Massage, Mobile Food Facility, Mortuary (Columbarium), Motel, Non-Auto Sales, Pharmacy, Restaurant, Limited Restaurant, General Retail Sales and Service, Financial Services, Fringe Financial Services, Limited Financial Services, Health Services, Instructional Service, Personal Service, Retail Professional Service, Self-Storage, Tobacco Paraphernalia Establishment, and Trade Shop. The City has not considered all of these uses subject to existing formula retail controls.

Amendments to Current Law

Lot Size: Permitted lot size in North Beach NCD without a conditional use permit would be 2,500 square feet.

Off-Street Parking: Permitted off-street parking for dwelling units in the Telegraph Hill - North Beach Residential Special Use District would be 0.5 car for each dwelling unit. Residential uses may not provide additional parking.

Garage Installation: Mandatory discretionary review is required in an existing or proposed building consisting of 2 dwelling units or more installs a parking garage in the North Beach NCD, the North Beach-Telegraph Hill Residential SUD, and the Chinatown Mixed Use Districts. The project must meet certain criteria for approval.

Historic Buildings: An expanded definition of historic buildings, or historic resources, applies in the Broadway Neighborhood Commercial District and the North Beach Special Use District. In both districts, “historic buildings” or “historic resources” include Planning Code Article 10 Landmarks and buildings located within Article 10 Historic Districts, buildings listed or potentially eligible for individual listing on the National or California Registers, and buildings located within listed or potentially eligible National Register or California Register historic districts. The Planning Department shall also consult materials available through the California Historical Resources Information System (CHRIS) and Inventory to determine

eligibility. In the North Beach SUD, “historic buildings” also includes buildings and districts identified by surveys adopted by the City.

For such buildings, the Historic Preservation Commission or its staff must review any proposed alterations, and determine that such alterations comply with the Secretary of Interior’s Standards for the Treatment of Historic Properties before the City approves any permits to alter such buildings.

Legacy Businesses: Any new Non-Residential Use proposed where the immediately prior Commercial Use was a Legacy Business would require Conditional Use authorization.

Permitted Uses:

- (1) Health Service Uses would not be permitted in the North Beach NCD at the ground floor and would require conditional use authorization to be located on the 2nd and 3rd floors.
- (2) Planned Unit Developments would not be permitted in the North Beach Special Use District.
- (3) Large Scale Urban Agriculture would not be permitted in the North Beach Special Use District.
- (4) “Active commercial uses,” as defined in Planning Code Section 145.4, would be required on the ground floor in the North Beach Special Use District.

Conditional Use Authorizations: For any use that requires conditional use authorization in the North Beach Special Use District, the City must find that the proposed project supports the purposes of the North Beach Special Use District. Those purposes are to (1) preserve and maintain the mix and variety of neighborhood-serving retail sales and personal services of a type that supplies commodities or offers personal services to residents of North Beach and nearby neighborhoods; (2) preserve and maintain the District’s small-scale, fine grain storefronts; (3) protect and encourage upper-story Residential Uses; (4) preserve and enhance the architectural and cultural heritage of North Beach; and (5) preserve the contributions of Legacy Businesses to the history and identity of North Beach.

City-Wide Formula Retail Definition: The amendments specify that all of the uses listed under the category of “sales and service, retail” -- Adult Business, Animal Hospital, Bar, Cat Boarding, Chair and Foot Massage, Tourist Oriented Gift Store, General Grocery, Specialty Grocery, Gym, Hotel, Jewelry Store, Kennel, Liquor Store, Massage Establishment, Chair and Foot Massage, Mobile Food Facility, Mortuary (Columbarium), Motel, Non-Auto Sales, Pharmacy, Restaurant, Limited Restaurant, General Retail Sales and Service, Financial Services, Fringe Financial Services, Limited Financial Services, Health Services, Instructional Service, Personal Service, Retail Professional Service, Self-Storage, Tobacco Paraphernalia Establishment, and Trade Shop -- shall be subject to existing formula retail controls.

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