

BOARD of SUPERVISORS



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October 3, 2022

File No. 221023

Lisa Gibson
Interim Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On September 27, 2022, Supervisor Peskin introduced the following proposed legislation:

File No. 221023

Ordinance amending the Planning Code to authorize replacement of a Legacy General Grocery use with a subsequent General Grocery use in excess of 4,000 square feet in the Polk Street Neighborhood Commercial District; 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.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Erica Major".

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

Attachment

c: Joy Navarrete, Environmental Planning
Don Lewis, Environmental Planning

1 [Planning Code - Grocery Stores in Polk Street Neighborhood Commercial District]

2

3 **Ordinance amending the Planning Code to authorize replacement of a Legacy General**
 4 **Grocery use with a subsequent General Grocery use in excess of 4,000 square feet in**
 5 **the Polk Street Neighborhood Commercial District; affirming the Planning**
 6 **Department's determination under the California Environmental Quality Act; and**
 7 **making findings of consistency with the General Plan, and the eight priority policies of**
 8 **Planning Code, Section 101.1.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
 10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
 11 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
 12 **Board amendment additions** are in double-underlined Arial font.
 13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
 14 **Asterisks (* * * *)** indicate the omission of unchanged Code
 15 subsections or parts of tables.

13

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

15

16 Section 1. Environmental and Land Use Findings.

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

22 (b) On _____, the Planning Commission, in Resolution No. _____,
 23 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
 24 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
 25

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
2 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

3
4 Section 2. The Planning Code is hereby amended by revising Sections 121.2 and 723,
5 to read as follows:

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

8 * * * *

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

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

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

20 (3) In the Polk Street Neighborhood Commercial District, this subsection
21 121.2(b) shall not apply to a Movie Theater use, or the expansion of an existing General Grocery
22 Use, as defined in Section 102 of this Code, and pursuant to the controls of Section 723.

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

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

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

8 (a) **Background.** Sitting in the gulch between Nob and Russian Hills and Pacific
9 Heights, the Polk Street Neighborhood Commercial District extends for a mile as a north-
10 south linear strip, and includes a portion of Larkin Street between Post and California Streets.
11 Polk Street’s dense mixed-use character consists of buildings with residential units above
12 ground-story commercial use. The district has an active, pedestrian-oriented, and continuous
13 commercial frontage along Polk Street for almost all of its length. Larkin Street and side
14 streets in the district have a greater proportion of residences than Polk Street itself. California
15 Street and Hyde Street also have active, pedestrian-oriented, and commercial frontage that is
16 small-scale. The district is well served by transit and includes the historic California Cable Car.
17 To preserve and maintain the district’s small-scale, fine grain storefronts, the consolidation or
18 merger of existing retail or commercial spaces or storefronts is *generally* prohibited and lot
19 mergers are controlled. The district provides convenience goods and services to the
20 residential communities in the Polk Gulch neighborhood and to the residents on the west
21 slopes of Nob and Russian Hills. It has many apparel and specialty stores, as well as some
22 automobile uses, which serve a broader trade area. Commercial uses also include offices, as
23 well as movie theaters, restaurants, and bars which keep the district active into the evening.

24 (b) **Controls.**

25 * * * *

1 (2) **Replacement of a Legacy Business Requires Conditional Use**

2 **Authorization.** Where an immediately prior use was a Legacy Business, as defined under
3 Administrative Code Section 2A.242, the controls require any new Non-Residential ~~Use~~ use to
4 obtain Conditional Use authorization; provided, however, that this requirement shall not apply
5 where: (A) the subject non-residential space has had no occupant and has not been open to
6 the public for three or more years from the date the application for the new use is filed, ~~or~~ (B)
7 ~~where~~ the Legacy Business has removed itself or has been otherwise removed from the
8 Legacy Business Registry, or (C) the Legacy Business is an existing General Grocery use and is
9 replaced by another business classified as a General Grocery use, and only if the existing General
10 Grocery use is expanded into a building on the same Lot.

11 (3) **Merger of Storefronts Prohibited.** To preserve and maintain the district's
12 small-scale, fine grain storefronts, the consolidation or merger of existing ground floor retail or
13 commercial spaces or storefronts shall be prohibited, except that two adjacent storefronts may
14 be consolidated or merged if: (A) the storefronts are for a Legacy Business on a corner lot
15 within the same building and Block and Lot number, and provided that the consolidation or
16 merger of storefronts would not result in a use size in excess of the principally permitted use
17 size within the Polk Street NCD, or (B) the storefronts are merged by a General Grocery use in
18 association with the replacement of a Legacy Business that is also a General Grocery use, and the
19 expansion of the General Grocery use is within a building on the same Lot, and is consistent with the
20 size limitations in Section 121.2.

21 * * * *

22 **Table 723. POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT**
23 **ZONING CONTROL TABLE**

		Polk Street NCD
Zoning Category	§ References	Controls

NON-RESIDENTIAL STANDARDS AND USES (7)				
* * * *				
		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
* * * *				
Flexible Retail	§ 102	NP	NP	NP
<i>Grocery, General</i>	<u>§§ 102,</u> <u>121.2 (2)</u>	<u>P (2)</u>	<u>P</u>	<u>NP</u>
* * * *				

* * * *

(2) USE SIZE EXEMPTION: Per Planning Code Section 121.2(b), Use Size shall generally not exceed 4,000 square feet except that a Movie Theater as defined in Section 102 may exceed 4,000 square feet. In addition, the enlargement of an existing General Grocery use on the same Lot, and in association with the replacement of a Legacy Business that is also a General Grocery use, may exceed 4,000 square feet.

* * * *

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

LEGISLATIVE DIGEST

[Planning Code - Grocery Stores in Polk Street Neighborhood Commercial District]

Ordinance amending the Planning Code to authorize replacement of a Legacy General Grocery use with a subsequent General Grocery use in excess of 4,000 square feet in the Polk Street Neighborhood Commercial District; 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

Existing Law

Currently, the Polk Street Neighborhood Commercial District limits the merger of store fronts, retail uses to 4,000 feet or less, and requires a conditional use authorization to replace a Legacy Business, as that term is defined in Administrative Code 2A.242.

Amendments to Current Law

This ordinance would allow the merger of a store front, retail uses in excess of 4,00 square feet, and not require a conditional use authorization to replace a Legacy Business, where a General Grocery use replaces an existing Legacy Business that is also a General Grocery use, and the new General Grocery use expands within a building on the same lot.