

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689  
Tel. No. (415) 554-5184  
Fax No. (415) 554-5163  
TDD/TTY No. (415) 554-5227

# MEMORANDUM

TO: Katy Tang, Director  
**Small Business Commission, City Hall, Room 448**

FROM: John Carroll, Assistant Clerk, Land Use and Transportation Committee

DATE: May 2, 2024

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

**File No. 240411**

**Ordinance amending the Planning Code to create an exception to allow storefront mergers and large uses for certain Limited Restaurant Uses designated as Legacy Businesses in the Polk Street Neighborhood Commercial District; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare under Planning Code, Section 302.**

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c:  
Offices of Chair Melgar and Supervisor Peskin  
Kerry Birnbach, Senior Policy Analyst/Commission Secretary

\*\*\*\*\*

**RESPONSE FROM SMALL BUSINESS COMMISSION - Date:** \_\_\_\_\_

**No Comment**

**Recommendation Attached**

\_\_\_\_\_  
**Chairperson, Small Business Commission**

1 [Planning Code - Polk Street Neighborhood Commercial District]

2

3 **Ordinance amending the Planning Code to create an exception to allow storefront**  
4 **mergers and large uses for certain Limited Restaurant Uses designated as Legacy**  
5 **Businesses in the Polk Street Neighborhood Commercial District; affirming the**  
6 **Planning Department’s determination under the California Environmental Quality Act;**  
7 **making findings of consistency with the General Plan, and the eight priority policies of**  
8 **Planning Code, Section 101.1; and making findings of public necessity, convenience,**  
9 **and welfare under Planning Code, Section 302.**

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

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

18 Section 1. Environmental and Land Use Findings.

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

24 (b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_,  
25 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

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

7 (d) The Polk Street NC District (District) has an active, pedestrian-oriented, and  
8 continuous commercial frontage along Polk Street that features small-scale commercial  
9 business.

10 (e) The District has remained largely vibrant during a time when many brick and mortar  
11 businesses have been impacted by economic difficulties.

12 (f) The Legacy Business Program helps preserve local small businesses by providing  
13 assistance to businesses that have been long-standing pillars of our community through  
14 marketing, business assistance, and specialized grants. Legacy Businesses do not need to  
15 remain in their original location.

16 (g) It is reasonable to facilitate relocation of certain Legacy Businesses within the  
17 District. Allowing certain Legacy Businesses allows the businesses to move to more  
18 advantageous locations, and potentially expand their operations. Relaxing certain zoning  
19 standards to permit the relocation of certain Legacy Businesses within the District also  
20 provides assistance during challenging economic times.

21 (h) The District generally prohibits merging storefronts, and places limitations on use  
22 sizes to preserve the district's small-scale, fine grain storefronts, however several narrowly  
23 defined exemptions exist.

24 (i) This legislation adds an additional narrow exemption to the controls in the District to  
25 facilitate the relocation of a Legacy Business. The exemption will allow a limited restaurant

1 Legacy Business to relocate and merge a storefront to continue as a neighborhood serving  
2 business.

3  
4 Section 2. Articles 1.2 and 7 of the Planning Code are hereby amended by revising  
5 Sections 121.2 and 723, to read as follows:

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

8 (a) In order to protect and maintain a scale of development appropriate to each  
9 district, Non-Residential Uses of the same size or larger than the square footage stated in the  
10 table below may be permitted only as Conditional Uses. The use area shall be measured as  
11 the Gross Floor Area for each individual Non-Residential Use.

District	Use Size Limits
Castro Street	2,000 sq. ft.
North Beach	
Pacific Avenue	
Polk Street*	
* * * *	

12  
13  
14  
15  
16  
17  
18 *\* Conditional Use not required for any Limited Restaurant use that relocates within the Polk*  
19 *Street NCD, and is designated as a Legacy Business as of the effective date of the ordinance in Board*  
20 *File No. 240411.*

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

22 (a) **Background.** Sitting in the gulch between Nob and Russian Hills and Pacific  
23 Heights, the Polk Street Neighborhood Commercial District extends for a mile as a north-  
24 south linear strip, and includes a portion of Larkin Street between Post and California Streets.  
25 Polk Street’s dense mixed-use character consists of buildings with residential units above

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

13 (b) **Controls.**

14 \* \* \* \*

15 (3) **Merger of Storefronts Prohibited.** To preserve and maintain the district’s  
16 small-scale, fine grain storefronts, the consolidation or merger of existing ground floor retail or  
17 commercial spaces or storefronts shall be prohibited, except that two adjacent storefronts may  
18 be consolidated or merged if: (A) the storefronts are for a Legacy Business on a corner lot  
19 within the same building and Block and Lot number, and provided that the consolidation or  
20 merger of storefronts would not result in a use size in excess of the principally permitted use  
21 size within the Polk Street NCD, ~~or~~ (B) the storefronts are merged by a General Grocery use  
22 in association with the replacement of a Legacy Business that is also a General Grocery use,  
23 and the expansion of the General Grocery use is within a building on the same Lot, and is  
24 consistent with the size limitations in Section 121.2, or (C) the storefronts are merged by a Limited  
25

1 Restaurant use that relocates within the Polk Street NCD, and is designated as a Legacy Business as of  
 2 the effective date of the ordinance in Board File No. 240411.

3 \* \* \* \*

4 **Table 723. POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT**  
 5 **ZONING CONTROL TABLE**

				Polk Street NCD	
Zoning Category		§ References	Controls		
<b>NON-RESIDENTIAL STANDARDS AND USES (7)</b>					
* * * *					
			<b>Controls by Story</b>		
			<b>1st</b>	<b>2nd</b>	<b>3rd+</b>
* * * *					
<b>Sales and Service Use Category</b>					
<b>Retail Sales and Service Uses*</b>	§§ 102, 202.2(a), 202.3	P	P	NP	
* * * *					
Restaurant, Limited	§§ 102, <u>121.2,</u> 202.2(a)	P <u>(2)</u>	P	NP	

21 \* \* \* \*

22 (2) USE SIZE EXEMPTION: Per Planning Code Section 121.2(a), a Conditional Use  
 23 Authorization is not required for any Limited Restaurant use that relocates within the Polk Street NCD,  
 24 and is designated as a Legacy Business as of the effective date of the ordinance in Board File  
 25 No. 240411. Per Planning Code Section 121.2(b), Use Size shall generally not exceed 4,000



**LEGISLATIVE DIGEST**

[Planning Code - Polk Street Neighborhood Commercial District]

**Ordinance amending the Planning Code to create an exception to allow storefront mergers and large uses for certain Limited Restaurant Uses designated as Legacy Businesses in the Polk Street Neighborhood Commercial District; affirming the Planning Department’s determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare under Planning Code, Section 302.**

Existing Law

Planning Code Section 723 establishes the Polk Street Neighborhood Commercial District. In the District, storefront mergers are generally not allowed, with limited exceptions, and uses over 2,000 square feet require a Conditional Use Authorization.

Amendments to Current Law

This ordinance would allow a Limited Restaurant use that relocates within the Polk Street NCD, and is designated as a Legacy Business as of the effective date of this ordinance to merge store fronts, and not require a conditional use authorization to exceed 2,000 square feet.

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## Introduction Form

(by a Member of the Board of Supervisors or the Mayor)

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)  
*(Routine, non-controversial and/or commendatory matters only)*
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor \_\_\_\_\_ inquires..."
- 5. City Attorney Request
- 6. Call File No. \_\_\_\_\_ from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No. \_\_\_\_\_
- 9. Reactivate File No. \_\_\_\_\_
- 10. Topic submitted for Mayoral Appearance before the Board on \_\_\_\_\_

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission     Youth Commission     Ethics Commission  
 Planning Commission     Building Inspection Commission     Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes                       No

*(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)*

Sponsor(s):

**Peskin**

Subject:

Planning Code - Polk Street Neighborhood Commercial District

Long Title or text listed:

Ordinance amending the Planning Code to create an exception to allow storefront mergers and large uses for certain Limited Restaurant Uses designated as Legacy Businesses in the Polk Street Neighborhood Commercial District; and affirming the Planning Department's determination under the California Environmental Quality Act, making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1, and making findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Signature of Sponsoring Supervisor: 