



SAN FRANCISCO PLANNING DEPARTMENT

July 26, 2017

Ms. Angela Calvillo, Clerk
Honorable Supervisor Peskin
Board of Supervisors
City and County of San Francisco
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**Re: Transmittal of Planning Department Case Number 2017-005182PCA:
Commercial Use in Polk Street and Pacific Avenue Neighborhood Commercial
District; Technical and Other Amendments
Board File No. 170418
Planning Commission Recommendation: Approval with Modification**

Dear Ms. Calvillo and Supervisor Peskin,

On July 13, 2017, the Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed Ordinance, introduced by Supervisor Peskin that would 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) clarify procedures for abating a Conditional Use authorization; 9) modifying the maximum concentration of eating and drinking uses in the Polk NCD; 10) prohibit and restrict medical service, massage establishment, kennel, and agriculture uses in the Polk NCD; 11) prohibit storefront merges in the Polk NCD; 12) prohibit and restrict medical service, kennel, and agriculture uses in the Pacific NCD; 13) modify the required dwelling unit mix in the Polk NCD and Pacific NCD; 14) require Conditional Use authorization before replacing a Legacy Business in Polk NCD and Pacific NCD; 15) prohibit removal, demolition, merger, or conversion of certain residential units in Polk NCD and Pacific NCD; and 16) correct, clarify, and simplify language in other Planning Code Sections.. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modifications were as follows:

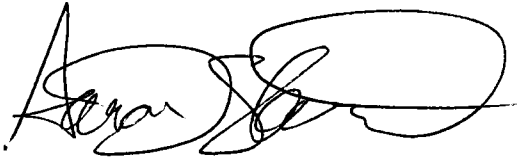
- Adopt dwelling unit mix requirements that are consistent with forthcoming citywide requirements for the Polk Street and Pacific Avenue NCDs; and
- Locate the proposed Off-Street Parking controls for Dwellings in the Polk Street and Pacific Avenue NCDs in Table 151.1 rather than Table 151.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron D. Starr". The signature is fluid and cursive, with a large loop at the end.

Aaron D. Starr
Manager of Legislative Affairs

cc:

Christophe T. Tom, Deputy City Attorney
Lee Hepner, Aide to Supervisor Peskin
Erica Major, Office of the Clerk of the Board

Attachments:

Planning Commission Resolution
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19959

HEARING DATE JULY 13, 2017

Project Name: Commercial Uses in Polk Street and Pacific Avenue Neighborhood
Commercial Districts; Technical and Other Amendments

Case Number: 2017-005182 PCA [Board File No. 170418]

Initiated by: Supervisor Peskin / Introduced April 11, 2017

Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082

Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND 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) CLARIFY PROCEDURES FOR ABATING A CONDITIONAL USE AUTHORIZATION; 9) MODIFYING THE MAXIMUM CONCENTRATION OF EATING AND DRINKING USES IN THE POLK NCD; 10) PROHIBIT AND RESTRICT MEDICAL SERVICE, MASSAGE ESTABLISHMENT, KENNEL AND AGRICULTURE USES IN THE POLK NCD; 11) PROHIBIT STOREFRONT MERGERS IN THE POLK NCD; 12) PROHIBIT AND RESTRICT MEDICAL SERVICE, KENNEL AND AGRICULTURE USES IN THE PACIFIC NCD; 13) MODIFY THE REQUIRED DWELLING UNIT MIX IN THE POLK NCD AND PACIFIC NCD; 14) REQUIRE CONDITIONAL USE AUTHORIZATION BEFORE REPLACING A LEGACY BUSINESS IN POLK NCD AND PACIFIC NCD; 15) PROHIBIT REMOVAL, DEMOLITION, MERGER, OR CONVERSION OF CERTAIN RESIDENTIAL UNITS IN POLK NCD AND PACIFIC NCD; AND 16) CORRECT, CLARIFY, AND SIMPLIFY LANGUAGE IN OTHER PLANNING CODE SECTIONS; 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 SECTION 101.1, AND FINDINGS OF PUBLIC CONVENIENCE, NECESSITY, AND WELFARE UNDER PLANNING CODE SECTION 302.

WHEREAS, on April 11, 2017 Supervisors Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 170418, which would amend 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) clarify procedures for abating a Conditional Use authorization; 9) modifying the maximum concentration of eating and drinking uses in the Polk NCD; 10) prohibit and restrict medical service, massage establishment, kennel, and agriculture uses in the Polk NCD; 11) prohibit storefront merges in the Polk NCD; 12) prohibit and restrict medical service, kennel, and agriculture uses in the Pacific NCD; 13) modify the required dwelling unit mix in the Polk NCD and Pacific NCD; 14) require Conditional Use authorization before replacing a Legacy Business in Polk NCD and Pacific NCD; 15) prohibit removal, demolition, merger, or conversion of certain residential units in Polk NCD and Pacific NCD; and 16) correct, clarify, and simplify language in other Planning Code Sections;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on July 13, 2017; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c) and 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve with modifications** the proposed ordinance.

Those modifications include:

1. Adopt dwelling unit mix requirements that are consistent with forthcoming citywide requirements for the Polk Street and Pacific Avenue NCDs.

2. Locate the proposed Off-Street Parking controls for Dwellings in the Polk Street and Pacific Avenue NCDs in Table 151.1 rather than Table 151

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. Maintaining the existing, fine-grained scale of the Polk Street and Pacific Avenue Neighborhood Commercial Districts (NCDs) and fostering the introduction and preservation of independent retail helps keep these NCDs distinctive and vibrant.
2. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 6

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the City's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

The proposed Ordinance retains and provides neighborhood- serving goods and services and encourages the diversity of the Polk Street and Pacific Avenue NCDs through controls on Legacy Businesses, eating and drinking establishments and non-residential uses sizes.

Policy 6.7

Promote High Quality Urban Design on Commercial Streets.

The proposed Ordinance promotes high quality urban design on Polk Street and Pacific Avenue through controls on the development of large lots, the size of lot mergers, a prohibition on vehicular entries on important pedestrian oriented streets, and a requirement of active ground floor commercial uses on important commercial streets.

HOUSING ELEMENT

OBJECTIVE 4

FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.

Policy 4.1

Develop new housing, and encourage the remodeling of existing housing, for families with children the changing demographics of the city illustrate that the need for family housing is growing, as larger, extended families increase and as more and more households desire to stay in the city as they have children.

The proposed Ordinance seeks to address the need for family sized housing production through the continued imposition of the citywide dwelling unit mix requirement for the Polk Street and Pacific Avenue NCDs.

URBAN DESIGN ELEMENT

OBJECTIVE 4

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

Policy 4.13

Improve pedestrian areas by providing human scale and interest

Policy 4.15

Protect the livability and character of residential properties from the intrusion of incompatible new buildings.

The proposed Ordinance amends the Planning Code to change development standards that help bring about and maintain a human scale and protect the livability of residential properties within the Polk Street and Pacific Avenue NCDs.

3. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would have a positive effect on neighborhood serving retail uses as it proposes to amend the Planning Code to alter development standards and entitlement processes that are conducive to a healthy neighborhood-serving retail sector.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would have a positive effect on housing and neighborhood character as it proposes to alter development standards that yield small scaled, contextual development. This will help preserve the cultural and economic diversity of the Polk Street and Pacific Avenue NCDs.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking as the Ordinance proposes to amend the Planning Code to minimize delays to transit service stemming from new garage entries or other vehicular access on multiple streets in the Polk Street and Pacific Avenue NCDs.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would have a beneficial effect on parks' and open space's access to sunlight and vistas because it requires that new development be compatible with the existing small scaled context of the Polk Street and Pacific Avenue NCDs.

4. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance with modifications as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on July 13, 2017.



Christine L. Silva
Acting Commission Secretary

AYES: Johnson, Koppel, Melgar, Moore, Richards, Hillis

NOES: None

ABSENT: Fong

ADOPTED: July 13, 2017



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: JULY 13, 2017
EXPIRATION DATE: JULY 18, 2017

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Project Name: **Commercial Uses in Polk Street and Pacific Avenue Neighborhood Commercial Districts; Technical and Other Amendments**

Case Number: **2017-005182 PCA [Board File No. 170418]**

Initiated by: **Supervisor Peskin / Introduced April 11, 2017**

Staff Contact: **Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082**

Reviewed by: **Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362**

Recommendation: **Recommend Approval with Modifications**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend 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) clarify procedures for abating a Conditional Use authorization; 9) modifying the maximum concentration of eating and drinking uses in the Polk NCD; 10) prohibit and restrict medical service, massage establishment, kennel, and agriculture uses in the Polk NCD; 11) prohibit storefront merges in the Polk NCD; 12) prohibit and restrict medical service, kennel, and agriculture uses in the Pacific NCD; 13) modify the required dwelling unit mix in the Polk NCD and Pacific NCD; 14) require Conditional Use authorization before replacing a Legacy Business in Polk NCD and Pacific NCD; 15) prohibit removal, demolition, merger, or conversion of certain residential units in Polk NCD and Pacific NCD; and 16) correct, clarify, and simplify language in other Planning Code Sections.

The Way It Is Now:

Development Standards

1. Conditional Use authorization is required when constructing or significantly enlarging an existing building on a lot 10,000 square feet or larger in the Polk Street NCD and the Pacific Avenue NCD
2. In the Polk Street NCD and Pacific Avenue NCD there is no prohibition on size of a non-residential use.

3. In the Polk Street NCD and Pacific Avenue NCD there are no limits on the resultant lot frontage from a lot merger.
4. The zoning controls tables for the Polk Street NCD regulate the allowed ground floor commercial uses within the Polk Street NCD. Some of the allowed ground floor commercial uses are not considered Active Ground Floor Commercial Uses, as noted in Planning Code Table 145.4.
5. Ground floor commercial uses along Pacific Avenue, between Van Ness Avenue and Jones Streets, are regulated by the zoning district in which the property is located. These include the RM-4 Zoning District, the Polk Street NCD and the Pacific Avenue NCD.
6. In the Polk Street NCD consolidating or merger ground floor commercial storefronts are allowed, subject to the non-residential use size limits.
7. In the Polk Street NCD establishing a non-residential use of 2,500 square feet or larger requires Conditional Use authorization.

Off-Street Parking and Loading

8. One off-street parking space for each Dwelling Unit in the Polk Street NCD is required.
9. One off-street parking space for each Dwelling Unit in the Pacific Avenue NCD is required.
10. Off-Street parking is generally required for land uses and activities within the Polk Street NCD and Pacific Avenue NCD. These requirements are listed in Table 151.
11. On (a) Polk Street, between Filbert Street and Golden Gate Avenue; (b) California, between Van Ness Avenue and Hyde Street; (c) Hyde Street, between California Street and Pine Street; (d) Broadway between Van Ness Avenue and Larkin Street; (e) Bush Street between Van Ness Avenue and Larkin Street; and (f) Pine Street between Van Ness Avenue and Larkin Street the addition of garage entries, driveways or other vehicular access to off-street parking or loading is allowed subject to dimensional restrictions, street frontage and any applicable design guidelines.

Nonconforming Uses

12. In the Polk Street NCD the period of non-use for a nonconforming use to be deemed discontinued is three years.

Retail Uses

13. In the Polk Street NCD the concentration of eating and drinking uses should not exceed 25% of total commercial frontage as measured in linear feet within the immediate area of a proposed eating and drinking use.
14. In the Polk Street NCD and the Pacific Avenue NCD a new non-residential use occupying a space formerly occupied by a Legacy Business is not required to secure Conditional Use authorization solely because the last non-residential use was a Legacy Business.
15. In the Polk Street NCD Medical Service uses are principally permitted on the first and second stories but not permitted above the second story.
16. In the Polk Street NCD Conditional Use authorization is required to establish a Massage Establishment at the first story.

17. In the Polk Street NCD and the Pacific Avenue NCD Neighborhood Agriculture is principally permitted at any story and Large Scale Agriculture requires Conditional Use authorization at all stories.

Residential Uses

18. In the Polk Street NCD and the Pacific Avenue NCD new housing developments may provide any unit type mix and are not required to provide a specific ratio of two- or three-bedroom units.
19. In the Polk Street NCD and the Pacific Avenue NCD the removal, demolition, merger or conversion of Residential Units is subject to the procedures under Planning Code Section 317.
20. In the Polk Street NCD and the Pacific Avenue NCD subdividing an existing unit into two or more units is prohibited is allowed without consideration of the size of the existing unit to be subdivided or of the size of at least one of the resultant units.

The Way It Would Be:

Development Standards

1. Conditional Use authorization would be required when constructing or significantly enlarging an existing building on a lot 2,500 square feet or larger in the Polk Street NCD and the Pacific Avenue NCD
2. In the Polk Street NCD and Pacific Avenue NCD non-residential uses 4,000 square feet or greater would be prohibited. In the Polk Street NCD Movie Theaters would be exempt from this prohibition.
3. In the Polk Street NCD and Pacific Avenue NCD resultant lot frontage would be limited to 25 feet when merging lots.
4. Active Ground Floor Commercial Uses, as noted in Planning Code Table 145.4, would be required on any street frontage within the Polk Street NCD
5. Active Ground Floor Commercial Uses, as noted in Planning Code Table 145.4, would be required on any street frontage along Pacific Avenue, between Van Ness Avenue and Jones Street, in addition to the use controls established by the underlying zoning district. This would apply on lots where the last known ground floor use was a commercial or retail use.
6. In the Polk Street NCD consolidating or merging ground floor commercial storefronts would be prohibited.
7. In the Polk Street NCD establishing a non-residential use of 2,000 square feet or larger would require Conditional Use authorization.

Off-Street Parking and Loading

8. No off-street parking for dwelling units would be required in the Polk Street NCD. Up to 0.5 cars for each dwelling unit would be principally permitted.
9. No off-street parking for dwelling units would be required in the Pacific Avenue NCD. Up to 0.5 cars for each dwelling unit would be principally permitted and up to one car for each dwelling unit would be allowed with Conditional Use authorization.

10. Off-Street parking would not be required for land uses and activities within the Polk Street NCD and Pacific Avenue NCD. Off-Street parking maximums for land uses and activities would be established for the Polk Street NCD and Pacific Avenue NCD and found in Table 151.1. For non-residential uses, except grocery stores over 20,000 gross square feet, in Table 151 that are described as a ratio of occupied floor area, up to one off-street parking space per 1,500 square feet of occupied floor area, or the quantities specified in Table 151, whichever is less, would be permitted.
11. On (a) Polk Street, between Filbert Street and Golden Gate Avenue; (b) California, between Van Ness Avenue and Hyde Street; (c) Hyde Street, between California Street and Pine Street; (d) Broadway between Van Ness Avenue and Larkin Street; (e) Bush Street between Van Ness Avenue and Larkin Street; and (f) Pine Street between Van Ness Avenue and Larkin Street the addition of garage entries, driveways or other vehicular access to off-street parking or loading would be prohibited.

Nonconforming Uses

12. In the Polk Street NCD the period of non-use for a nonconforming use to be deemed discontinued would be 18 months.

Retail Uses

13. In the Polk Street NCD the concentration of eating and drinking uses would not be allowed to exceed 35% of total commercial frontage as measured in linear feet within the immediate area of a proposed eating and drinking use.
14. In the Polk Street NCD and the Pacific Avenue NCD a new non-residential use occupying a space formerly occupied by a Legacy Business would be required to secure Conditional Use authorization because the last non-residential use was a Legacy Business. This requirement would not apply where the subject non-residential space has been vacant and not been open to the public for at least three years or where the Legacy Business has removed itself or has otherwise been removed from the Legacy Business Registry.
15. In the Polk Street NCD Medical (Health) Service uses would be prohibited on the first story and would require Conditional Use authorization above the first story.
16. In the Polk Street NCD Massage Establishments would be prohibited at all stories.
17. In the Polk Street NCD and the Pacific Avenue NCD Neighborhood Agriculture and Large Scale Urban Agriculture would be prohibited at all stories.

Residential Uses

18. In the Polk Street NCD and the Pacific Avenue new housing developments proposing five or more dwelling units would be required to provide at least 40% of all units as two bedroom units or at least 30% of all units as three bedroom units.
19. In the Polk Street NCD and the Pacific Avenue NCD the removal, demolition, merger or conversion of Residential Units would be prohibited.
20. In the Polk Street NCD and Pacific Avenue NCD subdividing an existing unit into two or more units would be principally permitted at any story if the existing unit exceeds 2,000 occupied square feet or

contains more than three bedrooms and at least one of the resulting units is no less than two bedrooms and 1,250 square feet in size.

ISSUES AND CONSIDERATIONS

Development Standards

Each Neighborhood Commercial District (NCD) incorporates building standards to regulate the general size, shape, character, and design of development. These development controls are tailored to the particularities of each NCD. For smaller scaled NCDs, the building standards tend to guide development toward fine grained, pedestrian scale built environment. Where this already exists, the building standards work to preserve this condition.

“...the added scrutiny of the CU process can allow a wider range of projects, project sizes and community benefits while still assuring neighborhood compatibility.”

The building standards do this by establishing quantitative thresholds for development that is allowed as of right, allowed with Conditional Use (CU) authorization or prohibited. Requiring CU can help achieve a number of policy goals relating to the built environment. Through specific CU findings, the CU process creates an additional mechanism to require new developments to be compatible with and contribute to their surroundings. For example, the Planning Code contains CU findings requiring development on larger lots to be physically compatible with the existing scale of the NCD and those features adding a positive visual impact.¹ For larger sized nonresidential uses, the Planning Code has CU findings requiring these uses to be found neighborhood serving and not detrimental to other neighborhood serving uses in the area.² The Planning Code also contains CU findings for the merging of lots to assure additional residential affordability or the development of a project of public interest.³ In short, the added scrutiny of the CU process can allow a wider range of projects, project sizes and community benefits while still assuring neighborhood compatibility.

An outright prohibition does not afford this opportunity. This can be of concern for neighborhood serving retail uses that require larger spaces such as a grocery store or a hardware store. It is also of concern for residential projects where a larger footprint can produce inclusionary housing units while a smaller sized one cannot.

Maintaining a Distinct Retail Character

Most successful NCDs have a retail composition that strikes a balance between neighborhood serving uses and uses attracting patrons from afar. They also have a balance among different retail use categories, such as eating and drinking, apparel and personal services. When one retail use begins to dominate an NCD, the NCD's utility to adjacent neighbors can decline. Maintaining an appropriate balance is therefore important to the character of an NCD. Limits to the entry of any one type of retail use should be based on an understanding of existing NCD conditions. Setting a limit on a retail use far above its existing concentration can upset the desired balance by allowing more of that use to locate in the NCD. Similarly, setting the limit to low creates a number of nonconforming uses that the Planning

¹ Planning Code Section 121.1

² Planning Code Section 121.2

³ Planning Code Section 121.7

Code seeks to eliminate over time. In either case, it is best to base any limits on existing or desired conditions determined through a survey of the NCD.

The size of retail spaces, and the retailers they accommodate, also influences the character of an NCD. Where larger spaces with adjacent parking lots are readily available, regional or national retailers are easily accommodated. Smaller, often independently owned establishments tend to locate in NCDs with an abundance of smaller retail spaces. These differing physical layouts and the retailers they accommodate yield different commercial corridor character. Protecting the balance of the available retail space sizes is therefore vital to NCD character. This can be done by limiting the loss of smaller spaces by placing controls on storefront mergers. Care should also be taken to not eliminate any opportunities for smaller, independently owned retailers to expand into an adjacent retail space. Limits to the sizes of retail spaces should also be based on a survey of the existing conditions in an NCD with smaller retail spaces. This can inform the quantitative threshold for limiting the size of a retail space.

Most NCDs have at least a couple of long standing retail or institutional uses. These serve as anchors to the NCD, helping identify the NCD and lending character; however, it is inevitable that some of these long standing uses will close. Closure may come about for any number of reasons including the owners retiring; changing consumer tastes making the use no longer commercially viable; or because of a sharp escalation in lease rates. Whatever the cause, land uses controls, such as tailored CU findings, can influence the subsequent use and meet broader policy goals around NCDs. Specific CU findings can assure that the new use contributes to the character of the NCD through appropriate physical improvements or through the provision of neighborhood serving goods or services.⁴ The CU findings can also incentivize the new use to provide opportunities for patrons to arrive at the site using mass transit or bicycles.⁵ Such CU findings can help decision makers determine whether a proposed use is appropriate for a particular location.

An active, pedestrian-oriented retail base is important to have on the main street of an NCD. The Planning Code recognizes this by requiring what it considers “active commercial uses” on the ground floor on particular streets in specified NCDs.⁶ An active use is one that does not feature non-transparent walls facing a street or involve storing goods or vehicles. They can also be thought of as uses that invite a free flow of customers coming in and out of the premises. Selected segments of a street, or in a few instance all of a street within an NCD, are identified as important commercial streets where active ground floor commercial uses are required. Directing these uses to identified areas makes sense in that foot traffic is most needed in certain areas for an NCD to prosper. It also makes sense in that it eliminates completion for retail spaces from “non-active” uses.

⁴ General Plan, Commerce and Industry Element, Objective 6 Maintain and Strengthen Viable Neighborhood Commercial Areas Easily Accessible to City Residents, Policy 6.7 Promote High Quality Urban Design on Commercial Streets

⁵ General Plan, Commerce and Industry Element, Objective 6 Maintain and Strengthen Viable Neighborhood Commercial Areas Easily Accessible to City Residents, Policy 6.1 Ensure and Encourage the Retention and Provision of Neighborhood-Serving Goods and Services in the City’s Neighborhood Commercial Districts, While Recognizing and Encouraging Diversity Among the Districts, Guidelines for All Uses

⁶ Planning Code Section 145.4

The Polk Street NCD follows this pattern. The Polk Street NCD is largely centered along Polk Street, its “main street.” But at its southern end the NCD juts out in a rectangular fashion to include a number of blocks and streets off of Polk Street. These “minor” streets include Hemlock, Fern, Larkin, and Bush, among others. Not all storefronts on the “minor” streets should be required to accommodate active commercial uses. These could accommodate a “non-active” commercial use without harming the pedestrian experience. And in the case of a storefront vacancy, having the liberty to lease to a “non-active” commercial use expands the possible uses that may occupy such a space.

Residential Dwelling Unit Mix

In 2008 the City enacted dwelling unit mix controls for residential development.⁷ Dwelling unit mix controls require a minimum number of family sized units- no smaller than two bedroom units - to be provided in residential developments of five units or more. The current requirement is that no less than 40% of the total number of proposed dwelling units contain at least two bedrooms or no less than 30% of the total number of proposed dwelling units contain at least three bedrooms. Initially only residential development in the Residential Transit Oriented (RTO) and Neighborhood Commercial Transit (NCT) District were subject to the controls. However, very soon after residential developments in the Downtown Residential (DTR) and the Eastern Neighborhoods zoning districts were also made subject to these controls. Currently the Polk Street and Pacific Avenue NCDs do not have a dwelling unit mix requirement for residential development.

Given the goal to produce family sized units across the City,⁸ and not simply in the eastern half, Supervisor’s Breed, Kim, Peskin, Safai and Tang sponsored Board File 161351.⁹ Among other aims, this proposed Ordinance seeks to establish a dwelling unit mix requirement applying to all residential development of 10 or more units citywide. It is proposing that no less than 25% of the total number of proposed dwelling units contain at least two bedrooms and no less than 10% of the total number of proposed dwelling units contain at least three bedrooms. The Department recognizes that the final dwelling unit mix requirement, including the ratios of two and three bedroom units and the size of residential project subject to the requirement, may change through the legislative process. However, in light of this citywide effort to address the need for family sized units, it is reasonable that all zoning districts adhere to the forthcoming requirement. It also makes implementation of this requirement easier when there are no zoning districts exempted from the citywide regulation.

Loss of Residential Units

The Department is a strong supporter of creating new units as well as maintaining functional and sound existing housing. However, there are instances when the loss of a residential unit is appropriate. For example, legalization of an unauthorized unit may prove too great a financial burden for the property owner given a change in marital or financial status. Or an unauthorized unit may be financial infeasible

⁷ Ordinance 72-08 <https://sfgov.legistar.com/View.ashx?M=F&ID=710873&GUID=68607DFA-EDB2-4A5C-B43D-9DC0A0960A6A>

⁸ General Plan, Housing Element, Objective 4 Foster a Housing Stock that Meets the Needs Of all Residents Across Lifecycles, Policy 4.1 Develop New Housing, and Encourage the Remodeling of Existing Housing, For Families with Children

⁹ Board File 161351 <https://sfgov.legistar.com/View.ashx?M=F&ID=5187751&GUID=AEBF33BD-F892-4320-9098-D82F0E992CC9>

to rehabilitate and legalize because of the poor condition of the unit.¹⁰ There may also be similar instances where a legal, authorized unit is in such a state of disrepair that its loss, especially for the creation of new or more units, is preferable. In either case, it is reasonable to maintain a procedural avenue in those few instances where loss of a unit is a preferable outcome.

RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

Development Standards

1. Do not prohibit non-residential uses larger than 4,000 gross square feet in size in the Polk Street and Pacific Avenue NCDs.
2. Limit lot mergers resulting in a lot with a single street frontage to no larger than 50 feet within the Polk Street and Pacific Avenue NCDs instead of the proposed 25 feet.
3. Do not prohibit the merger of ground floor commercial storefronts in the Polk Street NCD.
4. Select specific segments of the Polk Street NCD to require active ground floor commercial uses.

Retail Uses

5. Base any concentration limit on eating and drinking uses in the Polk Street NCD on existing conditions.
6. Add Conditional Use findings for the proposed Legacy Business controls in the Polk Street and Pacific Avenue NCDs.

Residential Uses

7. Adopt dwelling unit mix requirements that are consistent with forthcoming citywide requirements for the Polk Street and Pacific Avenue NCDs.
8. Do not prohibit the removal, demolition, merger or conversion of Residential Unit within the Polk Street and Pacific Avenue NCDs.

Technical Amendment

¹⁰ In Case 2016-006912CUA, 1145 Bacon Street, the Planning Commission granted Conditional Use authorization to remove an unauthorized unit from a single family dwelling in part because of the project sponsor having a financial hardship, escalating legalization costs and a lack of tenant displacement. The case of two dozen immigrants living in the basement of an Excelsior district laundromat the Fire Department labeled a "death trap" is another example of the need for a procedural route to remove unauthorized units.

"Inside the SF Laundromat where Two Dozen People Lived." *San Francisco Chronicle* 19 May 2017. accessed 23 June 2017 <http://www.sfchronicle.com/bayarea/article/Inside-the-SF-laundromat-basement-where-2-dozen-11159737.php>

9. Locate the proposed Off-Street Parking controls for Dwellings in the Polk Street and Pacific Avenue NCDs in Table 151.1 rather than Table 151

BASIS FOR RECOMMENDATION

The Department supports the overall goals of the Ordinance. Maintaining the existing, fine-grained scale of the Polk Street and Pacific Avenue NCDs and fostering the introduction and preservation of independent retail helps keep these NCDs distinctive and vibrant. However, the Department believes that the amended controls should still provide avenues for discretion for relatively larger projects including through the Conditional Use authorization process. Further, the Department believes that prohibitions or limits on uses or their sizes should be based on surveys of the existing conditions in these NCDs.

Recommendations:

Development Standards

1. **Do not include Polk and Pacific among the districts prohibiting non-residential uses 4,000 square feet or larger.** Conditional Use authorization for non-residential uses 2,000 square feet or larger is being proposed as a means to publically vet the compatibility of a use. The standard Conditional Use findings of necessity and desirability would be applied to the proposal. Additionally, use size specific finding would also apply pursuant to Planning Code Section 121.2. The Department believes that these measures are sufficient to assure neighborhood compatibility even for proposals in excess of 4,000 square feet.
2. **Allow lot mergers no larger than 50 feet instead of the proposed 25 feet.** Currently the Planning Code restricts lot mergers to 50 feet in NCDs and other districts with a similarly small scale as the Polk Street and Pacific Avenue NCDs. This is the most restrictive control in the Planning Code and yet still permits the assembly of standard sized properties into a larger one. The 25 foot upper limit essentially prevents any lot mergers and may create a barrier in the future for projects the City or community may desire such as 100% affordable housing projects.
3. **Do not prohibit the merger of ground floor commercial storefronts.** The Department is in support of maintaining and preserving the existing pattern of smaller sized retail spaces in the Polk Street and Pacific Avenue NCDs. Unfortunately prohibiting the merger of storefronts in every circumstance can have unintended consequences, such as denying a successful, locally owned business from expanding. Instead the Department suggests conducting a survey of the prevailing size of these establishments. The survey results could inform the decision to implement a quantitative limit on the resultant size of a merged ground floor commercial storefront. This would have the benefit of allowing a smaller business to expand while preserving other smaller sized retail spaces.
4. **Require active ground floor commercial uses for certain segments of Polk Street instead of the Neighborhood Commercial District.** The active ground floor commercial use requirement is a control typically reserved for portions of specific streets in a zoning district, but not every street in a zoning district. The aim of this control is to direct specific uses to areas of a commercial corridor where pedestrian activity is most needed. This allows other complimentary uses to locate adjacent to the locus of activity. At its southern end the Polk Street NCD encompasses

streets other than Polk Street. It is reasonable to allow non-active, yet complimentary uses on these streets as they would not harm the pedestrian experience along Polk Street. These include nighttime entertainment uses, a movie theater, a design professional use or a trades office use.

Retail Uses

5. **Base any concentration limit on eating and drinking uses in the Polk Street NCD on existing conditions.** Regulating the retail mix of any commercial corridor is critical to promoting and maintaining its vibrancy. Prohibitions on a specific retail type, then, should be informed by conducting a survey of existing conditions determined through a survey. This ensures that the right concentration limit is selected and avoids unintended consequences.
6. **Add CU findings for the Legacy Business controls.** The proposed Legacy Business controls require CU for the subsequent use. To help determine whether this use is appropriate, Legacy Business specific findings should be added. These specific findings could include the following:

How the new use will continue to contribute to the commercial corridor's character through:

- (a) physical improvements including preservation, repair or addition of architectural features, façade elements or storefronts;
- (b) retail or institutional offerings serving the adjacent neighborhood and providing goods and/or services needed on a daily basis or attracting patrons from a wider trade area

How the use, as independently owned or as a Formula Retail use, will impact the corridor's character:

- (a) within the immediate area, as defined by a 300 foot radius of the subject site;
- (b) beyond the immediate area of the subject site and throughout the entire corridor

How the new use interacts with the public realm, including:

- (a) If locating at the ground story, whether the use contributes to an active retail frontage;
- (b) If the use provides off-street parking, how it proposes to improve the pedestrian-automobile interface, and how the use provides opportunities for using mass transit or bicycles to arrive at the subject site.

Residential Uses

7. **Adopt the coming citywide dwelling unit mix requirement.** The City is on the verge of adopting a dwelling unit mix requirement for all zoning districts. Currently BF 161351 is proposing to require that residential developments of 10 units or more to provide no less than 25% of the total number of proposed dwelling units as two bedroom units and no less than 10% of the total number of proposed dwelling units as three bedrooms. This differs from what the Ordinance is proposing for the Polk Street and Pacific Avenue NCDs, which is to apply the existing 40% two bedroom unit or 30% three bedroom unit requirement. The Department understands that the exact details of the dwelling unit mix requirements may change during the legislative process. Nonetheless, new residential development in the Polk Street and Pacific Avenue NCDs should adhere to the final the citywide dwelling unit mix requirement. This would ease implementation of the new requirement.

8. **Do not prohibit the removal, demolition, merger or conversion of Residential Units.** Without question the City should strive to maintain as many functional and sound Residential Units as possible. However there are isolated instances where the removal of a unit is preferable to maintaining a unit. This can be the case when it is financially infeasible to legalize a unit given an owner's resources and/or the ill condition of the unit.

Technical Amendment

9. **Locate the proposed Off-Street Parking controls for Dwellings in the Polk Street and Pacific Avenue NCDs in Table 151.1 rather than Table 151.** The off-street parking controls for zoning district with off-street parking maximums are found in Table 151.1. Locating the proposed controls there is consistent with other zoning districts and makes their implementation much easier.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

IMPLEMENTATION

The Department determined that this ordinance will not impact our current implementation procedures.

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

RECOMMENDATION: Recommendation of Approval with Modification
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Letters of Support/Opposition
- Exhibit C: Board of Supervisors File No. 170418