

BOARD of SUPERVISORS



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MEMORANDUM

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

FROM: *AS* Alisa Somera, Legislative Deputy Director
AS Land Use and Transportation Committee

DATE: April 19, 2017

SUBJECT: LEGISLATION INTRODUCED

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

File No. 170418

Ordinance amending the Planning Code to 1) limit lot sizes in the Pacific Avenue Neighborhood Commercial District ("Pacific NCD") and the Polk Street Neighborhood Commercial District ("Polk NCD"); 2) limit the size of non-residential uses in the Pacific NCD and Polk NCD, and exempting movie theaters in the Polk NCD from certain size limits; 3) restrict lot mergers in the Pacific NCD and Polk NCD; 4) require ground floor commercial uses in the Polk NCD and on certain portions of Pacific Avenue; 5) modify residential and non-residential off-street parking requirements in the Pacific NCD and Polk NCD; 6) prohibit garage entries, driveways, or other vehicular access to off-street parking or loading on certain streets and alleys in the Pacific NCD and Polk NCD; 7) deem nonconforming uses in the Polk NCD to be discontinued after 18 months of non-use; 8) 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 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 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.

c: Jennifer Blot, Public Works
John Thomas, Public Works
Lena Liu, Public Works
Janet Martinsen, Municipal Transportation Agency
Kate Breen, Municipal Transportation Agency
Dillon Auyoung, Municipal Transportation Agency
Viktoriya Wise, Municipal Transportation Agency

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

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

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

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

9 Section 1. Findings.

10 (a) The Planning Department has determined that the actions contemplated in this
11 ordinance comply with the California Environmental Quality Act (California Public Resources
12 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
13 Supervisors in File No. ___ and is incorporated herein by reference. The Board affirms this
14 determination.

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

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

1 Section 2. The Planning Code is hereby amended by revising Section 121.1, to read
2 as follows:

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

5 In order to promote, protect, and maintain a scale of development which is
6 appropriate to each district and compatible with adjacent buildings, new construction or
7 significant enlargement of existing buildings on lots of the same size or larger than the square
8 footage stated in the table below shall be permitted only as conditional uses subject to the
9 provisions set forth in Sections 316 through 316.86 of this Code.

District	Lot Size Limits
<i>Pacific Avenue</i>	<i>2,500 sq. ft.</i>
<i>Polk Street</i>	
NC-1, NCT-1	5,000 sq. ft.
Broadway	
Castro Street	
Inner Clement Street	
Inner Sunset	
Outer Clement Street	
Upper Fillmore Street	
Haight Street	
North Beach	
Sacramento Street	
Union Street	
24th Street-Mission	

1	24th Street-Noe Valley	
2	West Portal Avenue	
3	Glen Park	
4	NC-2, NCT-2, Ocean Ave.	10,000 sq. ft.
5	NC-3, NCT-3, Mission Street	
6	SoMa, RCD, Folsom Street	
7	Hayes-Gough,	
8	Upper Market Street	
9	<i>Polk Street</i>	
10	Valencia Street	
11	NC-S	Not Applicable

12 * * * *

13 Section 3. The Planning Code is hereby amended by revising Section 121.2, to read
 14 as follows:

15 **SEC. 121.2. USE SIZE LIMITS (NON-RESIDENTIAL), NEIGHBORHOOD**
 16 **COMMERCIAL DISTRICTS.**

17 * * * *

18 (b) In order to protect and maintain a scale of development appropriate to each district,
 19 Non-Residential Uses *which that* exceed the square footage stated in the table below shall not
 20 be permitted, except that in the *North Beach-Polk Street* Neighborhood Commercial District this
 21 Subsection 121.2(b) shall not apply to a Movie Theater use as defined in Section 790.64 and
 22 except that in the Castro Street Neighborhood Commercial District certain Large Institutions
 23 may by Conditional Use Authorization exceed this Subsection 121.2(b) as described in the
 24

1 Specific Provisions for Section 715.21. The use area shall be measured as the gross
2 floor area for each individual nonresidential use.

3

District	Use Size Limits
West Portal Avenue	4,000 sq. ft.
North Beach	
Castro Street	
<i>Polk Street</i>	
<i>Pacific Avenue</i>	

4
5
6
7
8
9

10 * * * *

11
12 Section 4. The Planning Code is hereby amended by revising Section 121.7, to read
13 as follows:

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

16 In order to promote, protect, and maintain a fine-grain scale of development in
17 residential districts and on important pedestrian-oriented commercial streets which is
18 appropriate to each district, compatible with adjacent buildings; provide for a diverse
19 streetscape; ensure the maintenance and creation of multiple unique buildings and building
20 frontages rather than large single structures superficially treated; promote diversity and
21 multiplicity of land ownership and discourage consolidation of property under single
22 ownership, merger of lots is regulated as follows:
23

24 * * * *

Street or District	Lot Frontage Limit
* * * *	* * * *
NC-2 districts on Balboa Street between 2nd Avenue and 8th Avenue, and between 32nd Avenue and 38th Avenue	50 feet
<u>Polk Street NCD and Pacific Avenue NCD</u>	<u>25 feet*</u>
<u>*For purposes of this Section 121.7, for a lot that does not have street frontage, any merger shall not result in a lot width greater than 25 feet.</u>	

* * * *

Section 5. The Planning Code is hereby amended by revising Section 145.4, to read as follows:

SEC. 145.4 REQUIRED GROUND FLOOR COMMERCIAL USES.

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

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

* * * *

(24) Buchanan Street, between Post Street and Sutter Street; *and*

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

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

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

3 * * * *

4 Section 6. The Planning Code is hereby amended by revising Section 151, to read as
5 follows:

6
7 **SEC. 151. SCHEDULE OF REQUIRED OFF-STREET PARKING SPACES.**

8 (a) **Applicability.** Off-street parking spaces shall be provided in the minimum
9 quantities specified in Table 151, except as otherwise provided in Section 151.1 and Section
10 161 of this Code. Where the building or lot contains uses in more than one of the categories
11 listed, parking requirements shall be calculated in the manner provided in Section 153 of this
12 Code. Where off-street parking is provided which exceeds certain amounts in relation to the
13 quantities specified in Table 151, as set forth in subsection (c), such parking shall be
14 classified not as accessory parking but as either a principal or a conditional use, depending
15 upon the use provisions applicable to the district in which the parking is located. In
16 considering an application for a conditional use for any such parking, due to the amount being
17 provided, the Planning Commission shall consider the criteria set forth in Section 157 of this
18 Code. Minimum off-street parking requirements shall be reduced, to the extent needed, when
19 such reduction is part of a Development Project's compliance with the Transportation Demand
20 Management Program set forth in Section 169 of the Planning Code.

21 (b) **Minimum Parking Required.**

22 **Table 151**
23 **OFF-STREET PARKING SPACES REQUIRED**

<i>Use or Activity</i>	<i>Number of Off-Street Parking Spaces Required</i>
------------------------	---

24
25

1 Dwelling, except as specified below, and 2 except in the Bernal Heights Special Use District as provided in Section 242	One for each dwelling unit.
3 Dwelling, in the Telegraph Hill - North Beach 4 Residential Special Use District	None required. P up to three cars for each dwelling units; C up to one car for each dwelling unit, subject to the criteria and procedures of Section 151.1(g); NP above.
5 <u>Dwelling, in the Polk Street Neighborhood</u> 6 <u>Commercial District</u>	<u>None required. P up to 0.5 cars for each</u> <u>dwelling unit; NP above preceding ratio.</u>
7 <u>Dwelling, in the Pacific Avenue Neighborhood</u> 8 <u>Commercial District</u>	<u>None required. P up to 0.5 cars for each</u> <u>dwelling unit; C up to one car for each dwelling</u> <u>unit; NP above preceding ratios.</u>
9 * * * *	* * * *

10 * * * *

11 Section 7. The Planning Code is hereby amended by revising Section 151.1, to read
12 as follows:

13
14 **SEC. 151.1. SCHEDULE OF PERMITTED OFF-STREET PARKING SPACES IN**
15 **SPECIFIED DISTRICTS.**

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

20 * * * *

21 Table 151.1 22 OFF-STREET PARKING PERMITTED AS ACCESSORY	
23 * * * *	* * * *
24 All non-residential uses in NCT, RSD, and 25 SLR districts and the Broadway, Japantown, North Beach, <u>Polk, Pacific</u> , and the Upper Market NCDs, except for retail grocery	For uses in Table 151 that are described as a ratio of occupied floor area, P up to 1 space per 1,500 square feet of occupied floor area or the quantity specified in Table 151, whichever is less, and subject to the

stores with over 20,000 gross square feet as specified below	conditions and criteria of Section 151.1(g) NP above.
* * * *	* * * *

Section 8. The Planning Code is hereby amended by revising Section 155, to read as follows:

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

* * * *

(r) Protected Pedestrian-, Cycling-, and Transit-Oriented Street

Frontages. In order to preserve the pedestrian character of certain downtown and neighborhood commercial districts and to minimize delays to transit service, garage entries, driveways or other vehicular access to off-street parking or loading (except for the creation of new publicly-accessible streets and alleys) shall be regulated on development lots as follows on the following street frontages:

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

(2) Not permitted:

* * * *

(CC) Buchanan Street from Post Street to Sutter Street,

(DD) Polk Street between Filbert Street and Golden Gate Avenue.

(EE) California Street between Van Ness Avenue and Hyde Street.

(FF) Hyde Street between California Street and Pine Street.

(GG) Broadway between Van Ness Avenue and Larkin Street.

(HH) Bush Street between Van Ness Avenue and Larkin Street, and

1 (II) Pine Street between Van Ness Avenue and Larkin Street.

2 * * * *

3
4 Section 9. The Planning Code is hereby amended by revising Section 186.1, to read
5 as follows:

6 **SEC. 186.1. EXEMPTION OF NONCONFORMING USES IN NEIGHBORHOOD**
7 **COMMERCIAL DISTRICTS.**

8 * * * *

9 (d) **Discontinuance.** A nonconforming use that is discontinued for a period of three
10 years, or otherwise abandoned or changed to another use that is listed in Article 7 of this
11 Code as a principal or conditional use for the district in which the use is located shall not be
12 reestablished, except ~~for~~ in the following instances:

13 (1) In the North Beach, Polk Street, Castro Street, and Haight Street
14 Neighborhood Commercial Districts the period of non-use for a nonconforming use to be
15 deemed discontinued shall be 18 months, ~~except in the North Beach Neighborhood Commercial~~
16 ~~District, the period of non-use for a Restaurant use, as defined in Section 790.91, to be deemed~~
17 ~~discontinued shall be three years.~~

18 * * * *

19 Section 10. The Planning Code is hereby amended by revising Section 303, to read as
20 follows:

21 **SEC. 303. CONDITIONAL USES.**

22 (a) **General.** The Planning Commission shall hear and make determinations
23 regarding applications for the authorization of conditional uses in the specific situations in
24 which such authorization is provided for elsewhere in this Code. The procedures for
25 conditional uses shall be as specified in this Section 303 and in Sections 306 through 306.6,

1 except that Planned Unit Developments shall in addition be subject to Section 304, medical
2 institutions and post-secondary educational institutions shall in addition be subject to the
3 institutional master plan requirements of Section 304.5, and conditional use and Planned Unit
4 Development applications filed pursuant to Article 7, or otherwise required by this Code for
5 uses or features in Neighborhood Commercial Districts, and conditional use applications
6 within South of Market Districts, shall be subject to the provisions set forth in Sections 316
7 through 316.8 of this Code, in lieu of those provided for in Sections 306.2 and 306.3 of this
8 Code, with respect to scheduling and notice of hearings, and in addition to those provided for
9 in Sections 306.4 and 306.5 of this Code, with respect to conduct of hearings and
10 reconsideration.

11 * * * *

12 (f) **Conditional Use Abatement.** The Planning Commission may consider the
13 possible revocation of a conditional use or the possible modification of or placement of
14 additional conditions on a conditional use when the Planning Commission determines, based
15 upon substantial evidence, that the applicant for the conditional use had submitted false or
16 misleading information in the application process that could have reasonably had a substantial
17 effect upon the decision of the Commission or the conditional use is not in compliance with a
18 condition of approval, is in violation of law if the violation is within the subject matter
19 jurisdiction of the Planning Commission, or operates in such a manner as to create
20 hazardous, noxious, or offensive conditions enumerated in Section 202(c) if the violation is
21 within the subject matter jurisdiction of the Planning Commission and these circumstances
22 have not been abated through administrative action of the Director, the Zoning Administrator
23 or other City authority. Such consideration shall be the subject of a public hearing before the
24 Planning Commission but no fee shall be required of the applicant or the subject conditional
25 use operator.

1 (1) **Public Hearing.** The Director of Planning or the Planning Commission may
2 seek a public hearing on conditional use abatement when the Director or Commission has
3 *obtained or received: (A)* substantial evidence submitted within one year of the effective date of
4 the Conditional Use authorization that the applicant for the conditional use had submitted false
5 or misleading information in the application process that could have reasonably had a
6 substantial effect upon the decision of the Commission; or *(B)* substantial evidence, *submitted*
7 *at any time while the Conditional Use authorization is effective,* of a violation of conditions of
8 approval, a violation of law, or operation which creates hazardous, noxious, or offensive
9 conditions enumerated in Section 202(c).

10 (2) **Notification.** The notice for the public hearing on a conditional use
11 abatement shall be subject to the notification procedure described in Sections 306.3 and
12 306.8 except that notice to the property owner and the operator of the subject establishment
13 or use shall be mailed by regular and certified mail.

14 (3) **Consideration.** In considering a conditional use revocation, the
15 Commission shall consider whether and how the false or misleading information submitted by
16 the applicant could have reasonably had a substantial effect upon the decision of the
17 Commission, or the Board of Supervisors on appeal, to authorize the conditional use,
18 substantial evidence of how any required condition has been violated or not implemented or
19 how the conditional use is in violation of the law if the violation is within the subject matter
20 jurisdiction of the Planning Commission or operates in such a manner as to create hazardous,
21 noxious, or offensive conditions enumerated in Section 202(c) if the violation is within the
22 subject matter jurisdiction of the Planning Commission. As an alternative to revocation, the
23 Commission may consider how the use can be required to meet the law or the conditions of
24 approval, how the hazardous, noxious or offensive conditions can be abated, or how the
25

1 criteria of Section 303(c) can be met by modifying existing conditions or by adding new
2 conditions which could remedy a violation.

3 * * * *

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

14 * * * *

15 Section 11. The Planning Code is hereby amended by revising Section 723, to read as
16 follows:

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

18 (a) Background. Sitting in the gulch between Nob and Russian Hills and Pacific
19 Heights, the Polk Street Neighborhood Commercial District extends for a mile as a north-
20 south linear strip, and includes a portion of Larkin Street between Post and California Streets.
21 Polk Street's dense mixed-use character consists of buildings with residential units above
22 ground-story commercial use. The district has an active, pedestrian-oriented, and continuous
23 commercial frontage along Polk Street for almost all of its length. Larkin Street and side
24 streets in the district have a greater proportion of residences than Polk Street itself. California
25 Street and Hyde Street also have active, pedestrian-oriented, and commercial frontage that is small-

1 scale. The district is well served by transit and includes the historic California Cable Car. To preserve
2 and maintain the district's small-scale, fine grain storefronts, the consolidation or merger of existing
3 retail or commercial spaces or storefronts is prohibited and lot mergers are controlled. The district
4 provides convenience goods and services to the residential communities in the Polk Gulch
5 neighborhood and to the residents on the west slopes of Nob and Russian Hills. It has many
6 apparel and specialty stores, as well as some automobile uses, which serve a broader trade
7 area. Commercial uses also include offices, as well as movie theaters, restaurants, and bars
8 which keep the district active into the evening.

9 (b) Controls.

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

20 Housing developed in new buildings is encouraged above the ~~second~~ first story,
21 especially in the less intensely developed portions of the district along Larkin Street and on
22 large lots throughout the district. New housing development requires 40% or more 2 bedroom plus
23 units to encourage families to live in the district. Parking is limited in new developments given the
24 district's transit access and the proximity to bus rapid transit along Van Ness Avenue parallel to the
25 district. Existing housing units are protected by ~~limitations~~prohibitions on demolitions and

upper-story conversions. Accessory dwelling units are permitted within the district pursuant to Subsection 207(c)(4) of this Code.

(2) Replacement of Legacy Businesses Requires Conditional Use Authorization.

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

(3) Merger of Storefronts Prohibited. *To preserve and maintain the District’s small-*

scale, fine grain storefronts, the consolidation or merger of existing ground floor retail or commercial spaces or storefronts shall be prohibited.

(4) Loss of Residential Units. *To prevent the loss of existing Residential Units, the*

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

Table 723. POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE			
No.	Zoning Category	§ References	Polk Street Controls
BUILDING STANDARDS			
****	****	****	****
723.11	Lot Size [Per Development]	§§ 121.1, 790.56	P up to 9,999 <u>3,499</u> sq. ft. C 10,000 <u>3,500</u> sq. ft. & above § 121.1

1	****	****	****	****	
2	COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES				
3	****	****	****	****	
4	723.21	Use Size <i>[Non-Residential]</i>	§ 790.130	P up to 2,499 <u>1,999</u> sq. ft.;	
5				C 2,500-2,000 sq. ft. & above	
6				§ 121.2	
7	****	****	****	****	
8	No.	Zoning Category	§ References	Polk Street Controls by Story	
9			§ 790.118	1st	2nd
10				3rd+	
11	Retail Sales and Services				
12	723.40	Other Retail Sales and Services <i>[Not Listed Below]</i>	§ 790.102	P	P
13					
14	723.41	Bar	§ 790.22	C	
15	723.43	Limited- Restaurant	§ 790.90	P	
16	723.44	Restaurant	§ 790.91	C #	
17	723.45	Liquor Store	§ 790.55	C	
18	723.46	Movie Theater	§ 790.64	P #	
19	723.47	Adult Entertainment	§ 790.36		
20	723.48	Other Entertainment	§ 790.38	C	
21	723.49	Financial Service	§ 790.110	P	C #
22	723.50	Limited Financial Service	§ 790.112	P	
23	723.51	Medical Service	§ 790.114	<u>PNP</u>	<u>PC</u>
24	723.52	Personal Service	§ 790.116	P	P
25					

1	723.53	Business or Professional Service	§ 790.108	P #	P	
2						
3	723.54	Massage Establishment	§ 790.60, §§ 29.1-29.32 Health Code	C # <u>NP</u>		
4	723.55	Tourist Hotel	§ 790.46	C #	C #	C #
5	723.56	Automobile Parking	§§ 156, 160, 790.8	C #	C #	C #
6						
7	723.57	Automotive Gas Station	§ 790.14			
8	723.58	Automotive Service Station	§ 790.17			
9	723.59	Automotive Repair	§ 790.15	C #		
10	723.60	Automotive Wash	§ 790.18			
11	723.61	Automobile Sale or Rental	§ 790.12			
12	723.62	Animal Hospital	§ 790.6	C		
13	<u>723.62A</u>	<u>Kenel</u>	<u>§ 102</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
14	723.63	Ambulance Service	§ 790.2			
15	723.64	Mortuary	§ 790.62			
16	723.65	Trade Shop	§ 790.124	P	C #	
17	723.66	Storage	§ 790.117			
18	723.68	Fringe Financial Service	§ 790.111	#	#	#
19	723.69	Tobacco Paraphernalia Establishments	§ 790.123	NP #	NP #	NP #
20						
21	723.69B	Amusement Game Arcade (Mechanical Amusement Devices)	§ 790.4			
22						
23	723.69C	Neighborhood Agriculture	§ 102.35(a)	<u>PNP</u>	<u>PNP</u>	<u>PNP</u>
24						
25						

1	723.69D	Large-Scale Urban Agriculture	§ 102. 35(b)	<u>ENP</u>	<u>ENP</u>	<u>ENP</u>
2	Institutions and Non-Retail Sales and Services					
3	723.70	Administrative Service	§ 790.106			
4						
5	723.80	Hospital or Medical Center	§ 790.44			
6						
7	723.81	Other Institutions, Large	§ 790.50	P #	C #	C #
8						
9	723.82	Other Institutions, Small	§ 790.51	P #	P #	P #
10						
11	723.83	Public Use	§ 790.80	C #	C #	C #
12						
13	723.84	Medical Cannabis Dispensary	§ 790.141	P		
14	RESIDENTIAL STANDARDS AND USES					
15	723.90	Residential Use	§ 790.88	P #	P #	P #
16						
17	723.91	Dwelling Unit Density	§ 207	Generally, up to 1 unit per 400 sq. ft. lot area # § 207(c)		
18						
19	<u>723.91A</u>	<u>Required Dwelling Unit Mix</u>	<u>§ 207.6</u>	<u>No less than 40% of the total number of proposed dwelling units shall contain at least two bedrooms; or no less than 30% of the total number of proposed dwelling units shall contain at least three bedrooms.</u>		
20						
21	723.92	Residential Density, Group Housing	§§ 207, 208	Generally, up to 1 bedroom per 140 sq. ft. lot area # § 208		
22						
23	723.92b	Residential Density, Homeless Shelters	§§ 102, 207.1, 790.88(c)	Density limits per Section 208(a) #		
24						
25						

1 2	723.93	Usable Open Space [Per Residential Unit]	§§ 135, 136	Generally, either 60 sq. ft. if private, or 80 sq. ft. if common # § 135(d)		
3 4 5	723.94	Off-Street Parking, Residential	§§ 150, 151 , 153 - 157, 159 - 160, 204.5	None required. Generally, 1 space for each dwelling unit §§ 151, 161(a) (g)		
6 7	723.95	Community Residential Parking	§ 790.10	C #	C #	C #
8 9 10	723.96	Removal of Residential or Unauthorized Units through Conversion	§ 317	€ <u>NP</u>	€ <u>NP</u>	NP
11 12 13 14	723.97	Removal of Residential or Unauthorized Units through Conversion, Demolition, or Merger	§ 317	€ <u>NP</u>		
15 16	<u>723.98</u>	<u>Residential</u> <u>Division</u>	<u>§ 207.8</u>	<u>P</u>	<u>P</u>	<u>P</u>

SPECIFIC PROVISIONS FOR THE POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT

Article 7 Code Section	Other Code Section	Zoning Controls
§§ 723.40-723.84; 723.90-723.97		<u>CONDITIONAL USE AUTHORIZATION REQUIRED TO REPLACE A POLK STREET NCD LEGACY BUSINESS</u> <u>Boundaries: Applicable to Polk Street NCD</u> <u>Controls: Where an immediately prior use was a Legacy Business, as defined under Administrative Code Section 2A.242, any new non-residential use is required to obtain Conditional Use authorization; this requirement shall not</u>

		<u>apply where: 1) the subject non-residential space has had no occupant and has not been open to the public for three or more years from the date the application for the new use is filed, or 2) where the Legacy Business has removed itself or has been otherwise removed from the Legacy Business Registry.</u>
<u>§§ 723.40-723.84</u>	<u>§ 145.4</u>	<u>GROUND FLOOR COMMERCIAL USES REQUIRED</u> <u>Boundaries:</u> <u>Polk Street NCD</u> <u>Controls:</u> <u>Active Commercial uses shall be required at the Ground Floor pursuant to Section 145.4.</u>
§ 723.44	§ 790.91	POLK STREET LIQUOR LICENSES FOR RESTAURANTS Boundaries: Applicable to the Polk Street NCD. Controls: A Restaurant Use may only add ABC license types 47, 49 or 75 as a conditional use on the ground level if, in addition to the criteria set forth in Section 303, the Planning Commission finds that the restaurant is operating as a Bona Fide Eating Place, as defined in Section 790.142 of this Code. Should a restaurant fail to operate as a bona fide eating place for any length of time, the conditional use authorization shall be subject to immediate revocation.
* * * *	* * * *	* * * *

Section 12. The Planning Code is hereby amended by revising Section 732, to read as follows:

SEC. 732. PACIFIC AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT.

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

1	732.11	Lot Size <i>[Per Development]</i>	§§ 121.1, 790.56	P up to 9,999 <u>3,499</u> sq. ft.;		
2				C 10,000 <u>3,500</u> sq. ft. & above		
3				§ 121.1		
4	No.	Zoning Category	§ References	Polk Street Controls by Story		
5			§ 790.118	1st	2nd	3rd+
6	COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES					
7	****	****	****	****		
8	Retail Sales and Services					
9	732.40	Other Retail Sales and Services <i>[Not Listed Below]</i>	§ 790.102	P	C	
10	732.41	Bar	§ 790.22			
11	732.43	Limited- Restaurant	§ 790.90	P		
12	732.44	Restaurant	§ 790.91	C		
13	732.45	Liquor Store	§ 790.55			
14	732.46	Movie Theater	§ 790.64			
15	732.47	Adult Entertainment	§ 790.36			
16	732.48	Other Entertainment	§ 790.38			
17	732.49	Financial Service	§ 790.110	P		
18	732.50	Limited Financial Service	§ 790.112	P		
19	732.51	Medical Service	§ 790.114	P	P	
20	732.52	Personal Service	§ 790.116	P	C	
21	732.53	Business or Professional Service	§ 790.108	P #	C	
22						
23						
24						
25						

1	732.54	Massage Establishment	§ 790.60, §§ 29.1-29.32 Health Code			
2	732.55	Tourist Hotel	§ 790.46			
3	732.56	Automobile Parking	§§ 156, 160, 790.8	C #		
4	732.57	Automotive Gas Station	§ 790.14			
5	732.58	Automotive Service Station	§ 790.17			
6	732.59	Automotive Repair	§ 790.15	C #		
7	732.60	Automotive Wash	§ 790.18			
8	732.61	Automobile Sale or Rental	§ 790.12			
9	732.62	Animal Hospital	§ 790.6			
10	<u>723.62A</u>	<u>Kennel</u>	<u>§ 102</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
11	732.63	Ambulance Service	§ 790.2			
12	732.64	Mortuary	§ 790.62			
13	732.65	Trade Shop	§ 790.124	C		
14	732.66	Storage	§ 790.117			
15	732.68	Fringe Financial Service	§ 790.111	P #		
16	732.69	Tobacco Paraphernalia Establishments	§ 790.123	C		
17	732.69B	Amusement Game Arcade (Mechanical Amusement Devices)	§ 790.4			
18	732.69C	Neighborhood Agriculture	§ 102.35(a)	<u>PNP</u>	<u>PNP</u>	<u>PNP</u>
19	732.69D	Large-Scale Urban Agriculture	§ 102.35(b)	<u>CNP</u>	<u>CNP</u>	<u>CNP</u>
20	Institutions and Non-Retail Sales and Services					
21						
22						
23						
24						
25						

1	732.70	Administrative Service	§ 790.106			
2	732.80	Hospital or Medical Center	§ 790.44			
3	732.81	Other Institutions, Large	§ 790.50	P #	C #	C #
4	732.82	Other Institutions, Small	§ 790.51	P #	P #	P #
5	732.83	Public Use	§ 790.80	C		
6	RESIDENTIAL STANDARDS AND USES					
7	732.90	Residential Use	§ 790.88	P	P	P
8	732.91	Dwelling Unit Density	§ 207	Generally, up to 1 unit per 1,000 sq. ft. lot area # § 207(c)		
9	<u>732.91A</u>	<u>Required Dwelling Unit Mix</u>	<u>§ 207.6</u>	<u>No less than 40% of the total number of proposed dwelling units shall contain at least two bedrooms; or no less than 30% of the total number of proposed dwelling units shall contain at least three bedrooms.</u>		
10	732.92	Residential Density, Group Housing	§§ 207, 208	Generally, up to 1 bedroom per 275 sq. ft. lot area # § 208		
11	732.92b	Residential Density, Homeless Shelters	§§ 102, 207.1, 790.88(c)	Density limits per Section 208(a)		
12	732.93	Usable Open Space [Per Residential Unit]	§§ 135, 136	Generally, either 100 sq. ft. if private, or 133 sq. ft. if common § 135(d)		
13	732.94	Off-Street Parking, Residential	§§ 150, 151 , 153 - 157,	None required. Generally, 1 space for each dwelling unit §§ 151, 161(a) (g)		

		159 - 160, 204.5			
732.95	Community Residential Parking	§ 790.10	C		
732.96	Removal of Residential or Unauthorized Units through Conversion	§ 317	CNP	NP	NP
732.97	Removal of Residential or Unauthorized Units through Conversion, Demolition, or Merger	§ 317	CNP		
<u>732.98</u>	<u>Residential Division</u>	<u>§ 207.8</u>	<u>P</u>	<u>P</u>	<u>P</u>

SPECIFIC PROVISIONS FOR THE PACIFIC AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT

Article 7 Code Section	Other Code Section	Zoning Controls
<u>§§ 732.40-732.83; 732.90-732.98</u>		<p><u>CONDITIONAL USE AUTHORIZATION REQUIRED TO REPLACE A PACIFIC AVENUE NCD LEGACY BUSINESS</u></p> <p><u>Boundaries:</u> <i>Applicable to Pacific Avenue NCD</i></p> <p><u>Controls:</u> <i>Where an immediately prior use was a Legacy Business, as defined under Administrative Code Section 2A.242, any new non-residential use is required to obtain Conditional Use authorization; this requirement shall not apply where: 1) the subject non-residential space has had no occupant and has not been open to the public for three or more years from the date the application for the new use is filed, or 2) where the Legacy Business has removed itself or has been otherwise removed from the Legacy Business Registry.</i></p>

<p>1 <u>§§ 732.40-</u> 2 <u>732.83</u></p>	<p>§ 145.4</p>	<p><u>GROUND FLOOR COMMERCIAL USES REQUIRED</u></p> <p><u>Boundaries:</u> <i>Pacific Avenue, between Van Ness Avenue and Jones Street, on lots where the last known ground floor use was a commercial or retail use.</i></p> <p><u>Controls:</u> <i>Active Commercial uses shall be required at the Ground Floor pursuant to Section 145.4.</i></p>
<p>5 § 732.68</p>	<p>§ 249.35</p>	<p>FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT (FFSRUD)</p> <p>Boundaries: The FFSRUD and its 1/4 mile buffer includes, but is not limited to, the Pacific Avenue Neighborhood Commercial District.</p> <p>Controls: Within the FFSRUD and its 1/4 mile buffer, fringe financial services are NP pursuant to Section 249.35. Outside the FFSRUD and its 1/4 mile buffer, fringe financial services are P subject to the restrictions set forth in Subsection 249.35(c)(3).</p>
<p>12 * * * *</p>	<p>* * * *</p>	<p>* * * *</p>

14
15 Section 13. The Planning Code is hereby amended by revising Section 207.8, to read
16 as follows:

17 **SEC. 207.8. DIVISION OF DWELLING UNITS IN THE RTO, UPPER MARKET NCD, POLK**
18 **NCD, PACIFIC NCD, AND NCT DISTRICTS.**

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

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

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

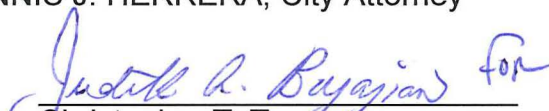
3 Section 14. Effective Date. This ordinance shall become effective 30 days after
4 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
5 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
6 of Supervisors overrides the Mayor's veto of the ordinance.

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

13 Section 16. Severability. If any section, subsection, sentence, clause, phrase, or word
14 of this ordinance, or any application thereof to any person or circumstance, is held to be
15 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
16 shall not affect the validity of the remaining portions or applications of the ordinance. The
17 Board of Supervisors hereby declares that it would have passed this ordinance and each and
18 every section, subsection, sentence, clause, phrase, and word not declared invalid or
19 unconstitutional without regard to whether any other portion of this ordinance or application
20 thereof would be subsequently declared invalid or unconstitutional.

21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By:


24 Christopher T. Tom
25 Deputy City Attorney

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LEGISLATIVE DIGEST

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

Ordinance amending the Planning Code to 1) limit lot sizes in the Pacific Avenue Neighborhood Commercial District (“Pacific NCD”) and the Polk Street Neighborhood Commercial District (“Polk NCD”); 2) limit the size of non-residential uses in the Pacific NCD and Polk NCD, and exempting movie theaters in the Polk NCD from certain size limits; 3) restrict lot mergers in the Pacific NCD and Polk NCD; 4) require ground floor commercial uses in the Polk NCD and on certain portions of Pacific Avenue; 5) modify residential and non-residential off-street parking requirements in the Pacific NCD and Polk NCD; 6) prohibit garage entries, driveways, or other vehicular access to off-street parking or loading on certain streets and alleys in the Pacific NCD and Polk NCD; 7) deem nonconforming uses in the Polk NCD to be discontinued after 18 months of non-use; 8) 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 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 Code, Section 101.1, and findings of public convenience, necessity, and welfare under Planning Code, Section 302.

Amendments to Current Law

This ordinance would amend the Planning Code as described below.

Section 121.1

- Proposed Amendments: Would establish size limits (in square feet) above which Conditional Use authorization would be required for certain development in Pacific NCD and Polk NCD.

Section 121.2

- Existing Code: Exempts Movie Theaters in the North Beach Neighborhood Commercial District (“North Beach NCD”) from certain square footage limits.

- Proposed Amendments: Would eliminate the use size exemption for Movie Theaters in the North Beach NCD and replace it with an exemption for Movie Theaters in the Polk Street NCD.

Section 121.7

- Existing Code: Restricts lot mergers on certain streets in certain districts.
- Proposed Amendments: Would restrict lot mergers in Polk NCD and Pacific NCD.

Section 145.4

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

Section 151

- Existing Code: Establishes off-street parking requirements.
- Proposed Amendments: Would reduce parking requirements for dwellings in Polk NCD and Pacific NCD.

Section 151.1

- Existing Code: Establishes off-street parking requirements.
- Proposed Amendments: Would reduce parking requirements for non-residential uses in Polk NCD and Pacific NCD.

Section 155

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

Section 186.1

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

Section 303

- Proposed Amendments: Would provide clarification that at any time while a Conditional Use authorization is effective, a Conditional Use may be subject to abatement on the basis of substantial evidence of a violation of conditions of approval, a violation of law, or creation of hazardous, noxious, or offensive conditions.

Would also increase the allowable concentration of eating and drinking uses in the Polk NCD from 25% to 35%.

Section 723

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

Section 733

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

Section 207.8

- Existing Code: Restricts division of dwelling units in certain districts.
- Proposed Amendments: Would apply restrictions on division of dwelling units to the Polk NCD and the Pacific NCD.