

File No. 120474

Committee Item No. 3

Board Item No. 12

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date April 1, 2013

Board of Supervisors Meeting Date April 9, 2013

#### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Resolution                                   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form                            |
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| <input type="checkbox"/>            | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
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| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Public Correspondence                        |

#### OTHER (Use back side if additional space is needed)

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|-------------------------------------|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Planning Commission Resolution No. 18553</u> |
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Completed by: Alisa Miller Date March 29, 2013

Completed by: Alisa Miller Date April 3, 2013

1 [Planning, Administrative Codes - Transfer of Development Rights]

2  
3 **Ordinance amending the Planning Code, Sections 128 and 819, and Administrative**  
4 **Code, Section 10E.1, to permit the transfer of development rights from any eligible**  
5 **building in a Downtown Commercial (C-3) District or the South of Market Extended**  
6 **Preservation District to a development site in a C-3 District; require annual reporting of**  
7 **buildings designated as historic resources and of transferred development rights, and**  
8 **requiring a Preservation, Rehabilitation, and Maintenance Plan to be submitted with an**  
9 **application for Certificate of Transfer instead of with an application for Statement of**  
10 **Eligibility; and adopting environmental findings, Section 302, findings, and findings of**  
11 **consistency with the General Plan and the Priority Policies of Planning Code, Section**  
12 **101.1.**

13 NOTE: Additions are *single-underline italics Times New Roman*;  
14 deletions are *strike-through italics Times New Roman*.  
15 Board amendment additions are double-underlined;  
16 Board amendment deletions are ~~strikethrough-normal~~.

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

18 Section 1. Findings.

19 (a) The Planning Department has determined that the actions contemplated in this  
20 Ordinance comply with the California Environmental Quality Act (California Public Resources  
21 Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of  
22 Supervisors in File No. 110548 and is incorporated herein by reference.

23 (b) Pursuant to Planning Code Section 302, this Board finds that these Planning Code  
24 amendments will serve the public necessity, convenience, and welfare for the reasons set  
25 forth in Planning Commission Resolution No. 18553 and the Board incorporates such reasons

1 herein by reference. A copy of Planning Commission Resolution No. 18553 is on file with the  
2 Clerk of the Board of Supervisors in File No. 110548.

3 (c) This Board finds that these Planning Code amendments are consistent with the  
4 General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set  
5 forth in Planning Commission Resolution No. 18553, and the Board hereby incorporates such  
6 reasons herein by reference.

7  
8 Section 2. The San Francisco Planning Code is hereby amended by amending  
9 Sections 128 and 819, to read as follows:

10 **SEC. 128. TRANSFER OF DEVELOPMENT RIGHTS IN C-3 DISTRICTS.**

11 (a) **Definitions.**

12 (1) "Development Lot." A lot to which TDR may be transferred to increase the  
13 allowable gross floor area of development thereon beyond that otherwise permitted by Section  
14 124

15 (2) "Owner of Record." The owner or owners of record in fee.

16 (3) "Preservation Lot." A parcel of land on which is either (A) ~~(i)~~ a Significant or  
17 Contributory building (as designated pursuant to Article 11); or (B) ~~(ii)~~ a Category V Building  
18 that has complied with the eligibility requirement for transfer of TDR as set forth in Section  
19 1109(c); or (C) ~~(iii)~~ a structure designated an individual landmark pursuant to Article 10 of this  
20 Code. The boundaries of the Preservation Lot shall be the boundaries of the Assessor's lot on  
21 which the building is located at the time the ordinance or, as to Section 1109(c), resolution,  
22 making the designation is adopted, unless boundaries are otherwise specified in the  
23 ordinance.

24 (4) "Transfer Lot." A Preservation Lot located in a C-3 District from which TDR  
25 may be transferred. A lot zoned P (public) may in no event be a Transfer Lot unless a building

1 on that lot is ~~(A) (i)~~ owned by the City and County of San Francisco, and ~~(B) (ii)~~ located in a P  
2 District adjacent to a C-3 District, and ~~(C) (iii)~~ designated as an individual landmark pursuant  
3 to Article 10 of this Code, designated as a Category I Significant Building pursuant to Article  
4 11 of this Code, or listed on the National Register of Historic Places, and ~~(D) (iv)~~ the TDR  
5 proceeds are used to finance, in whole or in part, a project to rehabilitate and restore the  
6 building in accordance with the Secretary of Interior standards. For the purposes of Section  
7 128(b), a lot zoned P which satisfies the criteria of this subsection (4) to qualify as a "Transfer  
8 Lot" shall be deemed to have an allowable gross floor area of 7.5:1 under Section 124.

9 (5) "Transferable Development Rights (TDR)." § Units of gross floor area which  
10 may be transferred, pursuant to the provisions of this Section and Article 11 of this Code, from  
11 a Transfer Lot to increase the allowable gross floor area of a development on a Development  
12 Lot.

13 (6) "Unit of TDR." One unit of TDR is one square foot of gross floor area.

14 (b) **Amount of TDR Available for Transfer.** The maximum TDR available for transfer  
15 from a Transfer Lot consists of the difference between ~~(1) (i)~~ the allowable gross floor area  
16 permitted on the Transfer Lot by Section 124 and ~~(2) (ii)~~ the gross floor area of the  
17 development located on the Transfer Lot.

18 (c) **Eligibility of Development Lots and Limitation on Use of TDR on Development**  
19 **Lots.** TDR may be used to increase the allowable gross floor area of a development on a  
20 Development Lot if the following requirements and restrictions are satisfied:

21 (1) Transfer of Development Rights shall be limited to the following:

22 ~~(A) (i)~~ The Transfer Lot and the Development Lot are located in *the same a*  
23 C-3 Zoning District; or

24 ~~(ii) the Transfer Lot is located in a C-3-O, or C-3-R District and the~~  
25 ~~Development Lot is located in the C-3-O(SD) Special Development District; or~~

1                   (B) ~~(iii)~~ the Transfer Lot contains a Significant building and is located in  
2 the South of Market Extended Preservation District, as set forth in Section 819, ~~or a C-3-G or C-~~  
3 ~~3-S-District~~ and the Development Lot is located in a the C-3-O (SD) Special District; or

4                   (iv) ~~the Transfer Lot is in a C-3-R District or a District designated C-3-O (SD) in~~  
5 ~~the Yerba Buena Center Redevelopment Plan and is located in the Yerba Buena Center Redevelopment~~  
6 ~~Project Area and the Development Lot is located in a C-3-O District; or~~

7                   (C) ~~(iv)~~ the Transfer Lot is in a P District adjacent to a C-3 District and  
8 meets the requirements established in subsection (a)(4) above and the Development Lot is  
9 located in a C-3 District; or

10                  (D) ~~(iv)~~ the Transfer Lot is located in any C-3 District and contains an  
11 individual landmark designated pursuant to Article 10 and the Development Lot is located in  
12 any C-3 District ~~but not within a Redevelopment Agency Plan Area.~~

13                  (2) TDR may not be transferred for use on any lot on which is or has been  
14 located a Significant or Contributory building; provided that this restriction shall not apply if the  
15 designation of a building is changed to Unrated; nor shall it apply if the ~~City Planning~~  
16 ~~Commission~~Historic Preservation Commission finds that the additional space resulting from  
17 the transfer of TDR is essential to make economically feasible the reinforcement of a  
18 Significant or Contributory building to meet the standards for seismic loads and forces of the  
19 Building Code, in which case TDR may be transferred for that purpose subject to the  
20 limitations of this Section and Article 11, including Section 1111.6. Any alteration shall be  
21 governed by the requirements of Sections 1111 to 1111.6

22                  (3) Notwithstanding any other provision of this Section, development on a  
23 Development Lot is limited by the provisions of this Code, other than those on floor area ratio,  
24 governing the approval of projects, including the requirements relating to height, bulk,  
25 setback, sunlight access, and separation between towers, and any limitations imposed

1 pursuant to Section 309 review applicable to the Development Lot. The total allowable gross  
2 floor area of a development on a Development Lot may not exceed the limitation imposed by  
3 Section 123(c).

4 **(d) Effect of Transfer of TDR.**

5 ~~(1)~~ Transfer of TDR from a Transfer Lot permanently reduces the development  
6 potential of the Transfer Lot by the amount of the TDR transferred, except as provided in  
7 Section 124(f). In addition, transfer of TDR from a Preservation Lot containing a Contributory  
8 building or an individual landmark designated pursuant to Article 10 causes such building to  
9 become subject to the same restrictions on demolition and alteration, and the same penalties  
10 and enforcement remedies, that are applicable to Significant Buildings Category I, as provided  
11 in Article 11.

12 **(e) Procedure for Determining TDR Eligibility.**

13 (1) In order to obtain a determination of whether a lot is a Transfer Lot and, if it  
14 is, of the amount of TDR available for transfer, the owner of record of the lot may file an  
15 application with the Zoning Administrator for a Statement of Eligibility. The application for a  
16 Statement of Eligibility shall contain or be accompanied by plans and drawings and other  
17 information which the Zoning Administrator determines is necessary in order to determine  
18 whether a Statement of Eligibility can be issued. Any person who applies for a Statement of  
19 Eligibility prior to expiration of the time for request of reconsideration of designation authorized  
20 in Section ~~1105-1106~~ shall submit in writing a waiver of the right to seek such reconsideration.

21 (2) The Zoning Administrator shall, upon the filing of an application for a  
22 Statement of Eligibility and the submission of all required information, issue either a proposed  
23 Statement of Eligibility or a written determination that no TDR are available for transfer and  
24 shall mail that document to the applicant and to any other person who has filed with the  
25 Zoning Administrator a written request for a copy, and shall post the proposed Statement of

1 Eligibility or written determination on the Planning Department website. Any appeal of the  
2 proposed Statement of Eligibility or determination of noneligibility shall be filed with the Board  
3 of ~~Permit~~ Appeals within 20 days of the date of issuance of the document. If not appealed, the  
4 proposed Statement of Eligibility or the determination of noneligibility shall become final on the  
5 21st day after the date of issuance. The Statement of Eligibility shall contain at least the  
6 following information: (A) ~~(i)~~ the name of the owner of record of the Transfer Lot; (B) ~~(ii)~~ the  
7 address, legal description and Assessor's Block and Lot of the Transfer Lot; (C) ~~(iii)~~ the C-3  
8 use district within which the Transfer Lot is located; (D) ~~(iv)~~ whether the Transfer Lot contains  
9 a Significant or Contributory building, a Category V building, or an Article 10 individually  
10 designated landmark; (E) ~~(v)~~ the amount of TDR available for transfer; and (F) ~~(vi)~~ the date of  
11 issuance.

12 (3) Once the proposed Statement of Eligibility becomes final, whether through  
13 lack of appeal or after appeal, the Zoning Administrator shall record the Statement of Eligibility  
14 in the Office of the County Recorder. The County Recorder shall be instructed to mail the  
15 original of the recorded document to the owner of record of the Transfer Lot and a conformed  
16 copy to the Zoning Administrator.

17 **(f) Cancellation of Eligibility.**

18 (1) If reasonable grounds should at any time exist for determining that a building  
19 on a Preservation Lot may have been altered or demolished in violation of Articles 10 or 11,  
20 including Sections 1110 and ~~1112~~ 1111 thereof, the Zoning Administrator may issue and  
21 record with the County Recorder a Notice of Suspension of Eligibility for the affected lot and,  
22 in cases of demolition of a Significant or Contributory building, a notice that the restriction on  
23 the floor area ratio of a replacement building, ~~pursuant to Section 1114,~~ may be applicable  
24 and shall mail a copy of such notice to the owner of record of the lot. The notice shall provide  
25 that the property owner shall have 20 days from the date of the notice in which to request a

1 hearing before the Zoning Administrator in order to dispute this initial determination. If no  
2 hearing is requested, the initial determination of the Zoning Administrator is deemed final on  
3 the twenty-first day after the date of the notice, unless the Zoning Administrator has  
4 determined that the initial determination was in error.

5 (2) If a hearing is requested, the Zoning Administrator shall notify the property  
6 owner of the time and place of hearing, which shall be scheduled within 21 days of the  
7 request, shall conduct the hearing, and shall render a written determination within 15 days  
8 after the close of the hearing. If the Zoning Administrator shall determine that the initial  
9 determination was in error, that officer shall issue and record a Notice of Revocation of  
10 Suspension of Eligibility. Any appeal of the determination of the Zoning Administrator shall be  
11 filed with the Board of *Permit* Appeals within 20 days of the date of the written determination  
12 following a hearing or, if no hearing has been requested, within 20 days after the initial  
13 determination becomes final.

14 (3) If after an appeal to the Board of *Permit* Appeals it is determined that an  
15 unlawful alteration or demolition has occurred, or if no appeal is taken of the determination by  
16 the Zoning Administrator of such a violation, the Zoning Administrator shall record in the  
17 Office of the County Recorder a Notice of Cancellation of Eligibility for the lot, and shall mail to  
18 the property owner a conformed copy of the recorded Notice. In the case of demolition of a  
19 Significant or Contributory Building, the Zoning Administrator shall record a Notice of Special  
20 Restriction noting the restriction on the floor area ratio of the Preservation Lot pursuant to the  
21 provisions of Section 1114, and shall mail to the owner of record a certified copy of the Notice.  
22 If after an appeal to the Board of *Permit* Appeals it is determined that no unlawful alteration or  
23 demolition has occurred, the Zoning Administrator shall issue and record a Notice of  
24 Revocation of Suspension of Eligibility and, if applicable, a Notice of Revocation of the Notice  
25



1 of Special Restriction ~~pursuant to Section 1114~~, and shall mail conformed copies of the recorded  
2 notices to the owner of record.

3 (4) No notice recorded under this Section 128(f) shall affect the validity of TDR  
4 that have been transferred from the affected Transfer Lot in compliance with the provisions of  
5 this Section prior to the date of recordation of such notice, whether or not such TDR have  
6 been used.

7 **(g) Procedure for Transfer of TDR.**

8 (1) TDR from a single Transfer Lot may be transferred as a group to a single  
9 transferee or in separate increments to several transferees. TDR may be transferred either  
10 directly from the original owner of the TDR to the owner of a Development Lot or to persons,  
11 firms or entities who acquire the TDR from the original owner of the TDR and hold them for  
12 subsequent transfer to other persons, firms, entities or to the owners of a Development Lot or  
13 Lots.

14 (2) When TDR are transferred, they shall be identified in each Certificate of  
15 Transfer by a number. A single unit of TDR transferred from a Transfer Lot shall be identified  
16 by the number "1." Multiple units of TDR transferred as a group for the first time from a  
17 Transfer Lot shall be numbered consecutively from "1" through the number of units  
18 transferred. If a fraction of a unit of TDR is transferred, it shall retain its numerical  
19 identification. (For example, if 5,000-1/2 TDR are transferred in the initial transfer from the  
20 Transfer Lot, they would be numbered "1 through 5,000 and one-half of 5,001.") TDR  
21 subsequently transferred from the Transfer Lot shall be identified by numbers taken in  
22 sequence following the last number previously transferred. (For example if the first units of  
23 gross floor area transferred from a Transfer Lot are numbered 1 through 10,000, the next unit  
24 transferred would be number 10,001.) If multiple units transferred from a Transfer Lot are  
25 subsequently transferred separately in portions, the seller shall identify the TDR sold by

1 numbers which correspond to the numbers by which they were identified at the time of their  
2 transfer from the Transfer Lot. (For example, TDR numbered 1 through 10,000 when  
3 transferred separately from the Transfer Lot in two equal portions would be identified in the  
4 two Certificates of Transfer as numbers 1 through 5,000 and 5,001 through 10,000.) Once  
5 assigned numbers, TDR retain such numbers for the purpose of identification through the  
6 process of transferring and using TDR. The phrase "numerical identification," as used in this  
7 section, shall mean the identification of TDR by numbers as described in this Subsection.

8 (3) Transfer of TDR from the Transfer Lot shall not be valid unless ~~(i)~~ (A) a  
9 Statement of Eligibility has been recorded in the Office of the County Recorder prior to the  
10 date of recordation of the Certificate of Transfer evidencing such transfer and ~~(ii)~~ (B) a Notice  
11 of Suspension of Eligibility or Notice of Cancellation of Eligibility has not been recorded prior  
12 to such transfer or, if recorded, has thereafter been withdrawn by an appropriate recorded  
13 Notice of Revocation or a new Statement of Eligibility has been thereafter recorded.

14 (4) Transfer of TDR, whether by initial transfer from a Transfer Lot or by a  
15 subsequent transfer, shall not be valid unless a Certificate of Transfer evidencing such  
16 transfer has been prepared and recorded. The Zoning Administrator shall prepare a form of  
17 Certificate of Transfer and all transfers shall be evidenced by documents that are substantially  
18 the same as the Certificate of Transfer form prepared by the Zoning Administrator, which form  
19 shall contain at least the following:

20 (A) ~~(i)~~ For transfers from the Transfer Lot only:

21 (i) ~~(aa)~~ Execution and acknowledgement by the original owner of  
22 TDR as the transferor(s) of the TDR; and

23 (ii) ~~(bb)~~ Execution and acknowledgment by the Zoning  
24 Administrator; and  
25

1                                    (iii) ~~(ee)~~ A notice, prominently placed and in all capital letters,  
2 preceded by the underlined heading "Notice of Restriction," stating that the transfer of TDR  
3 from the Transfer Lot permanently reduces the development potential of the Transfer Lot by  
4 the amount of TDR transferred, with reference to the provisions of this Section.

5                                    (B) ~~(ii)~~ For all transfers:

6                                    (i) ~~(aa)~~ The address, legal description, Assessor's Block and Lot,  
7 and C-3 use district of the Transfer Lot from which the TDR originates; and

8                                    (ii) ~~(bb)~~ The amount and sale price of TDR transferred; and

9                                    (iii) ~~(ee)~~ Numerical identification of the TDR being transferred; and

10                                   (iv) ~~(dd)~~ The names and mailing addresses of the transferors and  
11 transferees of the TDR; and

12                                   (v) ~~(ee)~~ Execution and acknowledgment by the transferors and  
13 transferees of the TDR; and

14                                   (vi) ~~(ff)~~ A reference to the Statement of Eligibility, including its  
15 recorded instrument number and date of recordation, and a recital of all previous transfers of  
16 the TDR, including the names of the transferors and transferees involved in each transfer and  
17 the recorded instrument number and date of recordation of each Certificate of Transfer  
18 involving the TDR, including the transfer from the Transfer Lot which generated the TDR.

19                                   (5) When a Certificate of Transfer for the transfer of TDR from a Transfer Lot is  
20 presented to the Zoning Administrator for execution, that officer shall not execute the  
21 document if a transfer of the TDR would be prohibited by any provision of this Section or any  
22 other provision of this Code. The Zoning Administrator shall, within five business days from  
23 the date that the Certificate of Transfer is submitted for execution, either execute the  
24 Certificate of Transfer or issue a written determination of the grounds requiring a refusal to  
25 execute the Certificate.

1 (6) Each duly executed and acknowledged Certificate of Transfer containing the  
2 information required herein shall be presented for recordation in the Office of the County  
3 Recorder and shall be recorded by the County Recorder. The County Recorder shall be  
4 instructed to mail the original Certificate of Transfer to the person and address designated  
5 thereon and shall be given a copy of the Certificate of Transfer and instructed to conform the  
6 copy and mail it to the Zoning Administrator.

7 (h) **Certificate of Transfer of TDR for a Project on a Development Lot.**

8 (1) When the use of TDR is necessary for the approval of a building permit for a  
9 project on a Development Lot, the ~~Superintendent~~ Director of the ~~Bureau~~ Department of Building  
10 Inspection shall not approve issuance of the permit unless the Zoning Administrator has  
11 issued a written certification that the owner of the Development Lot owns the required number  
12 of TDR. When the transfer of TDR is necessary for the approval of a site permit for a project  
13 on a Development Lot, the Zoning Administrator shall impose as a condition of approval of the  
14 site permit the requirement that the ~~Superintendent~~ Director of the ~~Bureau~~ Department of Building  
15 Inspection shall not issue the first addendum to the site permit unless the Zoning  
16 Administrator has issued a written certification that the owner of the Development Lot owns  
17 the required number of TDR.

18 (2) In order to obtain certification as required in Section 128(h)(1), the permit  
19 applicant shall present to the Zoning Administrator:

20 (A) ~~(i)~~ Information necessary to enable the Zoning Administrator to  
21 prepare the Notice of Use of TDR, which information shall be at least the following:

22 (i) ~~(aa)~~ The address, legal description, Assessor's Block and Lot,  
23 and zoning classification of the Development Lot;

24 (ii) ~~(bb)~~ The name and address of the owner of record of the  
25 Development Lot;

1                                    (iii) ~~(ee)~~ Amount and numerical identification of the TDR being  
2 used;

3                                    (iv) ~~(dd)~~ A certified copy of each Certificate of Transfer evidencing  
4 transfer to the owner of the Development Lot of the TDR being used; and

5                                    (B) ~~(ii)~~ A report from a title insurance company showing the holder of  
6 record of the TDR to be used, all Certificate of Transfer of the TDR, and all other matters of  
7 record affecting such TDR. In addition to showing all such information, the report shall  
8 guarantee that the report is accurate and complete and the report shall provide that in the  
9 event that its guarantee or any information shown in the report is incorrect, the title company  
10 shall be liable to the City for the fair market value of the TDR at the time of the report. The  
11 liability amount shall be not less than \$10,000 and no more than \$1,000,000, the appropriate  
12 amount to be determined by the Zoning Administrator based on the number of TDR being  
13 used.

14                                    (C) ~~(iii)~~ An agreement whereby the owner of the Development Lot shall  
15 indemnify the City against any and all loss, cost, harm or damage, including attorneys' fees,  
16 arising out of or related in any way to the assertion of any adverse claim to the TDR, including  
17 any loss, cost, harm or damage occasioned by the passive negligence of the City and  
18 excepting only that caused by the City's sole and active negligence. The indemnity agreement  
19 shall be secured by a financial balance sheet certified by an auditor or a corporate officer  
20 showing that the owner has assets equal to or greater than the value of the TDR, or other  
21 security satisfactory to Planning Department and the City Attorney.

22                                    (3) If the Zoning Administrator determines that the project applicant has  
23 complied with the provisions of Subsection (h)(2) and all other applicable provisions of this  
24 Section, and that the applicant is the owner of the TDR, that officer shall transmit to the  
25 ~~Superintendent~~ Director of the ~~Bureau~~ Department of Building Inspection, with a copy to the

1 project applicant, written certification that the owner of the Development Lot owns the TDR.  
2 Prior to transmitting such certification, the Zoning Administrator shall prepare a document  
3 entitled Notice of Use of TDR stating that the TDR have been used and may not be further  
4 transferred, shall obtain the execution and acknowledgment on the Notice of the owner of  
5 record of the Development Lot, shall execute and acknowledge the Notice, shall record it in  
6 the Office of the County Recorder, and shall mail to the owner of record of the Development  
7 Lot a conformed copy of the recorded Notice. If the Zoning Administrator determines that the  
8 project applicant is not the owner of the TDR, or has not complied with all applicable  
9 provisions of this Section, that determination shall be set forth in writing along with the  
10 reasons therefore. The Zoning Administrator shall either transmit certification or provide a  
11 written determination that certification is inappropriate within 10 business days after the  
12 receipt of all information required pursuant to Subsection (h)(2).

13 **(i) Cancellation of Notice of Use; Transfer from Development Lot.**

14 (1) The owner of a Development Lot for which a Notice of Use of TDR has been  
15 recorded may apply for a Cancellation of Notice of Use if (A) ~~(i)~~ the building permit or site  
16 permit for which the Notice of Use was issued expires or was revoked or cancelled prior to  
17 completion of the work for which such permit was issued and the work may not be carried out;  
18 or (B) ~~(ii)~~ any administrative or court decision is issued or any ordinance or initiative or law is  
19 adopted which does not allow the applicant to make use of the permit; or (C) ~~(iii)~~ a portion or  
20 all of such TDR are not used.

21 (2) If the Zoning Administrator determines that the TDR have not been and will  
22 not be used on the Development Lot based on the reasons set forth in subsection (i)(1), the  
23 Zoning Administrator shall prepare the Cancellation of Notice of Use of TDR. If only a portion  
24 of the TDR which had been acquired are not being used, the applicant may identify which  
25 TDR will not be used and the Cancellation of Notice of Use of TDR shall apply only to those

1 TDR. The Zoning Administrator shall obtain on the Cancellation of Notice of Use of TDR the  
2 signature and acknowledgment of the owner of record of the Development Lot as to which the  
3 Notice of Use of TDR was recorded, shall execute and acknowledge the document, and shall  
4 record it in the office of the County Recorder.

5 (3) Once a Cancellation of Notice of Use of TDR has been recorded, the owner  
6 of the Development Lot may apply for a Statement of Eligibility in order to transfer the TDR  
7 identified in that document. The procedures and requirements set forth in this Section  
8 governing the transfer of TDR shall apply to the transfer of TDR from the owner of a  
9 Development Lot after a Notice of Use has been filed, except for the provisions of this Section  
10 permanently restricting the development potential of a Transfer Lot upon the transfer of TDR;  
11 provided, however, that the district or districts to which the TDR may be transferred shall be  
12 the same district or districts to which TDR could have been transferred from the Transfer Lot  
13 that generated the TDR.

14 (j) **Erroneous Notice of Use; Revocation of Permit.** If the Zoning Administrator  
15 determines that a Notice of Use of TDR was issued or recorded in error, that officer may direct  
16 the ~~Superintendent~~ Director of the ~~Bureau~~ Department of Building Inspection to suspend any  
17 permit issued for a project using such TDR, in which case the ~~Superintendent~~ Director of the  
18 Department of Building Inspection shall comply with that directive. The Zoning Administrator  
19 shall thereafter conduct a noticed hearing in order to determine whether the Notice of Use of  
20 TDR was issued or recorded in error. If it is determined that the Notice of Use of TDR was  
21 issued or recorded in error, the ~~Superintendent~~ Director of the ~~Bureau~~ Department of Building  
22 Inspection shall revoke the permit; provided, however, that no permit authorizing such project  
23 shall be revoked if the right to proceed thereunder has vested under California law. If it is  
24 determined that the Notice of Use of TDR was not issued or recorded in error, the permit shall  
25 be reinstated.

1 (k) **Effect of Repeal or Amendment.** TDR shall convey the rights granted herein only  
2 so long and to the extent as authorized by the provisions of this Code. Upon repeal of such  
3 legislative authorization, TDR shall there after convey no rights or privileges. Upon  
4 amendment of such legislative authorization, TDR shall thereafter convey only such rights and  
5 privileges as are permitted under the amendment. No Statement of Eligibility shall convey any  
6 right to use, transfer or otherwise utilize TDR if the maximum floor area ratio for the Transfer  
7 Lot is reduced after the Statement of Eligibility is issued.

8 (l) **Preservation Rehabilitation, and Maintenance Requirements for Preservation**  
9 **Lots.**

10 (1) In addition to the material required to be submitted with an application for a  
11 *Statement of Eligibility Certificate of Transfer for initial transfer from the Transfer Lot* set forth in  
12 subsection 128~~(e)~~~~(g)~~, the owner of the *Preservation Transfer* Lot shall:

13 ~~(A) (i)~~ Demonstrate that any and all outstanding Notices of Violation have  
14 been abated; and

15 ~~(B) (ii)~~ Submit for approval by the Department a Preservation,  
16 Rehabilitation, and Maintenance Plan that describes any proposed preservation and  
17 rehabilitation work and that guarantees the maintenance and upkeep of the *Preservation*  
18 *Transfer* Lot. This Plan shall include:

19 ~~(i) (aa)~~ a plan for the ongoing maintenance of the *Preservation*  
20 *Transfer* Lot;

21 ~~(ii) (bb)~~ information regarding the nature and cost of any  
22 rehabilitation, restoration or preservation work to be conducted on the *Preservation Transfer*  
23 Lot, including information about any required seismic, life safety, or disability access work;

24 ~~(iii) (cc)~~ a construction schedule; and  
25



1 (iv) ~~(dd)~~ any other such information as the Department may require  
2 to determine compliance of this subsection 128(l).

3 All such work, shall comply with the Secretary of the Interior's Standards for the  
4 Treatment of Historic Properties. The requirements of the approved Plan shall be recorded  
5 along with the final *Statement of Eligibility Certificate of Transfer* in the Office of the County  
6 Recorder.

7 Notwithstanding the foregoing, the owner of the *Preservation Transfer* Lot may apply to  
8 the Department for a hardship exemption from the requirements of subsection (i). Such  
9 hardship exemption shall demonstrate to the satisfaction of the Department that sale of TDR  
10 is necessary to fund the work required to cure the outstanding Notice(s) of Violation on the  
11 *Preservation Transfer* Lot.

12 (2) Approval of the *Statement of Eligibility Certificate of Transfer for initial transfer*  
13 *from the Transfer Lot* shall be conditioned on execution of the requirements described in  
14 subsection (l)(1). ~~Once a Statement of Eligibility has been issued and a Notice of Special Restrictions~~  
15 ~~has been recorded on the property, the owner of the Preservation Lot, at the owner's sole discretion,~~  
16 ~~may withdraw from the TDR program prior to the sale of any TDR. The Department shall rescind the~~  
17 ~~Statement of Eligibility and request removal of such condition(s) on the Preservation Lot.~~ Once any  
18 TDR is transferred from the *Preservation Transfer* Lot, the *Statement of Eligibility Certificate of*  
19 *Transfer* and conditions may not be withdrawn.

20 (3) Within one year of the issuance of the *Statement of Eligibility Certificate of*  
21 *Transfer for initial transfer from the Transfer Lot*, the owner of the *Preservation Transfer* Lot shall  
22 submit a status report to the Department detailing how the requirements of subsection (l)(1)  
23 have been completed and describing ongoing maintenance activities. Such report shall  
24 include: (A) ~~(i)~~ information detailing the work completed; (B) ~~(ii)~~ copies of all permits obtained  
25 for the work, including any Certificates of Appropriateness or Permits to Alter; (C) ~~(iii)~~ any

1 inspection reports or other documentation from the Department of Building Inspection showing  
2 completion of the work; ~~(D)~~ ~~(vi)~~ itemized receipts of payment for work performed; and ~~(E)~~ ~~(v)~~  
3 any such other documentation as the Department may require to determine compliance with  
4 the requirements of this subsection 128(l). The deadline for completion of the work and  
5 submittal of this report may be extended at the discretion of the Department upon application  
6 of the owner of the *Preservation Transfer* Lot and only upon a showing that the owner has  
7 diligently pursued all required permits and completion of the work.

8 (4) Failure to comply with the requirements of this subsection (l), including all  
9 reporting requirements, shall be grounds for enforcement under this Code, including but not  
10 limited to under Sections 176 and 176.1. Penalties for failure to comply may include, but shall  
11 not be limited to, a lien on the *Preservation Transfer* Lot equal to the sale price of the TDR sold.

12 **SEC. 819. SOUTH OF MARKET EXTENDED PRESERVATION DISTRICT.**

13 The *South of Market* Extended Preservation District, as shown on Sectional Map ~~7~~PD01  
14 and ~~7~~PD07 of the Zoning Map, incorporates an area, formerly zoned C-3-S, in which  
15 provisions of Article 11 and Section 128 continue to be in effect.

16  
17 Section 3. The San Francisco Administrative Code is hereby amended by amending  
18 Section 10E.1, to read as follows:

19 **SEC. 10E.1. DOWNTOWN PLAN.**

20 (a) **Findings.** The Board of Supervisors makes the following findings in support of this  
21 ordinance.

22 (1) The Planning Commission has adopted the Downtown Plan as part of the  
23 General Plan of the City and County of San Francisco, and the Board of Supervisors, acting  
24 upon the recommendation of the Planning Commission, has adopted amendments to the  
25 Planning Code called for in the Downtown Plan. The Planning Commission and Board of

1 Supervisors have adopted the Transit Center District Plan as a sub-area of the Downtown  
2 Plan, as well as implementing Planning Code provisions.

3 (2) The focus of the Downtown Plan is to prevent development where change  
4 would diminish the city's character or livability but to allow appropriately scaled development  
5 that would further the City's economic, fiscal and social objectives.

6 (3) The Downtown Plan is based on certain assessments about the ability of the  
7 City to absorb the impacts of growth in downtown San Francisco and the desirability of  
8 increasing housing, ridesharing and transit use in light of the anticipated downtown growth.  
9 The Downtown Plan proposes various actions which should be taken to achieve the following  
10 goals: An increase in the City's housing supply by an average of 1,000 to 1,500 new housing  
11 units per year; and increase in ridesharing to a point where the number of persons commuting  
12 by auto or van rises from 1.48 to 1.66 persons per vehicle; and an increase in the use of  
13 transit by downtown workers from 64 percent to 70 percent of all work trips.

14 (4) The Downtown Plan recommends the adoption of a formal process for  
15 monitoring progress toward Plan goals. This monitoring process is necessary to evaluate the  
16 effectiveness of the Plan and the impacts of downtown growth, and to make any adjustments  
17 deemed appropriate to the controls described in the Downtown Plan or to additions to the  
18 City's infrastructure and services.

19 (5) The purpose of this monitoring system shall be to determine whether the  
20 infrastructure and support systems necessary to accommodate the growth of downtown,  
21 particularly housing supply and transit capacity, have kept pace with development in the C-3  
22 Districts. If downtown is growing at a faster pace than the necessary infrastructure and  
23 support systems, it may become necessary to make further efforts to slow down the pace of  
24 development, or devise additional mechanisms for providing required infrastructure and  
25 support systems.

1 (6) The Planning Department shall undertake a two-tiered monitoring program.  
2 The two tiers are: A) An annual collection and reporting of data from selected sources that are  
3 gathered on a regular basis, and B) every five years, a more extensive data collection effort  
4 that includes an analysis of long-term policy indicators such as the TDR program, urban form  
5 goals, any impact fee funds, and provides analysis of the Downtown Plan's policy objectives.  
6 The annual monitoring should provide an early warning system for trends that may develop,  
7 indicating a shortfall in the long range goals.

8 (b) **Annual Report.** The Planning Department shall prepare an annual report detailing  
9 the effects of downtown growth. The report shall be presented to the Board of Supervisors,  
10 Planning Commission, Historic Preservation Commission, and Mayor, and shall address: (1)  
11 the extent of development in the C-3 Districts; (2) the consequences of that development; (3)  
12 the effectiveness of the policies set forth in the Downtown Plan in maintaining San Francisco's  
13 environment and character; and (4) recommendations for measures deemed appropriate to  
14 deal with the impacts of downtown growth.

15 (1) **Time Period and Due Date.** Reports shall be due by July 1st of each year,  
16 and shall address the immediately preceding calendar year, except for the five year report,  
17 which shall address the preceding five calendar years.

18 (2) **Data Source.** The Planning Department shall assemble a data base for 1984  
19 and subsequent years for the purpose of providing the reports. City records shall be used  
20 wherever possible. Outside sources shall be used when data from such sources are reliable,  
21 readily available and necessary in order to supplement City records.

22 (3) **Categories of Information.** The following categories of information shall be  
23 included:  
24  
25

1                                   **Commercial Space and Employment.**

2                                   (A) The amount of office space "Completed," "Approved," and "Under  
3 Construction" during the preceding year, both within the C-3 Districts and elsewhere in the  
4 City. This inventory shall include the location and square footage (gross and net) of those  
5 projects, as well as an estimate of the dates when the space "Approved" and "Under  
6 Construction" will become available for occupancy.

7                                   (B) **Office Vacancy Ratio.** An estimate of the current office vacancy rate  
8 in the C-3 Districts and citywide.

9                                   (C) **Citywide and C-3 District Office Employment.** An estimate of  
10 additional office employment, by occupation type, in the C-3 Districts and citywide.

11                                  (D) **Tourist Hotel Rooms and Employment.** An estimate of the net  
12 increment or tourist hotel rooms and additional hotel employment in the C-3 Districts.

13                                  (E) **Retail Space and Employment.** An estimate of the net increment of  
14 retail space and of the additional retail employment relocation trends and patterns within the  
15 City and the Bay Area.

16                                  (F) **Business Formation and Relocation.** An estimate of the rate of the  
17 establishment of new businesses and business and employment relocation trends and  
18 patterns within the City and the Bay Area.

19                                   Housing.

20                                  (G) **Housing Units Certified for Occupancy.** An estimate of the number  
21 of housing units throughout the City newly constructed, demolished, or converted to other  
22 uses.

23                                  (H) **Jobs/Housing Linkage Program.** A summary of the operation of the  
24 Jobs/Housing Linkage Program (formerly the Office Affordable Housing Production Program)

1 and the Housing Affordability Fund, identifying the number and income mix of units  
2 constructed or assisted with these monies.

3 **Transportation.**

4 (I) **Parking Inventory.** An estimate of the net increment of off-street  
5 parking spaces approved in C-3 Districts.

6 (J) **Vehicle Occupancy Rates.** An estimate of vehicle occupancy rates  
7 for vehicles in or entering the City.

8 (K) **Transit Service.** An estimate of transit ridership for peak periods.

9 (L) **Transit Impact Fee.** A summary of the use of the transit impact  
10 development fee funds, collected from development.

11 **Fiscal.**

12 (M) **Revenues.** An estimate of the net increment of revenues by type  
13 (property tax, business taxes, hotel and sales taxes) from office, retail and hotel space.

14 (N) **Transit Center District Revenues and Implementation of**  
15 **Improvements.** A summary of the total revenues from Transit Center District Plan fees,  
16 including the Open Space Impact Fee and Transportation and Street Improvement Impact  
17 Fee, as well as from any Community Facilities District within the Transit Center District Plan  
18 area boundaries, and a summary of expenditures on public improvements as described in the  
19 Transit Center District Plan Program Implementation Document.

20 **Preservation.**

21 (O) **Significant or Contributory Buildings.** *Buildings designated as significant*  
22 *or contributory buildings, or changes of designation, under Article 11 of the Planning Code.*

23 (P) **Transferred Development Rights.** *An inventory of buildings eligible for the*  
24 *Transfer of Development Rights, of buildings where Transfer of Development rights have been*  
25 *completed, and of Transfers of Development Rights completed within the year.*

1                   (4) **Report.** The analysis of the factors under Commercial Space and  
2 Employment will provide an estimate of the increase in housing and transit demand. The  
3 comparison of increased demand with the increase in the supply of housing and in transit  
4 ridership will indicate the degree that the City is able to accommodate new development.  
5 Based on this data, the Department shall analyze the effectiveness of City policies governing  
6 downtown growth and shall recommend any additional measures deemed appropriate.

7                   (c) **Five Year Report.** On March 15, 1990, and every fifth year thereafter by July 1st,  
8 the report submitted shall address the preceding five calendar years and, in addition to the  
9 data described above, shall include, as deemed appropriate, a cordon count of downtown  
10 oriented travel and an employer/employee survey and any other information necessary for the  
11 purpose of monitoring the impact of downtown development. The five-year report shall  
12 monitor long-term policy indicators such as the TDR program, urban form goals, *progress on*  
13 *the Downtown Streetscape Plan*, any impact fee funds, and provide analysis of the Downtown  
14 Plan's policy objectives. If the Planning Department determines that early warnings from the  
15 annual reports indicate the need for collection of a cordon count and employer/employee  
16 survey, it may include such data in any annual report, and may include an analysis of data for  
17 a period of time earlier than the preceding calendar year.

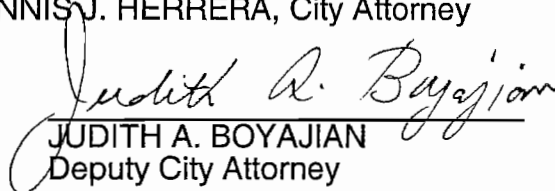
18                   (d) **Information to be Furnished.** It shall be the duty of the heads of all departments,  
19 offices, commissions, bureaus and divisions of the City and County of San Francisco, upon  
20 request by the Planning Department, to furnish such information as they may have or be able  
21 to obtain relating to the matters to be included in the reports required herein.

22  
23                   Section 4. **Effective Date.** This Ordinance shall become effective 30 days from the  
24 date of passage.  
25

1 Section 5. In enacting this Ordinance, the Board intends to amend only those words,  
2 phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams,  
3 or any other constituent part of the Planning Code that are explicitly shown in this legislation  
4 as additions, deletions, Board amendment additions, and Board amendment deletions in  
5 accordance with the "Note" that appears under the official title of the legislation.  
6

7 APPROVED AS TO FORM:  
8 DENNIS J. HERRERA, City Attorney

9 By:

  
10 JUDITH A. BOYAJIAN  
11 Deputy City Attorney

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**REVISED LEGISLATIVE DIGEST**

(3/19/2013, Substituted)

[Planning Code, Administrative Code - Transfer of Development Rights]

**Ordinance amending the Planning Code, Sections 128 and 819, and Administrative Code, Section 10E.1, to permit the transfer of development rights from any eligible building in a Downtown Commercial (C-3) District or the South of Market Extended Preservation District to a development site in a C-3 District; require annual reporting of buildings designated as historic resources and of transferred development rights, and requiring a Preservation, Rehabilitation, and Maintenance Plan to be submitted with an application for Certificate of Transfer instead of with an application for Statement of Eligibility; and adopting environmental findings, Section 302, findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code, Section 101.1.**

Existing Law

Floor Area Ratio (FAR) is the ratio of a building's square footage to the area of the lot. The Planning Code establishes a floor area ratio limit for the City's various use districts. Section 128 of the Planning Code establishes a procedure for the Transfer of Development Rights (TDR), in the form of gross floor area, in Downtown Commercial (C-3) Districts. The TDR provisions protect historic buildings by allowing the permanent transfer of development rights from an historic building to other development lots, and using the sale of TDRs as a source of funds to restore the historic structure. TDRs allow projects to increase the permitted FAR on a lot, but do not allow projects to exceed height or bulk limits.

Section 128 currently limits the transfer of development rights within the C-3 District to specified circumstances. It requires a Preservation, Rehabilitation, and Maintenance Plan to be submitted with the application for a Statement of Eligibility.

Amendments to Current Law

Planning Code Section 128 is proposed to be amended to permit TDRs to be transferred freely throughout the C-3 District. TDRs would be permitted when (1) the Transfer Lot and the Development Lot are located in a C-3 Zoning District; or (2) the Transfer Lot contains a Significant building and is located in the South of Market Extended Preservation District, as set forth in Section 819 and the Development Lot is located in a C-3 District; or (3) the Transfer Lot is in a P District adjacent to a C-3 District and meets certain requirements and the Development Lot is located in a C-3 District; or (4) the Transfer Lot is located in any C-3 District and contains an individual landmark designated pursuant to Article 10 and the Development Lot is located in any C-3 District. The requirement for submittal of a

Preservation, Rehabilitation, and Maintenance Plan is amended to require it to be submitted with an application for Certificate of Transfer instead with an application for Statement of Eligibility. Administrative Code Section 10E.1 is amended to require Preservation information in the Annual Report to the Board of Supervisors, Planning Commission, and Mayor.

#### Background Information

The proposed change would allow TDRs to be transferred freely across the C-3 District. The Planning Department believes the market for TDRs is currently gridlocked. By allowing increased flexibility, more properties will be able to sell and use the TDR market. Facilitating TDRs will both protect and restore additional historic buildings, and permit desired job and housing growth Downtown.

The original restriction, which only allowed TDRs within the same C-3 District, was done to ensure that development wasn't concentrated in any one C-3 District. Since the program was enacted in the mid-1980s, a large percentage of TDRs have been transferred within the same C-3 Districts. Now that the program has been in place for 25 years and many districts in downtown have been built out, it's necessary to liberalize the controls in order to equalize the supply and demand ratio and keep the program alive.

The requirement to submit a Preservation, Rehabilitation, and Maintenance Plan is more appropriate to be done at the Certificate of Transfer stage.



# SAN FRANCISCO PLANNING DEPARTMENT

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April 9, 2012

Supervisor Chiu and  
Ms. Angela Calvillo, Clerk  
Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

**Re: Transmittal of Planning Case Number 2011.0532T [Board File No. BF No. 11-0548: Parking, Awning, Signs, Exposure, Open Space, and Limited Conforming Uses.**

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

**Recommendation: Approval with Modifications**

Dear Supervisor Chiu and Ms. Calvillo,

On March 1, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearings at a regularly scheduled meeting to consider the proposed Ordinance under Board of Supervisors File Number 11-0548.

At the March 1st Hearing, the Commission voted 7-0 to recommend approval with modifications of Phase 1 of the proposed Ordinance, which makes a variety of changes to Parking, Awning, Signs, Exposure, Open Space, and Limited Conforming Use controls in the City's Planning Code. At that hearing, the Commission requested that the proposal be amended with the following changes:

**Clerical Modifications:**

1. In Section 202 under the description of RH Districts, there is an added parenthesis in front of RH-2, this should be deleted. Also, under the description of PDR Districts "PDR-1-" should be changed to "PDG-1-G."
2. Sections 604(a) should reference Vintage Signs and not historic signs in conformance with Ordinance # 0160-11

**Non Clerical Modifications:**

1. Consider the implications of adding the Embarcadero to Scenic Street Special Sign District controls to large events held along the Embarcadero. Provide a provision to allow for temporary signs for large events along the Embarcadero, such as the America's Cup. Include a maximum duration for such temporary signs, so that they must be taken down after the event.
2. Remove the prohibition on reinstating lapsed LCU's where a residential unit has been established.

3. Maintain the existing height limits for signs in the in the C and M Districts.
4. Modify Section 151.1(f) so that any funds recovered from enforcing the Planning Code's bike parking requirements by the Planning Department are given to the Planning Department, and not the Metropolitan Transportation Administration.
5. Consider expanding the proposed legislation so that changing the copy, color or logo on a sign does not require that the sign be brought into conformance with current Planning Code requirements.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission. The attached resolution and exhibit provides more detail about the Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,



AnMarie Rodgers  
Manager of Legislative Affairs

Cc: City Attorney Judith Boyajian

Attachments (one copy of the following):

Planning Commission Resolution No. 18553  
Department's Memo to the Planning  
Commission



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Resolution No 18553

HEARING DATE: MARCH 1, 2012

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

*Project Name:* Amendments relating to:  
Parking, Awning, Signs, Exposure, Open Space, and Limited  
Conforming Uses.

*Case Number:* 2011.0532T [Board File No. 11-0548]

*Initiated by:* Supervisor Chiu / Introduced May 3, 2011

*Staff Contact:* Aaron Starr, Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362

*Reviewed by:* AnMarie Rodgers, Manager Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395

*Recommendation:* **Recommend Approval with Modifications Of "Phase One" Including the  
Topics of Clerical and Minor Modifications, Transfer of Development  
Rights, Limited Commercial Uses, Bike Parking and Signs.**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE WITH MODIFICATIONS THAT WOULD AMEND THE SAN FRANCISCO PLANNING CODE BY REPEALING SECTIONS 136.2, 136.3, 158, 187, 249.15, 263.2, 263.3, 602.25, 602.26, 607.3 AND 607.4 AND AMENDING VARIOUS OTHER CODE SECTIONS TO (1) INCREASE THE AMOUNT OF PRINCIPALLY PERMITTED PARKING SPACES FOR DWELLINGS IN RC-4 AND C-3 DISTRICTS, (2) MAKE OFF-STREET PARKING REQUIREMENTS IN THE VAN NESS SPECIAL USE DISTRICT AND RC-3 DISTRICTS CONSISTENT WITH THOSE OF RC-4 DISTRICTS, (3) ELIMINATE MINIMUM PARKING REQUIREMENTS FOR THE CHINATOWN MIXED USE DISTRICTS AND NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICTS, (4) ALLOW EXCEPTIONS FROM REQUIRED PARKING UNDER SPECIFIED CIRCUMSTANCES, (5) AMEND THE RESTRICTIONS ON OFF-STREET PARKING RATES AND EXTEND THEM TO ADDITIONAL ZONING DISTRICTS, (6) REVISE SIGN, AWNING, CANOPY AND MARQUEE CONTROLS IN SPECIFIED ZONING DISTRICTS, (7) INCREASE THE PERMITTED USE SIZE FOR LIMITED CORNER COMMERCIAL USES IN RTO AND RM DISTRICTS, AND ALLOW REACTIVATION OF LAPSED LIMITED COMMERCIAL USES IN R DISTRICTS, (8) REVISE THE BOUNDARIES OF AND MODIFY PARKING AND SCREENING REQUIREMENTS IN THE WASHINGTON-BROADWAY AND WATERFRONT SPECIAL USE DISTRICTS, (9) MODIFY CONTROLS FOR USES AND ACCESSORY USES IN COMMERCIAL AND RESIDENTIAL-COMMERCIAL DISTRICTS, (10) PERMIT CERTAIN EXCEPTIONS FROM EXPOSURE AND OPEN SPACE REQUIREMENTS FOR HISTORIC BUILDINGS, AND (11) MODIFY CONFORMITY REQUIREMENTS IN VARIOUS USE DISTRICTS; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.1.

**PREAMBLE**

Whereas, on May 3, 2011 Supervisor Chiu introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 11-0548 which would amend the San Francisco Planning Code by repealing Sections 136.2, 136.3, 158, 187, 249.15, 263.2, 263.3, 602.25, 602.26, 607.3 and 607.4 and amending various other Code sections to (1) increase the amount of principally permitted parking spaces for dwellings in RC-4 and C-3 Districts, (2) make off-street parking requirements in the Van Ness Special Use District and RC-3 Districts consistent with those of RC-4 Districts, (3) eliminate minimum parking requirements for the Chinatown Mixed Use Districts and North Beach Neighborhood Commercial Districts, (4) allow exceptions from required parking under specified circumstances, (5) amend the restrictions on off-street parking rates and extend them to additional zoning districts, (6) revise sign, awning, canopy and marquee controls in specified zoning districts, (7) increase the permitted use size for limited corner commercial uses in RTO and RM districts, and allow reactivation of lapsed limited commercial uses in R districts, (8) revise the boundaries of and modify parking and screening requirements in the Washington-Broadway and Waterfront Special Use Districts, (9) modify controls for uses and accessory uses in Commercial and Residential-Commercial Districts, (10) permit certain exceptions from exposure and open space requirements for historic buildings, and (11) modify conformity requirements in various use districts; and

Whereas, on October 20, 2012, December 15, 2011, February 9, 2012 and March 1, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted duly noticed public hearings at a regularly scheduled meetings to consider the proposed Ordinance; and

Whereas, On February 9, 2012, the Commission continued the item to March 1, 2012 so that the so that the legislative sponsor, Board President David Chiu, could work with individual Commissioners who had issues with specific pieces of the legislation; and

Whereas on February 8, 2012, the legislative sponsor, Board President David Chiu, sent the Commission a memorandum requesting that the Commission not consider certain topics from the proposed Ordinance as it is his intend to remove the following topics from the proposed Ordinance proposed Ordinance: The C-3 parking and FAR changes (aka "the C3 Compromise"), changes to Planning Code Section 155(g) having to do with the long term parking rate structure, and proposed changes to Port Property and the expansion of the Waterfront Advisory Committee.

Whereas, at the March 1, 2012 Commission Hearing, the Commission divided up the proposed legislation into 3 Phases; and

Whereas at the March 1, 2012 Commission Hearing, Planning Department Staff (herein after "Staff") presented the 5 topics in Phase 1, which include Clerical and Minor Modifications, Transfer of Development Rights, Limited Commercial Uses, Bike Parking and Signs, as outlined in a memo sent to the Commission on February 29, 2012; and

Whereas Phases 2 and 3 will be heard at separate Commission hearings; and

Whereas, the proposed zoning changes have been determined to be exempt from environmental review under the General Rule Exclusion (Section 15061(b)(3) of the CEQA Guidelines); and

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

Whereas, the 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 Commission has reviewed the proposed Ordinance; and

**MOVED**, that the Planning Commission hereby recommends that the Board of Supervisors **approve with modifications** the areas of the proposed ordinance covered in Phase 1, as discussed at the March 1, 2012 Planning Commission Hearing. Specifically, the Commission recommends the following modifications:

**Clerical Modifications:**

1. In Section 202 under the description of RH Districts, there is an added parenthesis in front of RH-2, this should be deleted. Also, under the description of PDR Districts "PDR-1-" should be changed to "PDG-1-G."
2. Sections 604(a) should reference Vintage Signs and not historic signs in conformance with Ordinance # 0160-11

**Non Clerical Modifications:**

1. Consider the implications of adding the Embarcadero to Scenic Street Special Sign District controls to large events held along the Embarcadero. Provide a provision to allow for temporary signs for large events along the Embarcadero, such as the America's Cup. Include a maximum duration for such temporary signs, so that they must be taken down after the event.
2. Remove the prohibition on reinstating lapsed LCUs where a residential unit has been established.
3. Maintain the existing height limits for signs in the in the C and M Districts.
4. Modify Section 151.1(f) so that any funds recovered from enforcing the Planning Code's bike parking requirements by the Planning Department are given to the Planning Department, and not the Metropolitan Transportation Administration.
5. Consider expanding the proposed legislation so that changing the copy, color or logo on a sign does not require that the sign be brought into conformance with current Planning Code requirements.

**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. In 1973, the San Francisco City Planning Commission and Board of Supervisors adopted the "Transit First Policy", giving top priority to public transit investments as the centerpiece of the city's transportation policy and adopting street capacity and parking policies to discourage increases in automobile traffic;
2. On October 26, 2010 the Board of Supervisors adopted the goal of having 20% of trips by bike by the year 2020;
3. Existing buildings contribute to the unique character of San Francisco. Reusing buildings, rather than demolishing and rebuilding them, can preserve the built character of neighborhoods, as well as foster sustainability by conserving the energy and materials embodied in these buildings;
4. The Planning Code's sign regulations have not been significantly changes since they were adopted. The proposed legislation seeks to rationalize and consolidate some of the existing controls.
5. Small commercial uses, although often nonconforming, tend to provide convenience goods and services on a retail basis to meet the frequent and recurring needs of neighborhood residents within a short distance of their homes;
6. Over the years, the Planning Code has been amended and expanded. While many of these changes have been necessary to address emerging issues and changing policy in the City, the current Planning Code can be overly complex and redundant;
7. **General Plan Compliance.** Phase 1 of the proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

#### I. TRANSPORTATION ELEMENT

##### **OBJECTIVE 1**

MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE, CONVENIENT AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH QUALITY LIVING ENVIRONMENT OF THE BAY AREA

##### **Policy 1.2**

Ensure the safety and comfort of pedestrians throughout the city.

##### **Policy 1.3**

Give priority to public transit and other alternatives to the private automobile as the means of meeting San Francisco's transportation needs, particularly those of commuters.



*Phase 1 of the proposed Ordinance would remove bike parking from FAR calculations, require renovated building to provide bike parking, and require hotels to provide bike parking. All of these measures help promote the City's transit first policy, and give priority to alternative modes of transportation.*

## II. URBAN DESIGN ELEMENT

### OBJECTIVE 4

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

#### Policy 4.14

Remove and obscure distracting and cluttering elements.

*Phase 1 of the proposed Ordinance makes several changes to the City's sign controls which would provide the Planning Department with more authority to require that nonconforming signs be removed. It would also remove some provisions in the Planning Code, most notable from the Van Ness Special Use District, that allow for larger and flashing signs. These proposed changes would help to remove obscure distracting and cluttering elements in the City.*

8. The proposed replacement project is consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

- A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

*Phase 1 of the proposed Ordinance will encourage neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses by allowing expired Limited Conforming Uses to be reestablished.*

- B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

*Phase 1 of the proposed Ordinance will allow Limited Conforming Uses to be reinstated, helping to conserve and protect the cultural and economic diversity of the City's neighborhoods.*

- C) The City's supply of affordable housing will be preserved and enhanced:

*Phase 1 of the proposed Ordinance will not have any impact on affordable housing.*

- D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

*Phase 1 of the proposed Ordinance will not have any impact on commuter traffic or MUNI transit.*

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

*Phase 1 of the proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.*

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*Preparedness against injury and loss of life in an earthquake is unaffected by Phase 1 of the proposed Ordinance. Any new construction or alteration associated with a use would be executed in compliance with all applicable construction and safety measures.*

- G) That landmark and historic buildings will be preserved:

*Phase 1 of the proposed Ordinance will broaden the City's TDR program, which is used to preserve and the City's historic buildings.*

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

*The City's parks and open space and their access to sunlight and vistas would be unaffected by Phase 1 of the proposed Ordinance. It is not anticipated that permits would be such that sunlight access, to public or private property, would be adversely impacted.*

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on December 15, 2011.

Linda Avery  
Commission Secretary

AYES: Commissioners Moore, Sugaya, Fong, Antonini, Miguel, Borden and Wu

NAYS: none

ABSENT: none

ADOPTED: March 1, 2012



# SAN FRANCISCO PLANNING DEPARTMENT

## Memo to the Planning Commission

HEARING DATE: MARCH 1, 2012

Continued from the February 9, 2012 hearing

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

*Project Name:* Amendments relating to:  
Parking, Awning, Signs, Exposure, Open Space, and Limited  
Conforming Uses.

*Case Numbers:* 2011.0532T [Board File No. 11-0548] and 2011.0533Z [Board File No. 11-  
0577]

*Initiated by:* Supervisor Chiu / Introduced May 3, 2011

*Staff Contact:* Aaron Starr, Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362

*Reviewed by:* AnMarie Rodgers, Manager Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395

*Recommendation:* **Approval with Modifications**

### BACKGROUND

At the February 9 hearing, the Planning Commission's final motion was made by Commissioner Borden and seconded by Commissioner Antonioni. The motion was for a three week continuance so that the Supervisor's office could work with individual Commissioners who have issues with specific pieces of the legislation. The intent behind this motion was to ensure that with the continuance there was a targeted discussion on issues at the next hearing. President Miguel encouraged his fellow Commissioners to communicate with both Staff and the Supervisor's office to ensure that staff knew what the Commissioner's wanted to discuss at the next hearing. The motion passed with a 5 to 1 vote, with Commissioner Sugaya voting against the motion.

Since that hearing, Staff met with newly elected Commission President Fong and Vice President Wu, who requested that staff chose 5 topics with broad consensus to discuss at the next hearing in order to have a targeted discussion. The topics that staff selected include Clerical and Minor Modifications, Transfer of Development Rights, Limited Commercial Uses, Bike Parking, and Signs.

The bulk of the information provided below is the same information that was provided in the previous staff report. Further, the Department's recommendation for Approval with Modifications, as outlined in the staff report, has not changed.

### TOPICS FOR DISCUSSION

#### Clerical and Minor Modifications

Staff estimates that there about 120 clerical and minor modifications in the proposed legislation which seek to fix errors in the Code, delete obsolete references and provide clarification to certain Code sections. These changes are minor and help make the Code a more usable and effective document. Allowing these changes to move forward would significantly reduce the size of the proposed legislation and provide needed fixes to the Planning Code.

Clerical modifications include but are not limited to: correcting spelling errors, correcting incorrect references, removing redundant language, revising Department names, adding titles or headings to sections, correcting tenses, updating references or sections that were missed in previous Code changes, updating outdated language, and the like.

Minor modifications are changes that make more extensive text change, but which do not substantially change the Planning Code or entitlements. These include consolidating all awning and canopy controls into one section; consolidating Vintage Sign controls and Historic Marquee controls into one section, consolidating auto uses in Articles 2 and 8, simplifying definitions, and changing outdated references.

**Transfer of Development Rights (TDRs):**

The proposed changes to the TDR program were endorsed by the Historic Preservation Commission, and while there is concern about how the TDR program is tracked, there appears to be consensus that the proposed change is beneficial to the City and furthers the goals of the TDR program.

The proposed change would allow TDRs to be sold across C-3 Districts. The Department believes the market for TDRs is currently gridlocked. By allowing increased flexibility, more properties will be able to sell and use the TDR market.

**1. The Way It Is Now:**

Development rights can be transferred when:

- The Transfer Lot and the Development Lot are located in the same C-3 Zoning District; or
- The Transfer Lot is located in a C-3-O, or C-3-R District and the Development Lot is located in the C-3-O(SD) Special Development District; or
- When the Transfer Lot contains a Significant building and is located in the Extended Preservation District, as set forth in Section 819, or a C-3-G or C-3-S District and the Development Lot is located in the C-3-O (SD) Special District; or
- The Transfer Lot is in a C-3-R District or a District designated C-3-O (SD) in the Yerba Buena Center Redevelopment Plan and is located in the Yerba Buena Center Redevelopment Project Area and the Development Lot is located in a C-3-O District;
- The Transfer Lot is in a P District adjacent to a C-3 District and meets the requirements established in subsection (a)(4) above and the Development Lot is located in a C-3 District; or
- The Transfer Lot is located in any C-3 District and contains an individual landmark designated pursuant to Article 10 and the Development Lot is located in any C-3 District but not within a Redevelopment Agency Plan Area.

**The Way It Would Be:**

Transfer of Development Rights would be limited to the following:

- The Transfer Lot and the Development Lot are located in a C-3 Zoning District; or
- The Transfer Lot contains a Significant building and is located in the South of Market Extended Preservation District, as set forth in Section 819, District; or
- The Transfer Lot is in a P District adjacent to a C-3 District and meets the requirements established in subsection (a)(4) above and the Development Lot is located in a C-3 District; or
- The Transfer Lot is located in any C-3 District and contains an individual landmark designated pursuant to Article 10 and the Development Lot is located in any C-3 District but not within a Redevelopment Agency Plan Area.

**Basis for Recommendation:**

This change basically allows TDRs to be transferred freely throughout the C-3 District. The original restriction, which only allowed TDRs within the same C-3 District, was done to ensure that development wasn't concentrated in any one C-3 District. Since the program was enacted, a large percentage of TDRs have been transferred within the same C-3 Districts. Now that the program has been in place for 25 years and many districts in downtown have been built out, it's necessary to liberalize the controls in order to equalize the supply and demand ratio and keep the program alive.

**Limited Commercial Uses**

**1. The Way It Is Now:**

The Code does not currently allow lapsed LCUs to be reactivated once that use has been abandoned.

**The Way It Would Be:**

The proposed legislation would allow lapsed LCUs to be reinstated with Conditional Use Authorization so long as the space is located on or below the ground floor and was in commercial or industrial use prior to January 1, 1960; the subject space has not been converted to a dwelling unit; and the proposed commercial use meets all other requirements in the Code.

**Basis for Recommendation:**

The Department is often overturned at the Board of Appeals when we deny a permit for reinstating LCUs; allowing them to be reinstated through the CU process will provide a clearer and more direct process for property owners who wish to do so. This change will also provide greater convenience for residents by placing more goods and services closer to where they live, which is a hallmark and benefit of living in a dense urban environment.

The Department recommends removing the prohibition on reinstating LCUs that have been converted to residential units. Often, these spaces are not very well suited for residential units since they were originally designed as commercial spaces. Removing this provision would allow the Commission to determine whether or not the conversion is appropriate on a case by case basis, rather than making a blanket prohibition.

**Bike Parking**

The proposed changes to bike parking also don't appear to be overly controversial. They generally seek to encourage the inclusion of bike parking in new and existing buildings.

**1. The Way It Is Now:**

Bicycle parking is currently included in Gross Floor Area calculations.

**The Way It Would Be:**

Bicycle parking would no longer be included in Gross Floor Area calculations.

**Basis for Recommendation:**

Bike parking is something that the Department requires and encourages above the minimum standards. Removing bike parking for FAR calculations will remove a perceived "penalty" for including bike parking in a development and create an incentive to dedicate more space to bike parking than required.

**2. The Way It Is Now:**

Currently, the ZA enforces Bike Parking regulations. There is a \$50/day fine imposed on violations if they have not been abated within 30 days, and fines are deposited with the Department of Parking and Traffic for expenditure by and for the Department's Bicycle Program.

**The Way It Would Be:**

Under the proposed legislation, violations would be handled through the regular Planning Department enforcement procedures and fees for violating this section of the Code would be the same as any other Code violation and fees would still be collected for the MTA's Bicycle Program.

**Basis for Recommendation:**

The current provision separates out bicycle parking from the rest of the Code provisions without any clear reason. Bike parking violations should be treated like any other Code violation. To that end, the Department believes the money generated from enforcement should go to the Planning Department to cover costs associated with that enforcement, and not to the MTA's Bicycle Program.

**3. The Way It Is Now:**

Bicycle parking is required when you construct a new commercial building or when a commercial building is enlarged and has a construction cost of at least \$1,000,000.00.

**The Way It Would Be:**

The proposed legislation would require bicycle parking when a building undergoes a major change of use: any use involving half or more of the building's square footage, or 10,000 or more square feet or any increase in the amount of off-street automobile parking.

**Basis for Recommendation:**

This change helps to advance the City's goal of having 20% of trips by bike by 2012 by ensuring that bike commuters have a safe and secure place to park their bikes when they get to work.

**4. The Way It Is Now:**

Bicycle Parking is required for new retail buildings, but not new hotels.

**The Way It Would Be:**

The proposed legislation would require bike parking for new hotels under the same rules that apply to Retail Buildings.

**Basis for Recommendation:**

This change helps to advance the City's goal of having 20% of trips by bike by 2012 by encouraging hotel workers and possibly guest to commute by bicycle.

**Signs, Awnings and Canopies**

The existing sign, awning and canopy controls are unnecessarily complicated. Providing consistency in these regulations is a much needed change. While the Department generally supports these efforts, there are a couple of elements that the Department recommends moderating.

**1. The Way It Is Now:**

Section 136.1 states that awnings cannot be less than eight feet above the finished grade and no portion of any awning shall be higher than the windowsill level of the lowest story exclusive of the ground story and mezzanine, provided that no such awning shall in any case exceed a height of 16 feet or the roofline of the building to which it is attached, whichever is lower.

**The Way It Would Be:**

The existing regulations would still apply; in addition awnings would not be able to extend above the bottom of projecting upper-story window bays, or cover and belt cornice or horizontal molding. And where piers or columns define individual store front bays an awning may not cover such piers or columns.

**Basis for Recommendation:**

The goal here is to make awning controls more in line with the Kearny/Mason/Market Street awning controls, which better articulate how awnings should relate to a building. This provision also helps to simplify the Code by making awning controls consistent throughout the City.

**2. The Way It Is Now:**

The Code currently allows nonconforming signs to exist until the end of the sign's normal life.

**The Way It Would Be:**

The proposed legislation adds language to this section of the Code that states: Signs would be brought into conformance when the operation ceases, moves to another location, when a new building is constructed or at the end of the signs natural life. In addition, signs would also be required to be removed within 90 days of the business going out of business. The addition of this provision would provide the Planning Department greater ability to remove signs that are nonconforming.

**Basis for Recommendation:**

This change will help to phase out signs that no longer comply with the Planning Code, and will provide the Department with more authority to require abandoned signs be removed.

**3. The Way It Is Now:**

606(c) Signs for Limited Conforming Uses are currently regulated by the sign requirements in Residential Districts.

**The Way It Would Be:**

New regulations would be inserted into the Code that specifically cover signs for LCUs. These regulations are similar to controls for signs in NC-1 Zoning Districts with some slight variation.

**Basis for Recommendation:**

This provision would rationalize our sign controls for LCUs by modeling them after sign controls for a district (NC-1) that has a similar intensity and use types.

**4. The Way It Is Now:**

Section 607(b) Roof signs are permitted in all C, M, and PDR Districts so long as they conform to a list of specific criteria.

**The Way It Would Be:**

Roof signs would be prohibited in all C Districts; this would include the C-3 Downtown Districts and the C-2 Districts, which are generally located along the northeast waterfront and Stonestown Mall.

**Basis for Recommendation:**

Roof signs create visual clutter and add height to buildings.

**5. The Way It Is Now:**

Signs are currently allowed to be up to 100' in C-3 Districts, and 40' in all other C and M Districts.

**The Way It Would Be:**

Signs in all C and M Districts would be limited to 40' in height. This would include the C-3 Downtown Districts and the C-2 Districts, which are generally located along the Northeast Waterfront and Stonestown Mall. M Districts include the piers along the Northeast Waterfront and south of the Bay Bridge, as well as parcels located in Mission Bay, Eastern Neighborhoods and the Bayview/Hunters Point area.

**Basis for Recommendation:**

The Department doesn't find that the 100' height limit is problematic in the C-3 District given the scale of the District. It recommends either keeping the height at 100' or reducing it to no less than 60'.

**6. The Way It Is Now:**

Signs in RC Districts are regulated under Section 606, which also regulates all signs in Residential Districts.

**The Way It Would Be:**

Signs in RC Districts, which include some of San Francisco's densest neighborhoods such as the Tenderloin and areas along Van Ness Avenue, would now be regulated by the controls in Section 607.1, which currently regulates signs in NC Districts.

**Basis for Recommendation:**

This proposed change is intended to rationalize our sign controls by making them consistent throughout the City's mixed use districts.

**7. The Way It Is Now:**

Signs for Gas Stations that are attached to the gas station building can project 10 above the roof line.

**The Way It Would Be:**

Gas station signs that are attached to the building could no longer project above the roof line.

**Basis for Recommendation:**

Gas stations are the only use in the Code where this is allowed. Since free standing signs can already project above the station roof line, the Department doesn't see the need to continue allowing this exception for gas stations.

**8. The Way It Is Now:**

The Embarcadero is not included in the list of Scenic Street Special Sign District. Scenic Street Special Sign District Controls prohibit general advertising signs and signs exceeding 200 square feet in area on any portion of a property that is within 200 feet of any street included on this list. New General Advertising signs are banned in the City, but existing general advertising signs can be moved to other areas of the City, including the Embarcadero, with approval from the Planning Commission and Board of Supervisors.

**The Way It Would Be:**

The Embarcadero would be included on this list. Once on the list, signs on the Embarcadero would be restricted to 200 sq. ft. and general advertising signs would be prohibited.

**Basis for Recommendation:**

While the Department thinks it is appropriate to add the Embarcadero to the Scenic Street Special Sign District list, it is concerned about the impacts this could have on the ability of large events



**Memo to Planning Commission**  
**Hearing Date: February 9, 201**

**CASE NO. 2011.0532T**  
**Parking, Awning, Signs, Exposure,**  
**Open Space, and Limited**  
**Conforming Uses.**

along the Embarcadero, such the America's Cup, to install temporary signs during the event that don't meet the requirements of the Scenic Street Special Sign District controls. The Department believes that there should be a provision that exempts temporary signs for such events.

<b>RECOMMENDATION:</b> <b>Recommend Approval with Modifications</b>
---

**Attachments:**  
n/a

File No. 120474

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

2013 APR -1 AM 11:15

G. BLAND PLATT ASSOCIATES  
HISTORIC PRESERVATION CONSULTANTS

April 1, 2013

To: Supervisor David Chen  
From: G. Bland Platt

Re: Land Use Calendar - April 1, 2013

Item #3 - Case #120474

Because I have a standing, all-day appointment on the first Monday of the month, I cannot attend today's hearing to amend various laws re TDR's, the Transfer of Development Rights (March 19, 2013 version).

1.) Re Admin. Code Sec. 10E.1:

Page 19 - line 8 - Annual Report: Add the Historic Preservation Commission to those receiving the report

Page 21 - O: Language is insufficiently specific to be meaningful.

Page 21 - P: re TDR's - The Report should include how many Statements of Eligibility, cancellations of same and Certificates of Transfer were received and processed. For each, include the address, block and lot and name of building.

2.) Planning Code Section 128

- Subsection K - p. 15 - line 3: correct "thereafter"

- Subsection 9 - p. 8 - lines 7-13: I would like to discuss amendments here with you.

BOARD of SUPERVISORS



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

## MEMORANDUM

TO: John Rahaim, Director, Planning Department

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee  
Board of Supervisors

DATE: March 27, 2013

SUBJECT: LEGISLATION INTRODUCED

---

The Board of Supervisors' Land Use and Economic Development Committee has received the following **substitute** legislation, introduced by Supervisor Chiu on March 19, 2013:

This matter is being referred to your department/commission for informational purposes since the Planning Commission held a public hearing on March 1, 2012 (BOS File Nos. 110547 and 110548) and recommended approval by Planning Resolution No. 18553.

**File No. 120474-2**

Ordinance amending the Planning Code, Sections 128 and 819, and Administrative Code, Section 10E.1, to permit the transfer of development rights from any eligible building in a Downtown Commercial (C-3) District or the South of Market Extended Preservation District to a development site in a C-3 District; require annual reporting of buildings designated as historic resources and of transferred development rights, and requiring a Preservation, Rehabilitation, and Maintenance Plan to be submitted with an application for Certificate of Transfer instead of with an application for Statement of Eligibility; and adopting environmental findings, Section 302, findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code, Section 101.1.

If you wish to submit additional comments or reports to be considered with the legislation, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Scott Sanchez, Planning Department  
Sarah Jones, Planning Department  
AnMarie Rodgers, Planning Department  
Jonas Ionin, Secretary, Planning Commission  
Monica Pereira, Planning Department  
Joy Navarrete, Planning Department

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
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TDD/TTY No. 554-5227

## MEMORANDUM

TO: John Rahaim, Director, Planning Department  
Linda Avery, Secretary, Planning Commission

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee  
Board of Supervisors

DATE: May 17, 2012

SUBJECT: LEGISLATION INTRODUCED

---

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation introduced by Supervisor Chiu on May 8, 2012.

This matter is being referred to your department and commission for informational purposes only since the Planning Commission held a public hearing on March 1, 2012 (BOS File Nos. 110547 and 110548) and recommended approval by Planning Resolution No. 18553.

### **File No. 120474**

Ordinance amending the San Francisco Planning Code Sections 128 and 819 to permit the transfer of development rights from any eligible building in a Downtown Commercial (C-3) District or the South of Market Extended Preservation District to a development site in a C-3 District; and adopting environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

If you wish to submit any comments or reports, please forward those to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Bill Wycko, Chief, Major Environmental Analysis  
Scott Sanchez, Zoning Administrator  
AnMarie Rodgers, Manager, Legislative Affairs  
Monica Pereira, Environmental Planning  
Joy Navarrete, Environmental Planning

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date

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

- 1. For reference to Committee.  
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ 120474 ]
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission       Youth Commission       Ethics Commission
- Planning Commission       Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative**

**Sponsor(s):**

Supervisor David Chiu

**Subject:**

Planning Code, Administrative Code – Transfer of Development Rights

**The text is listed below or attached:**

See attached.

Signature of Sponsoring Supervisor: David Chiu

For Clerk's Use Only:

120474 ✓

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date

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

- 1. For reference to Committee:
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- 8. Substitute Legislation File No.
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a different form.**

**Sponsor(s):**

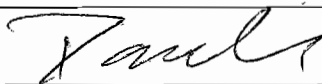
Supervisor Chiu

**Subject:**

Planning Code – Transfer of Development Rights

**The text is listed below or attached:**

Ordinance amending the San Francisco Planning Code by 1) amending Sections 128 and 819 to permit the transfer of development rights from any eligible building in a Downtown Commercial (C-3) District or the South of Market Extended Preservation District to a development site in a C-3 District; and 2) adopting environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only: