File No. 120715 Committee Item No. 5
Board Item No. 8

# COMMITTEE/BOARD OF SUPERVISORS

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**Committee:** Land Use and Economic Development **Date** July 23, 2012

**Board of Supervisors Meeting** **Date** July 31, 2012

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| ☒ | ☒ | Environmental Review Determination, dtd 7/5/12 |
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| ☒ | ☒ | Planning Commission Resolution No. 18615 |
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| ☐ | ☐ | |

**Completed by:** Alisa Miller **Date** July 20, 2012
**Completed by:** Derek Evans **Date** July 24, 2012

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

FILE NO. 120715 ORDINANCE NO.

[Planning Code - Limited Commercial Uses in Residential Districts]

**Ordinance amending the San Francisco Planning Code Section 186 to allow for reactivation of limited commercial uses in RH, RM, RTO, and RED districts under a conditional use authorization and amending Section 231 to allow for greater size and depth from the corner for limited corner commercial uses in RM-3 and RM-4 districts; and making findings, including environmental findings and findings of consistency with the General Plan and Planning Code Section 101.1.**

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

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

Section Findings. The Board of Supervisors of the City and County of San Francisco hereby finds and determines that:

(a) General Plan and Planning Code Findings.

(1) On March 1, 2012, at a duly noticed public hearing, the Planning Commission in Resolution No. 18553 found that the proposed Planning Code amendments to section 186 contained in this ordinance were consistent with the City's General Plan and with Planning Code Section 101.1(b). On May 3, 2012, at a duly noticed public hearing, the Planning Commission in Resolution No. 18615 found that the proposed Planning Code amendments to section 231 contained in this ordinance were consistent with the City's General Plan and with Planning Code Section 101.1(b). In addition, the Planning Commission recommended that the Board of Supervisors adopt the proposed Planning Code amendments. Copies of said Resolutions are on file with the Clerk of the Board of Supervisors in File No.

120715 and are incorporated herein by reference. The Board finds that the proposed Planning Code amendments contained in this ordinance are on balance consistent with the City's General Plan and with Planning Code Section 101.1(b) for the reasons set forth in said Resolutions.

(2) Pursuant to Planning Code Section 302, the Board finds that the proposed ordinance will serve the public necessity, convenience and welfare for the reasons set forth in Planning Commission Resolution Nos. 18553 and 18615, which reasons are incorporated herein by reference as though fully set forth.

(b) Environmental Findings. The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 120715 and is incorporated herein by reference.

Section 2. The San Francisco Planning Code is hereby amended by amending section 186, to read as follows:

SEC. 186. EXEMPTION OF LIMITED COMMERCIAL AND INDUSTRIAL NONCONFORMING USES IN RH, RM, RTO, AND RED DISTRICTS.

The purpose of this Section is to provide for the further continuance in RH, RM, RTO, and RED Districts of nonconforming uses of a limited commercial and industrial character, as herein described, which are beneficial to, or can be accommodated within, the residential areas in which they are located. It is hereby found and declared that, despite the general incompatibility of nonconforming uses with the purposes of this Code, and with other nearby uses, these limited commercial uses may be tolerated in residential areas, and 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 or, within the South of Market RED Districts, tend to provide jobs and continuation of small scale service and light industrial activities. These uses tend to be small in scale, to serve primarily a walk-in trade, and cause a minimum of interference with nearby streets and properties. Accordingly, this Section recognizes the public advantages of these uses and establishes conditions for their continued operation.

(a) *Exemption from Termination Provisions.* The following nonconforming uses in R Districts shall be exempt from the termination provisions of Section 185, provided such uses comply with all the conditions specified in Subsection (b) below:

(1) Any nonconforming use at any story in an RH or RM District which is located more than ¼ mile from the nearest Individual Area Neighborhood Commercial District or Restricted Use Subdistrict described in Article 7 of this Code, and which complies with the use limitations specified for the first story and below of an NC-1 District, as set forth in Sections 710.10 through 710.95 of this Code.

(2) Any nonconforming use in an RH or RM District which is located within ¼ mile from any Individual Area Neighborhood Commercial District or restricted use subdistrict and which complies with the most restrictive use limitations specified for the first story and below of:

(A) NC-1 District, as set forth in Sections 710.10 through 710.95 of this Code; and

(B) Any Individual Area Neighborhood Commercial District within ¼ mile of the use, as set forth in Sections 714.10 through 729.95 of this Code;

(C) Any Restricted Use Subdistrict within ¼ mile of the use, as set forth in Sections 781 through 781.7 of this Code.

(3) In the RED Districts, any nonconforming use which is a personal service use falling within zoning category 816.31; home and business service use falling within zoning

categories 816.42 through 816.47; live/work unit falling within zoning category 816.55; wholesale sales, storage or light manufacturing uses falling within zoning categories 816.64 through 816.67.

(b) *Conditions on Limited Nonconforming Uses.* The limited nonconforming uses described above shall meet the following conditions:

(1) The building shall be maintained in a sound and attractive condition, consistent with the general appearance of the neighborhood;

(2) Any signs on the property shall be made to comply with the requirements of Article 6 of this Code applying to nonconforming uses;

(3) The hours during which the use is open to the public shall be limited to the period between 6:00 a.m. and 10:00 p.m.;

(4) Public sidewalk space may be occupied in connection with the use provided that it is only occupied with tables and chairs as permitted by this Municipal Code;

(5) Truck loading shall be limited in such a way as to avoid undue interference with sidewalks, or with crosswalks, bus stops, hydrants and other public features;

(6) Noise, odors and other nuisance factors shall be adequately controlled; and

(7) All other applicable provisions of this Code shall be complied with.

(c) Formula Retail Uses. All uses meeting the definition of "formula retail" use per Section 703.3(b) shall not be permitted except by ~~*Conditional Use*~~ *conditional use authorization under* ~~*through*~~ the procedures of Section 303 of this Code.

(d) Street Frontage. In addition to the requirements of Section 144 of this Code, the requirements of Section 145.1(c)(6) and (7) shall apply.

(e) Awnings. Awnings are permitted, subject to the standards ~~*for an NC-1 District*~~ in Section 136.1(a) of this Code. Canopies and marquees are not permitted.

(f) *Termination.* Any use affected by this Section which does not comply with all of the conditions herein specified shall be subject to termination in accordance with Section 185 at the expiration of the period specified in that Section, but shall be qualified for consideration as a conditional use under Section 185(e). Any such use which is in compliance with such conditions at the expiration of such period but fails to comply therewith at any later date shall be subject to termination when it ceases to comply with any of such conditions.

(g) *Reactivation. Limited commercial uses in RH, RM, RTO, and RED Districts that have been discontinued or abandoned, as defined in Section 183, may be reactivated with conditional use authorization under Section 303. In approving such a use and in addition to the findings required by Section 303, the Planning Commission shall find that:*

*(1) the subject space is located on or below the ground floor and was in commercial or industrial use prior to January 1, 1960; and*

*(2) the proposed commercial use meets all the requirements of this section and other applicable sections of this Code.*

*(h) Other Applicable Provisions.* The provisions for nonconforming uses contained in Sections 180 through 183 shall continue to apply to all uses affected by this Section 186, except that the cost limit for structural alterations contained in Section 181(b)(4) shall not be applicable thereto.

Section 3. The San Francisco Planning Code is hereby amended by amending section 231, to read as follows:

SEC. 231. LIMITED CORNER COMMERCIAL USES IN RTO AND RM DISTRICTS.

(a) Purpose. Corner stores enhance and support the character and traditional pattern of RTO and RM Districts. These small neighborhood-oriented establishments

provide convenience goods and services on a retail basis to meet the frequent and recurring needs of neighborhood residents within a short walking distance of their homes. These uses tend to be small in scale, to serve primarily walk-in trade, and cause minimum interference with nearby streets and properties. These uses are permitted only on the ground floor of corner buildings, and their intensity and operating hours are limited to ensure compatibility with the predominantly residential character of the district. Accessory off-street parking is prohibited for these uses to maintain the local neighborhood walk-in character of the uses.

(b) Location. Uses permitted under this section must be located:

(1) completely within an RTO, RTO-M, RM-3, or RM-4 District;

(2) on or below the ground floor; and

(3) *in RTO and RTO-M Districts,* on a corner lot as defined by Section 102.15, with no part of the use extending more than 50 feet in depth from said corner, as illustrated in Figure 231.

[This parenthetical is not codified: Figure 231 to be relocated here.]

*(4) in RM-3 and RM-4 Districts, on a corner lot as defined in Section 102.15, with no part of the use extending more than 100 feet in depth from said corner.*

(c) Permitted Uses. Any use is permitted which complies with the most restrictive use limitations for the first story and below of an NC-1 District, as set forth in Sections 710.10 through 710.95 of this Code.

(d) Use Size. No more than 1,200 occupied square feet of commercial area *in a RTO or RTO-M District and no more than 2,500 occupied square feet of commercial area in a RM-3 or RM-4 District* shall be allowed per corner lot, except those lots which occupy more than one corner on a given block and which may provide an additional 1,200 occupied square

feet of commercial area per additional corner, so long as the commercial space is distributed equitably throughout appropriate parts of the parcel or project.

(e) Formula Retail Uses. All uses meeting the definition of "formula retail" use per Section 703.3(b) shall not be permitted except by Conditional Use through the procedures of Section 303.

[This parenthetical is not codified: Figure 231, entitled "Limitations on Corner Retail in RTO and RM Districts", to be deleted here and moved to follow section (b)(3), above.]

(f) Parking. No accessory parking shall be permitted for uses permitted under this Section.

(g) Operating Hours. The hours during which the use is open to the public shall be limited to the period between 6:00 a.m. and 10:00 p.m.

(h) Conditions. Any uses described above shall meet all of the following conditions:

(1) The building shall be maintained in a sound and attractive condition, consistent with the general appearance of the neighborhood.;

(2) Any signs on the property shall comply with the requirements of ~~*Article 6*~~*Section 606* of this Code ~~*pertaining to NC-1 Districts.*~~;

(3) Truck loading shall be limited in such a way as to avoid undue interference with sidewalks, or with crosswalks, bus stops, hydrants and other public features;

(4) Noise, odors and other nuisance factors shall be adequately controlled; and

(5) The use shall comply with all other applicable provisions of this Code.

(i) Street Frontage. In addition to the street frontage requirements of Section 144, the following provisions of Section 145.1 shall apply to the street frontage dedicated to limited commercial uses permitted by this section: active uses per Section 145.1(c)(3);

transparency and fenestration per Section 145.1(c)(6); and grates, railing, and grillework per Section 145.1(c)(7).

(j) ~~I~~ Awnings. Awnings are permitted, subject to the standards ~~*for an NC-1 District*~~ in Section 136.1(a) of this Code. Canopies and marquees are not permitted.

Section 4. Effective Date. This section is uncodified. This ordinance shall become effective 30 days from the date of passage.

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

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

By: _____
MARLENA G. BYRNE
Deputy City Attorney

FILE NO. 120715

## LEGISLATIVE DIGEST

[Planning Code - Limited Commercial Uses in Residential Districts]

**Ordinance amending the San Francisco Planning Code Section 186 to allow for reactivation of limited commercial uses in RH, RM, RTO, and RED districts under a conditional use authorization and amending Section 231 to allow for greater size and depth from the corner for limited corner commercial uses in RM-3 and RM-4 districts; and making findings, including environmental findings and findings of consistency with the General Plan and Planning Code Section 101.1.**

### Existing Law

Under Section 186 of the Planning Code, certain non-conforming commercial uses may continue to operate within certain residentially zoned districts—specifically in RH (Residential, House), RM (Residential, Mixed), RTO (Residential, Transit-Oriented Neighborhood), and RED (Residential Enclave) Districts—as long as those uses are permitted in NC-1 (Neighborhood Commercial Cluster) Districts and subject to certain conditions. If these commercial uses become inactive for three years, they can not be reestablished.

Under Section 231 of the Planning Code, certain new commercial uses may be established on a corner lot in higher density residential districts—specifically in RTO (Residential, Transit-Oriented Neighborhood) , RTO-M (Residential, Transit-Oriented-Mission Neighborhood), RM-3 (Residential, Mixed, Medium Density), and RM-4 (Residential, Mixed, High Density) Districts. These commercial uses may not exceed 1200 square feet in size or extend more than 50 feet from the street corner.

### Amendments to Current Law

Under the proposed ordinance, Section 186 would be amended to allow certain lapsed nonconforming commercial uses to be reestablished in RH, RM, RTO, and RED Districts if the use is located on or below the ground level, was commercial prior to January 1, 1960, and conforms to all other requirements of the Planning Code.

Under the proposed ordinance, Section 231 would be amended to allow certain commercial uses on corners in RM-3 and RM-4 districts up to 2500 square feet in size and up to 100 feet from the street corner.

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

June 29, 2012

**File No. 120715**

Bill Wycko
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Mr. Wycko:

On June 19, 2012, Supervisor Chiu introduced the following proposed legislation:

**File No. 120715**

Ordinance amending the San Francisco Planning Code Section 186 to allow for reactivation of limited commercial uses in RH, RM, RTO, and RED districts under a conditional use authorization and amending Section 231 to allow for greater size and depth from the corner for limited corner commercial uses in RM-3 and RM-4 districts; and making findings, including environmental findings and findings of consistency with the General Plan and Planning Code Section 101.1.

This legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board
By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

Categorical Exemption
CEQA Section 15301
Existing Facilities
July 5, 2012

SAN FRANCISCO
**PLANNING DEPARTMENT**

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

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**415.558.6378**

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**415.558.6409**

Planning
Information:
**415.558.6377**

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.**

*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 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.

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**

1650 Mission St.
Suite 400
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# Planning Commission Resolution
# No 18553

**HEARING DATE: MARCH 1, 2012**

| | |
|---|---|
| *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<br>aaron.starr@sfgov.org, 415-558-6362 |
| *Reviewed by:* | AnMarie Rodgers, Manager Legislative Affairs<br>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**

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| | |
|---|---|
| *Project Name:* | Amendments relating to:<br>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<br>aaron.starr@sfgov.org, 415-558-6362 |
| *Reviewed by:* | AnMarie Rodgers, Manager Legislative Affairs<br>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 DICSUCCION

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 thought 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 reinstituting 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 reinstituting 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.

<u>Signs, Awnings and Canopies</u>

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 exists 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 thought 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

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.

| RECOMMENDATION: | Recommend Approval with Modifications |
|---|---|

**Attachments:**
n/a

# SAN FRANCISCO
# PLANNING DEPARTMENT

May 31, 2012

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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 2011.0533Z and 2011.0532T**
**BF No. 11-0547 and 11-0548: Parking, Awning, Signs, Exposure, Open Space, and Limited Conforming Uses.**

*Recommendation:* **Approval with Modifications**

Dear Supervisor Chiu and Ms. Calvillo,

On May 3, 2012 and May 17, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearings at a regularly scheduled meeting to consider Phases Two and Three of the proposed Ordinances under Board of Supervisors File Number 11-0547 and 11-0548.

At the May 3rd Hearing, the Commission voted 6-1 to recommend approval with modifications of Phase Two of the proposed Planning Code Text Amendments (Ordinance 11-0548) and voted 6-0, with Commissioner Fong recused, to recommend approval with modifications of Phase Two of the proposed Zoning Map Amendments (Ordinance 11-0547).

At the May 17th Hearing, the Commission voted 5-1 to recommend approval with modifications of Phase Three of the proposed Planning Code Text Amendments (Ordinance 11-0548) and voted 6-0 to recommend approval with modifications of Phase Three of the proposed Zoning Map Amendments (Ordinance 11-0547).

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 Attorneys Judith Boyajian and Marlena Byrne

Attachments (one copy of the following): Planning Commission Resolution Nos. 18615, 18616, 18626 and 18627
Department Executive Summaries for Phases Two and Three for both the Planning Code and Zoning Map Amendments.

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# Planning Commission Resolution No. 18615

**HEARING DATE: MAY 3, 2012**

| | |
|---|---|
| *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<br>aaron.starr@sfgov.org, 415-558-6362 |
| *Reviewed by:* | AnMarie Rodgers, Manager Legislative Affairs<br>anmarie.rodgers@sfgov.org, 415-558-6395 |
| *Recommendation:* | **Recommend Approval with Modifications of "Phase Two" Including the Topics of Automotive Uses, Limited Corner Commercial Uses (LCCUs), Accessory Uses, Non-Conforming Uses, and Washington Broadway and Waterfront SUDs.** |

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 December 15, 2011, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; 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: The C-3 parking changes, Affordable Housing FAR exemptions, 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 on March 1, 2012, the Planning Commission considered a portion of the proposed Ordinance, herein referred to as "Phase One", covering the subject areas of Clerical and Minor Modifications, Transfer of Development Rights (TDRS), Limited Commercial Uses, Bike Parking, and Signs; and

Whereas, at the March 1, 2012 hearing, the Commission recommended approval with modifications of Phase One in Resolution Number 18553; and

Whereas, at this same hearing the Commission requested that the remainder of the proposed Ordinance be brought back for two later hearings; and

Whereas, the Commission requested that the next hearing consider the "Phase Two" topics of the same proposed Ordinance including the topics of changes to Automotive Uses, Limited Corner Commercial

Uses (LCCUs), Accessory Uses, Non-Conforming Uses, Washington Broadway and Waterfront SUDs and the Van Ness Avenue SUD; and

Whereas, the Commission further requested that the remainder of the topics of the proposed Ordinance be considered at a later hearing called "Phase Three" that would include the topics of changes to Parking, Opens Space for Commercial Uses, Gross Floor Area and Floor Area Ratio, Streetscape Improvements, Transportation Management, and Powers of the Zoning Administrator; and

Whereas, this hearing is to consider the topics described as "Phase Two"; and

Whereas, the Commission requested that the proposed Changes to the Van Ness SUD which include parking ratio modifications, the elimination of the Van Ness Sign District and the Van Ness Special Sign District for illumination be brought back to the Commission under Phase Three; 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 hearing 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** Phase Two of the proposed ordinance. Specifically, the Commission recommends the following modifications:

**Auto Uses**

1. Modifying the proposed controls for parking lots in Section 223(l) - "parking lots" - for the C-2 District from "prohibited" to "Conditional Use Authorization".
2. Modify proposed Section 223(o) to require a CU for Storage Yards for Commercial Vehicles or Trucks in C-M Districts rather than prohibiting them outright.

**LCCUs**

3. Do not amend Section 231 to allow LCCUs to have 2,500 sq. ft. or allow them within 100' of a corner. This proposed change should be reviewed when the Market and Octavia Plan undergoes its scheduled 5 year review.
4. Do not add proposed Section 231(k), which requires Conditional Use authorization when converting a dwelling unit to establish a Limited Corner Commercial Use. Dwelling unit conversions are already controlled by Section 317.

Nonconforming Uses

5. Modify the proposed changes to Section 182 so that a nonconforming use can only be converted to one dwelling unit as of right, and require a CU for the conversion of more than one dwelling unit, and remove the provision that allows a non-conforming use to be converted to group housing as of right.

6. Add the following modifications to Section 184 to clarify when surface parking lots would need to cease operation:

   Any nonconforming commercial or industrial use of land where no enclosed building is involved in such use~~, *except for permanent off street parking lots in the C-3-O, C-3-R, C-3-G Districts existing on the effective date of Ordinance 414-85, provided that such lots are screened in the manner required by Section 156(e)*~~ shall be eliminated no later than five years and 90 days from the effective date of Ordinance No. [INSERT];

7. Modify Planning Code Section 156 to allow for a 5 year temporary use permit instead of a 2 year temporary use permit.

   ~~*(f)(h)*~~ No permanent parking lot shall be permitted in C-3-*O*, *C-3-R*, *C-3-G* and NCT Districts; temporary parking lots may be approved as conditional uses pursuant to the provisions of Section 303 for a period not to exceed two years from the date of approval ***in NCT Districts and five years from the date of approval in C-3 Districts***; permanent parking lots in C-3-S Districts shall be permitted only as a conditional use.

Washington-Broadway SUD

8. Remove the provision in the proposed Ordinance that would change surface parking lots from a conditional use to "not permitted."

## 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. San Francisco's Planning Code has provided for reduced parking requirements in dense and transit-rich neighborhoods since the 1960s, as a way of reducing traffic congestion, encouraging walking, cycling, and public transit, and making efficient use of scarce land;

2. 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;

3. Off-street parking facilities increase building costs, which in turn are transferred to costs of housing and doing business. As a land use, off-street parking facilities compete with and displace land uses that provide greater social and economic benefit to the city;

4. A basic assumption of the Transportation Element is that a desirable living environment and a prosperous business environment cannot be maintained if traffic levels continue to increase in any significant way. A balance must be restored to the city's transportation system, and various methods must be used to control and reshape the impact of automobiles on the city. This includes limiting the city's parking capacity, especially long-term parking in commercial areas;

5. On October 26, 2010 the Board of Supervisors adopted the goal of having 20% of trips by bike by the year 2020;

6. The City of San Francisco's Housing Element seeks to remove unnecessary constraints to the construction and rehabilitation of housing;

7. 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.

8. 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;

9. Small businesses that combine office, production, retail, and even residential uses are increasingly common in San Francisco, but frequently do not fit into traditional zoning categories. Creating more flexibility in zoning around accessory uses will help add to the vibrancy of the City's neighborhoods and to the City's diverse economic base;

10. 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;

11. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

I. HOUSING ELEMENT

OBJECTIVE 1
IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

POLICY 1.6
Consider greater flexibility in number and size of units within established building envelopes in community based planning processes, especially if it can increase the number of affordable units in multi-family structures.

POLICY 1.10
Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

OBJECTIVE 8
BUILD PUBLIC AND PRIVATE SECTOR CAPACITY TO SUPPORT, FACILITATE, PROVIDE AND MAINTAIN AFFORDABLE HOUSING.

OBJECTIVE 12
BALANCE HOUSING GROWTH WITH ADEQUATE INFRASTRUCTURE THAT SERVES THE CITY'S GROWING POPULATION

Policy 12.1
Encourage new housing that relies on transit use and environmentally sustainable patterns of movement.

*Phase Two of the proposed Ordinance changes Section 182 to allow "any nonconforming use to be converted to dwelling units or to group housing, in a district where such use is principally permitted, without regard to the requirements of this Code with respect to residential density or required off-street parking." The Commission finds that this change is too broad because it allows any nonconforming use in any Zoning District where housing and group housing are principally permitted to be converted to an unspecified number of dwelling units. The Commission believes that one housing unit is acceptable, but anything more than that should require Conditional Use Authorization. The Commission also feels that that group housing should be excluded from this section.*

II. 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 Two of the proposed Ordinance would exempt Automotive Service Stations that are located on Primary Transit Streets or Citywide Pedestrian Network Streets from the conversion process for Automotive Service Station and guide decision makers to consider General Plan polices during this conversion. Similarly, changes recommended by this Commission to require Conditional Use authorization for certain parcel delivery service and storage yards would still permit the use, but provide greater oversight to ensure that the district is still able to serve its primary function.*

OBJECTIVE 7
DEVELOP A PARKING STRATEGY THAT ENCOURAGES SHORT-TERM PARKING AT THE PERIPHERY OF DOWNTOWN AND LONG-TERM INTERCEPT PARKING AT THE PERIPHERY OF THE URBANIZED BAY AREA TO MEET THE NEEDS OF LONG-DISTANT COMMUTERS TRAVELING BY AUTOMOBILE TO SAN FRANCISCO OR NEARBY DESTINATIONS.

**Policy 7.1**
Reserve a majority of the off-street parking spaces at the periphery of downtown for short term parking.

*Phase Two of the proposed Ordinance with the recommended modifications would increase scrutiny of parking lots in the C-2 district, by adding a requirement for Conditional Use authorization.*

IV. MARKET & OCTAVIA AREA PLAN
In order to track implementation, the Planning Department will monitor vital indicators.

*The existing controls for LCCUs were developed as part of an eight year community planning processes about what should be permitted in an RTO district. The intent of the corner store in these districts was to allow for neighborhood serving uses, with a very limited capacity and impact on the residential context. Accordingly the Commission feels that leaving the controls as currently drafted is appropriate. The Commission generally recommends that ideas specific to the community planning efforts be continued through the initial five-year post-plan adoption period, which for the Market Octavia Plan ends May 2013. The Planning Code provides an avenue for re-evaluating these controls after five years. It should be noted that while the LCCU concept was originated with the community planning efforts, these controls currently apply outside of the plan areas in the RM-3 and RM-4 districts.*

IV. NORTHEAST WATERFRONT AREA PLAN

**Policy 8.2**
Limit additional parking facilities in the northeastern waterfront and minimize the impact of this parking. Discourage long-term parking for work trips which could be accommodated by transit.

Restrict additional parking to: (a) short-term (less than four hour) parking facilities to meet needs of additional business, retail, restaurant, marina, and entertainment activities; (b) long-term parking facilities for maritime activities, hotel and residential uses. To the extent possible, locate parking away from areas of intense pedestrian activity. Encourage shared parking at adjacent or nearby facilities.

**Policy 8.6**
Remove or relocate inland those existing parking facilities on or near the water's edge or within areas of intense pedestrian activity.

*Phase Two of the proposed Ordinance allows parking for any principle or conditional use to be waived by the Zoning Administrator per Code Section 161 in all three Waterfront Special Use Districts. The proposed changes are consistent with the way the Code treats other high density, mixed use districts. While the three SUDs vary slightly, their overall character and location are similar enough that they should all be subject to parking waivers under Section 161.*

COMMERCE AND INDUSTRY ELEMENT

**Policy 6.1**
Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

*Phase Two of the proposed legislation would change the specific restriction, such as horse power, to performance based restrictions (i.e, no noise, vibration or unhealthful emissions beyond the premises). This change replaces arbitrary numerical limits with performance standards to limit disturbances to neighbors. The horsepower limits currently established in the Code can be violated by standard vacuums or coffee grinders. Limiting the number of employees as well as the allowable floor area adds an additional layer of restrictions that isn't necessary if the size restriction already ensures that the use is accessory to the main use.*

12. 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 Two of the proposed Ordinance will not have any negative impact on neighborhood-serving retail uses.*

    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 Two of the proposed Ordinance would allow nonconforming uses to convert to housing without regard to specific requirements in the Planning Code, which will help add housing and preserve neighborhood character by allowing existing buildings to be more easily adapted to new uses.*

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

*Phase Two of the proposed Ordinance will not have a negative impact on the City's supply of affordable housing.*

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

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

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 Two 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 the proposed amendments. 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 Two of the proposed ordinance would allow Landmark and historic buildings to be adaptively reused more easily by exempting them from certain provisions in the Planning Code, which would reduce the amount of change that is required to add housing to historic buildings and help preserve them for the future.*

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 the proposed amendments. 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 May 3, 2012

Linda Avery
Commission Secretary

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

NAYS: Commissioner Sugaya

ABSENT: None

ADOPTED: May 3, 2012

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# Executive Summary
## Planning Code Text Change
**HEARING DATE: MAY 3, 2012**

| | |
|---|---|
| *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<br>aaron.starr@sfgov.org, 415-558-6362 |
| *Reviewed by:* | AnMarie Rodgers, Manager Legislative Affairs<br>anmarie.rodgers@sfgov.org, 415-558-6395 |
| *Recommendation:* | **Recommend Approval with Modifications Of "Phase Two" Including the Topics of Automotive Uses, Limited Corner Commercial Uses (LCCUs), Accessory Uses, Non-Conforming Uses, Washington Broadway and Waterfront SUDs and the Van Ness Avenue SUD** |

## PLANNING CODE AMENDMENT

The proposed Ordinance would amend the San Francisco Planning Code (herein after "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 Code Section 101.1.

At the Planning Commission's March 1st hearing, the Commission voted to break up the proposed legislation into three phases.

- Phase One includes Clerical and Minor Modifications, Transfer of Development Rights (TDRS), Limited Commercial Uses, Bike Parking, and Signs. On these topics, the Planning Commission recommended approval with modifications in Resolution Number 18553 on March 1, 2012.
- Phase Two includes changes to Automotive Uses, Limited Corner Commercial Uses (LCCUs), Accessory Uses, Non-Conforming Uses, Washington Broadway and Waterfront SUDs and the Van Ness Avenue SUD. Proposed for hearing on April 12, 2012. This memorandum addresses the topics in Phase Two.
- Phase Three includes changes to Parking, Opens Space for Commercial Uses, Gross Floor Area and Floor Area Ratio, Streetscape Improvements, Transportation Management, and Powers of the Zoning Administrator. Proposed for hearing on April 19, 2012.

## Questions Raised From Last Hearing

The Planning Commission requested more information on several items at the April 12 hearing. Staff has provided more clarification for these issues in the body of this report. The topics include:

1) Provide more explanation on why the Accessory Use provisions are proposed to be changed and examples of what types of uses might benefit from a larger allowable accessory use size;
2) Analyze the impact that removing Chinatown from the Washington-Broadway SUD would have on controls in Chinatown;
3) Describe any discrepancy in the maps provided for the Washington-Broadway SUD;
4) Provide more information about the status of the C-M Zoning Districts and whether or not lots zoned C-M will be rezoned.
5) Provide more analysis on the impacts of removing the Van Ness Special Sign District.

### 1) Accessory Use Provisions

The proposed legislation seeks to rationalize the Planning Code by standardizing accessory use controls among zoning districts that have similar characteristics. For example, all districts that allow for a mix of uses will allow ⅓ of the total floor area to be used as an accessory use, while districts that are primarily residential will allow ¼ of the floor area to be used as accessory use. The proposed Ordinance *would increase* the accessory use allowance for two primarily mixed use districts: Residential Commercial (RC) and Commercial (C). This change would align the allowance with similar mixed use districts such as Neighborhood Commercial (NC). The proposed ordinance *would not change* the accessory use allowance for any other districts, including districts that are primarily residential. Please see the chart on the following page for a more detailed explanation.

## Comparison of Accessory Use Controls by Zoning District

| Existing Controls | | Proposed Controls | |
|---|---|---|---|
| 1/4 | 1/3 | 1/4 | 1/3 |
| Residential House (RH) | Production Distribution Repair (PDR) | Residential House (RH) | Production Distribution Repair (PDR) |
| Residential Mixed (RM) | Neighborhood Commercial (NC) | Residential Mixed (RM) | Neighborhood Commercial (NC) |
| Residential Transit Oriented (RTO) | | Residential Transit Oriented (RTO) | Residential Commercial (RC) |
| Residential Enclave District (RED) | | Residential Enclave District (RED) | Commercial (C) |
| Residential Commercial (RC) | | | |
| Commercial (C) | | | |

Primarily residential districts

Districts with a mix of uses

*NOTE: This table illustrates that the proposed Ordinance would create a uniform control where mixed-use districts would be allowed to have up to 1/3 of the floor area devoted to accessory use, while primarily residential districts could only have up to 1/4 of the floor area devoted to accessory use.*

Examples of uses that could benefit from the increased accessory use size are:

- Research offices that also want to have a small lab as an accessory use.
- Coffee stores that want to roast coffee for wholesale distribution to other businesses.
- Post video production houses that might also want to have a small sound stage to create content.

**2) Impacts on Removing Chinatown from the Washington-Broadway SUD**

The proposed Ordinance seeks to combine both Washington-Broadway SUDs into 1 SUD, and remove any parcels on the southwest side of Columbus from the combined Washington-Broadway SUD. This would effectively remove lots located in Chinatown from the Washington-Broadway SUD. Because many of the controls for Chinatown already do what the Washington Broadway SUD seeks to do, Staff's determination is that there would be little to no change to the controls in Chinatown if it were removed from the Washington-Broadway SUD. The proposed change appears to be cleaning up the Code by removing unnecessary or duplicative provisions. Further the proposed Ordinance contains fixes in Phase 3 to parking controls that would clear up confusion about existing parking controls in Chinatown. Please see the chart on the following page for a more detailed explanation.

| Provisions of Washington-Broadway SUDs 1 and 2 | Current Code Language | Impact if Legislation Passes |
|---|---|---|
| (a) There shall be certain exemptions from off-street parking requirements, as provided in Section 161(d) of this Code. | In general, parking is not required for any use in Chinatown per Section 151 and Article 8. The one exception is development on lots that are larger than 20,000 sq.ft. in the Chinatown Community Business (CCB) District. | Removing Chinatown from the Washington Broadway SUD would have little impact on this issue. Further, Phase 3 of this Ordinance would remove all minimum parking requirements from Chinatown. |
| (b) No permitted use shall include an establishment of the "drive-in" type, serving customers waiting in parked motor vehicles, with the exception of automobile service stations. | Per Article 8, Drive Up facilities are not permitted in any Chinatown District | Removing Chinatown from the Washington Broadway SUD would have no impact on this issue. |
| (c) A parking lot, or a storage garage open to the public for passenger automobiles if not a public building requiring approval by the Board of Supervisors under other provisions of law, shall be permitted only upon approval by the Planning Commission as a conditional use under Section 303 of this Code. | Per Article 8, non-accessory parking lots and storage garages open to the public either require Conditional Use or are prohibited. Accessory parking lots are permitted as of right. | Removing Chinatown from the Washington Broadway SUD would have little impact on this issue. Accessory surface parking lots would be permitted as of right. |
| (d) In Washington-Broadway Special Use District Number 2 only, a wholesale establishment conducted entirely within an enclosed building shall be permitted as a principal use. | Chinatown is not included in the Washington-Broadway SUD 2 | Removing Chinatown from the Washington-Broadway SUD would have no impact on this issue |

*NOTE: This table illustrates that the proposed Ordinance would generally have little to no impact on Chinatown as the Chinatown Districts currently contain duplicative controls as the Washington-Broadway SUD.*

**3) Describe any discrepancy in the Washington-Broadway maps**

The maps provided by staff at the last hearing correctly describe the proposed Ordinance as drafted. The map attached the 2011.0533Z Case Report for the associated Ordinance No. Board File No. 11-0577 illustrates the text description from the Ordinance. (See Case Report 2011.0533Z Exhibit B: Exhibit C: Proposed Conditions Map)

The draft Ordinance states:

> "Section 2. Pursuant to Sections 106 and 302(c) of the Planning Code, the following amendments to Sheet SU01 of the Zoning Map of the City and County of San Francisco, duly approved and recommended to the Board of Supervisors by the Planning Commission, are hereby adopted:

Description of Property to be added to Washington-Broadway Special Use District 1

Blocks 0165, 0166, 0173, 0174, 0175, 0196, and 0197; all lots zoned C-2 on Blocks 0163, 0164, 0176, and 0195."

However, it appears the proposed Ordinance was drafted in conflict with the associated legislative digest. The legislative digest states:

"Consolidate the two Washington-Broadway SUDs into a single district, limited to the C-2 zoned areas between Washington and Broadway Streets."

It is our understanding that Supervisor Chiu intended to make the change described in the *legislative digest* not that described in the draft Ordinance.

**4) Heavy Commercial (C-M) Zoning Districts**

There are a few lots zoned still zoned C-M in the City. Most of these lots are south of market along Mission Street, while one lot is located on the western boarder of Bernal Heights (See Exhibits B and C). The rezoning these lots is currently being evaluated as part of the Western SOMA EIR; however not all C-M lots are actually located within the Western SOMA boundaries. Because there parcels are included in an EIR that is currently underway, the EIR will need to be certified before the parcels may be rezoned. The Western SOMA plan does not include a proposal to rezone C-M lots not located within the Western SOMA boundaries, so once the EIR is complete additional legislation would have to be introduced to rezone the C-M lots still in existence.

**5) Van Ness Special SUD**

The Department respectfully requests that the Commission consider the Van Ness SUD during Phase 3, currently scheduled for May 17, 2012. The Department seeks to continue our review of this item so that we can provide a more thorough impact analysis of the proposed change.

## Summary of Proposed Changes (Phase Two):

**Automotive Uses:** These amendments would have significant changes to controls by prohibiting or requiring CU for certain uses. The purpose behind many of these changes is to bring outdated zoning districts, like Heavy Commercial (C-M) District, more in line with surrounding zoning. The Department is currently evaluating the rezoning of most of the C-M Districts as part of the Western SOMA EIR. The proposed changes would also allow more flexibility when converting automobile service stations to other uses.

1. **Surface Parking Lots**

**The Way It Is Now:**

Surface public parking lots are principally permitted in Community Business (C-2) District and Heavy Commercial (C-M) District and require Conditional Use authorization in Downtown Support (C-3-S) District.

**The Way It Would Be:**
The proposed legislation would prohibit public surface parking lots in C-2, C-M and C-3-S Districts. While temporary parking lots are currently permitted in all of the Downtown (C-3) Districts, these temporary lots would not be permitted in C-2 and C-M Districts unless the Code was changed to include these districts in the temporary parking lot controls, which this ordinance does not propose to do.

**Basis for Recommendation:**
The Department recommends modifying the proposed controls for parking lots in Section 223(l) - "parking lots" - for the C-2 District from "prohibited" as proposed in the draft Ordinance to allow parking lot uses via "Conditional Use Authorization". The Department's recommendation is based on feedback that we received from the Port of San Francisco, which owns and operates surface parking lots in the C-2 District. Were surface parking lots to become a nonconforming use, this would impact the Port's ability to fulfill its obligations under the Burton Act.

2. Parcel Delivery Services

**The Way It Is Now:**
Parcel delivery service where the operation is conducted entirely within a completely enclosed building including garage facilities for local delivery trucks, but excluding repair shop facilities are principally permitted in C-3-S and C-M Districts.

**The Way It Would Be:**
The proposed legislation would change the Code to require Conditional Use authorization in C-3-S and CM Districts for this use.

**Basis for Recommendation:**
C-3-S District encompasses Yerba Buena Gardens and includes the Convention Center, hotels, museums and cultural facilities, housing, retail, and offices. C-M Districts provide a limited supply of land for certain heavy commercial uses not permitted in other commercial districts. Both Districts have very specific purposes; requiring this use to receive Conditional Use authorization would still permit the use, but provide greater oversight to ensure that the district are still able to serve their primary function.

3. Storage Garages

**The Way It Is Now:**
Storage garages for commercial passenger vehicles and light delivery trucks require Conditional Use authorization in Downtown General Commercial (C-3-G) District and are principally permitted in C-3-S and C-M Districts.

**The Way It Would Be:**
This garage storage use would be prohibited in C-3-G District and require Conditional Use Authorization in C-3-S and C-M Districts.

**Basis for Recommendation:**
This change is consistent with the definitions and intent of these districts. C-3-S and C-3-G Districts are located within the downtown and support such uses as regional shopping destinations, high density residential, arts institutions, museums, Yerba Buena Gardens, and

hotels. C-M Districts tend to be located between C-3 Districts and South of Market Mixed Use Districts.

4. Storage Yards for Commercial Vehicles

**The Way It Is Now:**
Per section 203(o), storage yards for commercial vehicles or trucks, if conducted within an area completely enclosed by a wall or concealing fence not less than six feet high are currently permitted in C-M Districts and require Conditional Use Authorization in C-3-S Districts.

**The Way It Would Be:**
This type of use would not be permitted in either the C-M or C-3-S Districts.

**Basis for Recommendation:**
This change appears to be consistent with the intent of C-3-S Districts, which encompasses Yerba Buena Gardens and includes the Convention Center, hotels, museums and cultural facilities, housing, retail, and offices.

The few remaining C-M Districts tend to be located between C-3 Districts and South of Market Mixed Use Districts. Prohibiting this use outright in C-M Districts does not appear to be consistent with the intent of this Zoning District, which is designated for heavy commercial uses with an emphasis upon wholesaling and business services. The Department recommends requiring a CU for this use in C-M Districts because it would be more consistent with the intent of this district.

5. Automotive Service Station Conversion

**The Way It Is Now:**
Section 228 limits the ability of Automotive Service Station (gas stations) to convert to other uses. Currently, to convert an Automotive Service Station the property owner either needs to obtain a Conditional Use Authorization from the Planning Commission or a conversion determination from the Zoning Administrator. There are no exceptions for Automotive Service Stations that are located on Primary Transit Streets or Citywide Pedestrian Network Streets.

**The Way It Would Be:**
The proposed legislation would exempt Automotive Service Stations that are located on Primary Transit Streets or Citywide Pedestrian Network Streets from the requirements outlined in Section 228. The proposed legislation adds two criteria that should be considered when the Commission considers the conversion of an Automotive Service Station, which are:

- The importance of the street on which the service station fronts to walking, cycling, and public transit, and the impact of automobile access and egress to the service station and of the proposed new uses and structures on the safety and comfort of pedestrians, cyclists, and transit riders.

- The compatibility of the existing service station and of the proposed new use or structure with the General Plan and area plan urban design policies and the street frontage standards of this Code.

The proposed legislation also adds a title to this Code section and makes minor reorganizational changes consistent with our current practice for better organizing the Code.

**Basis for Recommendation:**
The proposed change brings this part of the Code into greater compliance with the City's General Plan, Transit First Policy and Better Streets Plan.

**Limited Corner Commercial Uses (LCCUs[1]):** These changes would generally allow more flexibility with commercial uses in residential districts. While, the Department generally supports these efforts, LCCUs were developed as part of multiyear planning efforts and should not be amended without more thorough examination.

1. Size and Location of LCCUs

**The Way It Is Now:**
Section 231(b)(3) allows LCCUs with a maximum of 1,200 sq. ft. in floor area in Residential Transit Oriented (RTO) Residential Transit Oriented- Mission District (RTO-M), Residential Mixed Medium Density (RM-3), or Residential Mixed High Density (RM-4) Districts on or below the ground floor; and on a corner lot as long as no part of the use extends more than 50 feet in depth from said corner.

**The Way It Would Be:**
The proposed legislation would increase the 50' limit to 100' and the use size from 1,200 sq. ft., to 2,500 sq. ft, consistent with the typical lot size in an R District.

**Basis for Recommendation:**
The Department Recommends that this change not be made at this time. The existing controls were developed as part of an eight year community planning processes about what should be permitted in an RTO district. The intent of the corner store in these districts was to allow for neighborhood serving uses, with a very limited capacity and impact on the residential context. Accordingly the Department feels that leaving the controls as currently drafted is appropriate. The Department generally recommends that ideas specific to the community planning efforts be continued through the initial five-year post-plan adoption period, which for the Market Octavia Plan ends May 2013. The Planning Code provides an avenue for re-evaluating these controls after five years. It should be noted that while the LCCU concept was originated with the community planning efforts, these controls currently apply outside of the plan areas in the RM-3 and RM-4 districts.

Supervisor Chiu's office has agreed to maintain the existing controls in areas affected by the Market and Octavia Plan; however his office would like to go forward with the changes to LCCUs in other parts of the City. The Department would prefer making keeping the rules

[1] LCCUs are defined in Planning Code Section 231 as small neighborhood-oriented establishments that are limited to 1,200 sq. ft. and cannot be located more than 50' from an intersection. They are only permitted in RTO and RM Districts. They were first introduced to the Planning Code as a result of the Market and Octavia Planning effort. They differ from LCUs (Limited Commercial Uses) in that LCUs are commercial uses located in Residential Districts that were established prior to the current Residential Zoning.

consistent; however this compromise does address the Department's main concern regarding the proposed change.

2. Conversion of Dwelling Units to LCCUs

**The Way It Is Now:**
Section 231, which governs LCCUs, does not currently contain a provision that restricts the conversion of a dwelling unit to a LCCU. However, Planning Code Section 317, which governs residential conversions in all zoning districts, requires a Mandatory DR or Conditional Use authorization - depending on the number of units - when converting a dwelling unit to another use; therefore if the establishment of an LCCU removes a dwelling unit, the project is subject to the controls in Section 317.

**The Way It Would Be:**
The proposed legislation would amend Section 231 to require Conditional Use authorization in order to convert a dwelling unit into a LCCU.

**Basis for Recommendation:**
The Department doesn't see the benefit to this change. Converting a dwelling unit already requires either a Mandatory Discretionary Review or Conditional Use authorization hearing under Section 317; the proposed change is duplicative without any clear public benefit.

**Accessory Uses:** The proposed amendments would regulate accessory uses[2] by performance standards instead of numerical limits that may no longer be appropriate. It also rationalizes accessory use controls by grouping zoning districts with similar characteristics together. Other changes would be nonsubstantive in nature.

1. Accessory Uses in RC districts

**The Way It Is Now:**
Planning Code Section 204.2 governs Accessory Uses in Residential Districts. Currently, RC (Residential, Commercial) Districts are included under this section.

**The Way It Would Be:**
Under the proposed legislation, accessory uses in RC District would be governed under Section 204.3, which currently govern accessory uses in C, M and PDR Districts.

**Basis for Recommendation:**
This change recognizes the mixed use nature of the RC Districts by grouping them with other mixed use districts.

[2] An "accessory use" is defined in Planning Code Section 204 as "a related minor use which is either (a) necessary to the operation or enjoyment of a lawful principal use or conditional use, or (b) appropriate, incidental and subordinate to any such use."

2. Rationalizing Accessory Use Size Limits and Performance Standards

**The Way It Is Now:**
Section 204.3, which currently covers accessory uses in C, M and Production Distribution and Repair (PDR) Districts, sets specific limitations on accessory uses, such as engine horsepower. It also limits accessory uses to ¼ of the floor area in C Districts and prohibits accessory uses that employ more than 10 people in C-2 Districts.

**The Way It Would Be:**
The proposed legislation would change the specific restriction, such as horse power, to performance based restrictions (i.e, no noise, vibration or unhealthful emissions beyond the premises). It would also increase to 1/3 of the total square footage that an accessory use could occupy in C Districts and RC Districts (added to this section under this legislation) and remove any limit on the number of employees and accessory use could have. It also removes antennas as a permitted accessory use. It would not alter the accessory use size provisions in PDR Districts, which are currently at 1/3 to the total floor area.

**Basis for Recommendation:**
This change replaces arbitrary numerical limits on horse power with performance standards to limit disturbances to neighbors. The horsepower limits currently established in the Code can be violated by standard vacuums or coffee grinders. Limiting the number of employees as well as the allowable floor area adds an additional layer of restrictions that isn't necessary if the size restriction already ensures that the use is accessory to the main use. As with adding RC Districts to Section 204.3, this change recognizes the mixed use nature of C Districts.

**Non-Conforming Uses:** The proposed amendments would create a strong disincentive for retaining nonconforming parking in the C-3 District. While these changes appear to be generally consistent with contemporary planning, there have been concerns over eliminating surface parking lots from the downtown and as well as changes to the rules that govern the conversion of non-conforming uses in R Districts.

1. Nonconforming uses in Neighborhood Commercial Districts

**The Way It Is Now:**
Nonconforming uses in Neighborhood Commercial Districts can be changed to another use that is conditionally permitted in that district without Conditional Use authorization except where major work on the structure is involved.

**The Way It Would Be:**
The proposed legislation would require Conditional Use authorization if a nonconforming use sought to change to a use that would otherwise require a Conditional Use authorization in that zoning district.

**Basis for Recommendation:**
This change creates more consistency in how uses are permitted in Neighborhood Commercial Districts.

2. Conversion of Nonconforming Uses in R Districts

**The Way It Is Now:**
Per Section 182(e), a non-conforming use in an R District that is subject to termination[3] per Section 185 may be converted to a dwelling unit without regard to the requirements of the Planning Code with respect to dwelling unit density under Article 2, dimensions, areas and open space under Article 1.2, or off-street parking under Article 1.5.

**The Way It Would Be:**
The proposed legislation changes Section 182 to allow "any nonconforming use to be converted to dwelling units or to group housing, in a district where such use is principally permitted, without regard to the requirements of this Code with respect to residential density or required off-street parking." Currently, only nonconforming uses in R Districts that are subject to termination under the provisions of Section 185 of the Planning Code may be converted to one dwelling unit without regard to dwelling unit density.

The ordinance maintains the exceptions to required off-street parking; however, it defers to the Zoning Administrator to review exceptions to dimensions, areas and open space under Section 307[4].

**Basis for Recommendation:**
The Department finds that this change is too broad because it allows any nonconforming use in any zoning district where housing and group housing are principally permitted to be converted to an unspecified number of dwelling units. The Department believes that one housing unit as of right is acceptable, but anything more than that should require Conditional Use authorization. The Department also feels that that group housing should be excluded from this section.

3. Parking Lots in the Downtown

**The Way It Is Now:**
Per Section 184, permanent off-street parking lots in the C-3-O, C-3-R and C-3-G Districts are allowed to operate in perpetuity as non-conforming uses.

**The Way It Would Be:**
The proposed legislation would remove this provision, which would require off-street parking lots in the C-3-O, C-3-R and C-3-G Districts to cease operation within 5 years of the adoption of the proposed legislation. After the 5 year window, these parking lots could still apply for a 2-year temporary Conditional Use authorization and would have to come back to the commission every two years to have it renewed as a temporary use.

**Basis for Recommendation:**
This proposed change is consistent with the goals of the Downtown Plan and the City's Transit First policy. Please note that while there was concern expressed by some members of the public that the proposed change would require surface parking to go out of business immediately after

[3] Section 185 requires that non-conforming uses be phased out within five years of the use becoming nonconforming.

[4] Section 307, "Other Powers and Duties of the Zoning Administrator," is also being amended under this Ordinance; however, this topic will be discussed under Phase 3.

the adoption of this ordinance, this is not the Department's understanding of the intention of the legislation. To clear up any ambiguity the Department proposes the following change:

(a) Any nonconforming commercial or industrial use of land where no enclosed building is involved in such use~~, except for permanent off street parking lots in the C-3-O, C-3-R, C-3-G Districts existing on the effective date of Ordinance 414-85, provided that such lots are screened in the manner required by Section 156(e)~~ shall be eliminated no later than five years and 90 days from the effective date of Ordinance No. [INSERT];

In addition to the modification listed above, the Department recommends modifying the Section 156 of the Code so that off-street parking lots in C-3 Districts require renewal by Conditional Authorization every 5 years instead of every 2 years as proposed in the Ordinance.

**Washington-Broadway and Waterfront Special Use Districts:** The proposed legislation combines the two Washington-Broadway SUDs into one SUD to remove duplicative controls as a way towards simplifying the Code. In addition, there are substantive changes that may affect Port property, mainly around the proposed map changes for the Waterfront SUDs.

1. Proposed Map Changes

See map for new boundaries of Washington–Broadway SUD and Waterfront SUD.

2. Combined Washington-Broadway SUD

**The Way It Is Now:**
There are two Washington-Broadway SUDs. The only difference is that Washington Broadway Special Use District 2 principally permits wholesale uses.

**The Way It Would Be:**
The two Washington-Broadway SUDs would be combined into one and remove any lots from the Washington Broadway SUD that are southwest of Columbus Street, which would remove all of Chinatown from the new SUD.

**Basis for Recommendation:**
This provision helps simplify the Code and provides greater consistency in the Washington-Broadway SUD. Based on current provisions in the Code, removing Chinatown from the Washington Broadway SUD would not have any substantial impact on controls in Chinatown. The Washington Broadway SUD appears to be obsolete now that Chinatown has its own controls that do the same thing. See the chart at the beginning of this report for more information.

3. Parking Exceptions for Washington-Broadway SUDs

**The Way It Is Now:**
Parking is only required for residential uses in the Washington-Broadway SUDs, but other uses are exempt per section 161(d).

**The Way It Would Be:**
The proposed legislation would make parking not required for any use under the rules in Code Section 161(d). Parking maximums would be set by zoning district in Section 151.1.

**Basis for Recommendation:**
The proposed changes are consistent with the way the Code treats other high density, mixed use districts.

4. Surface Parking Lots in the Washington-Broadway SUD

**The Way It Is Now:**
Surface parking lots open to the public are permitted with Conditional Use Authorization in the Washington-Broadway SUD.

**The Way It Would Be:**
The proposed legislation would no longer permit permanent parking lots; however temporary parking lots would be permitted as a temporary use for up to two years with Conditional Use authorization.

**Basis for Recommendation:**
Similar to the proposed prohibition on surface parking lots in the C-2, the Department recommends maintaining the CU provision for surface parking lots in the Washington-Broadway SUD. This will allow existing ones to remain and new ones to be looked at on a case by case basis.

5. Parking Exceptions in the Waterfront SUDs

**The Way It Is Now:**
Off-street parking requirements cannot be waived by Section 161 of this Code in the Waterfront Special Use District 2, but can be in the Waterfront Special Use Districts 1 and 3.

**The Way It Would Be:**
Parking for any principle or conditional use may be waived by the ZA per Code Section 161 in all three Waterfront Special Use Districts.

**Basis for Recommendation:**
The proposed changes are consistent with the way the Code treats other high density, mixed use districts. While the three SUDs vary slightly, their overall character and location are similar enough that they should all be subject to parking waivers under Section 161.

## REQUIRED COMMISSION ACTION

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

## BASIS FOR RECOMMENDATION

1. San Francisco's Planning Code has provided for reduced parking requirements in dense and transit-rich neighborhoods since the 1960s, as a way of reducing traffic congestion, encouraging walking, cycling, and public transit, and making efficient use of scarce land;

2. 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;

3. Off-street parking facilities increase building costs, which in turn are transferred to costs of housing and doing business. As a land use, off-street parking facilities compete with and displace land uses that provide greater social and economic benefit to the city;

4. A basic assumption of the Transportation Element is that a desirable living environment and a prosperous business environment cannot be maintained if traffic levels continue to increase in any significant way. A balance must be restored to the city's transportation system, and various methods must be used to control and reshape the impact of automobiles on the city. This includes limiting the city's parking capacity, especially long-term parking in commercial areas;

5. On October 26, 2010 the Board of Supervisors adopted the goal of having 20% of all trips be by bike by the year 2020;

6. The City of San Francisco's Housing Element seeks to remove unnecessary constraints to the construction and rehabilitation of housing;

7. 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.

8. 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;

9. Small businesses that combine office, production, retail, and even residential uses are increasingly common in San Francisco, but frequently do not fit into traditional zoning categories. Creating more flexibility in zoning around accessory uses will help add to the vibrancy of the City's neighborhoods and to the City's diverse economic base;

10. 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;

## RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

The proposed Modifications include:

**Auto Uses**

1. Modifying the proposed controls for parking lots in Section 223(l) - "parking lots" - for the C-2 District from "prohibited" to "Conditional Use Authorization".
2. Modify proposed Section 223(o) to require a CU for Storage Yards for Commercial Vehicles or Trucks in C-M Districts rather than prohibiting them outright.

**LCCUs**

3. Do not amend Section 231 to allow LCCUs to have 2,500 sq. ft. or allow them within 100' of a corner. This proposed change should be reviewed when the Market and Octavia Plan undergoes its scheduled 5 year review.
4. Do not add proposed Section 231(k), which requires Conditional Use authorization when converting a dwelling unit to establish a Limited Corner Commercial Use. Dwelling unit conversions are already controlled by Section 317.

**Nonconforming Uses**

5. Modify the proposed changes to Section 182 so that a nonconforming use can only be converted to one dwelling unit as of right, and require a CU for the conversion of more than one dwelling unit, and remove the provision that allows a non-conforming use to be converted to group housing as of right.
6. Add the following modifications to Section 184 to clarify when surface parking lots would need to cease operation:

   Any nonconforming commercial or industrial use of land where no enclosed building is involved in such use~~, except for permanent off street parking lots in the C-3-O, C-3-R, C-3-G Districts existing on the effective date of Ordinance 411-85, provided that such lots are screened in the manner required by Section 156(s)~~ shall be eliminated no later than five years and 90 days from the effective date of Ordinance No. [INSERT];

7. Modify Planning Code Section 156 to allow for a 5 year temporary use permit instead of a 2 year temporary use permit.

   ~~(f)(k)~~ No permanent parking lot shall be permitted in C-3-O, C-3-R, C-3-G and NCT Districts; temporary parking lots may be approved as conditional uses pursuant to the provisions of Section 303 for a period not to exceed two years from the date of approval *in NCT Districts and five years from the date of approval in C-3 Districts*; permanent parking lots in C-3-S Districts shall be permitted only as a conditional use.

**Washington-Broadway SUD**

8. Remove the provision in the proposed Ordinance that would change surface parking lots from a conditional use to "not permitted."

## ENVIRONMENTAL REVIEW

The proposal to 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 would result in no physical impact on the environment. The proposed legislation was determined to be exempt from environmental review under the General Rule Exclusion (Section 15061(b)(3) of the CEQA Guidelines).

## PUBLIC COMMENT

As of the date of this report, the Planning Department has received comments and questions on the proposed legislation from various members of the public, including the Port of San Francisco and the law firm Ruben and Junius.

Ruben and Junius is concerned about the legislation's changes to the parking requirements in the C-3 Zoning district, specifically the provision that would require CU for any parking beyond the 2 to 1 ratio. They felt that this added process without any clear benefit. They also expressed concern over the changes to Section 184 that would require surface parking lots to be removed after 5 years. Their concern is that it would make the operators cease operation immediately upon the adoption of the proposed ordinance. Staff's understanding is that they would have 5 years unit they ceased operation. Also, they expressed concern that several entitled projects that are currently on-hold would be required to go back through the entitlement process when they came to get their building permit if they did not meet the current Code requirements. As a remedy to this they wanted to see a grandfathering clause added to the legislation.

Steven L. Vettel, an Attorney with Farella Braun + Martel LLP expressed concern that the legislation would exempt any project with affordable housing units from the FAR calculations. In response Staff has clarified this section so that only units that are designated as Affordable are exempt from FAR calculations.

The Port of San Francisco contacted the Department about how the proposed project would affect their properties. Of particular concern were the changes to the parking requirements in the C-3 Districts.

| RECOMMENDATION: | **Recommendation of Approval with Modification** |
|---|---|

**Attachments:**

Exhibit A: Draft Planning Commission Resolution
Exhibit B: Map of SoMa C-M parcels
Exhibit C: Map of Bernal Heights area C-M parcel
Exhibit D: The draft Ordinance was originally distributed to the Commission on October 13, 2011 date for October 20 hearing. The public may view the proposed Ordinance online at: http://commissions.sfplanning.org/cpcpackets/2011.0532T.pdf