

1 [Planning Code - Lot Mergers, Neighborhood Notice, and Zoning Controls]

2

3 **Ordinance amending the Planning Code to require consideration of smaller commercial**
4 **spaces when creating large lots, limiting lot frontages to 50 feet on Ocean Avenue,**
5 **creating an exception from neighborhood notices for certain uses in the Ocean Avenue**
6 **Neighborhood Commercial Transit District, and adding Arts Activity as a use to the**
7 **Ocean Avenue Neighborhood Commercial Transit District; affirming the Planning**
8 **Department’s determination under the California Environmental Quality Act; and**
9 **making findings of consistency with the General Plan, and the eight priority policies of**
10 **Planning Code, Section 101.1, and findings of public necessity, convenience, and**
11 **welfare under Planning Code, Section 302.**

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

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

18

19 Section 1. Environmental and Land Use Findings.

20 (a) The Planning Department has determined that the actions contemplated in this
21 ordinance comply with the California Environmental Quality Act (California Public Resources
22 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
23 Supervisors in File No. 191285 and is incorporated herein by reference. The Board affirms
24 this determination.

25

1 (b) On February 20, 2020, the Planning Commission, in Resolution No. 20660,
2 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
3 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
4 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
5 the Board of Supervisors in File No. 191285, and is incorporated herein by reference.

6 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
7 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in
8 Planning Commission Resolution No. 200660, and incorporates such reasons by this
9 reference thereto. A copy of said Resolution is on file with the Clerk of the Board of
10 Supervisors in File No. 191285, and is incorporated herein by reference.

11
12
13 Section 2. The Planning Code is hereby amended by revising Sections 121.1, 121.7,
14 145.4, 307, 311, and 755, to read as follows:

15 **SEC. 121.1. DEVELOPMENT OF LARGE LOTS, NEIGHBORHOOD COMMERCIAL**
16 **DISTRICTS.**

17 * * * *

18 (b) Design Review Criteria. In addition to the criteria of Section 303(c) of this Code,
19 the Planning Commission shall consider the extent to which the following criteria are met:

20 (1) The mass and facade of the proposed structure are compatible with the
21 existing scale of the district.

22 (2) The facade of the proposed structure is compatible with design features
23 of adjacent facades that contribute to the positive visual quality of the district.

24 (3) Where 5,000 or more gross square feet of Non-Residential commercial space is
25 proposed, that the project provides commercial spaces in a range of sizes, including one or more

1 spaces of 1,000 gross square feet or smaller, to accommodate a diversity of neighborhood business
2 types and business sizes.

3
4 **SEC. 121.7. RESTRICTION OF LOT MERGERS IN CERTAIN DISTRICTS AND ON**
5 **PEDESTRIAN-ORIENTED STREETS.**

6 (a) Purpose: In order to promote, protect, and maintain a fine-grain scale of
7 development in residential districts and on important pedestrian-oriented commercial streets
8 that is appropriate to each district; compatible with adjacent buildings; provide for a diverse
9 streetscape; ensure the maintenance and creation of multiple unique buildings and building
10 frontages rather than large single structures superficially treated; promote diversity and
11 multiplicity of land ownership and discourage consolidation of property under single ownership
12 merger of lots is regulated in accordance with this Section 121.7 as follows:

13 (b) Controls. Merger of lots is regulated as follows:

14 (1a) RTO Districts. In RTO Districts, merger of lots creating a lot greater than
15 5,000 square feet shall not be permitted except according to the procedures and criteria in
16 subsections (d) ~~and (e)~~ below.

17 (2b) NCT, NC, and Mixed-Use Districts. In those NCT, NC, and Mixed Use
18 Districts listed below, merger of lots resulting in a lot with a single street frontage greater than
19 that stated in the table below on the specified streets or in the specified Districts is prohibited
20 except according to the procedures and criteria in subsections (c) and (d) below.

21 (3) WMUO District. Merger of lots in the WMUO zoning district resulting in a lot
22 with a street frontage between 100 and 200 feet along Townsend Street is permitted so long as a
23 publicly-accessible through-block pedestrian alley at least 20 feet in width and generally conforming to
24 the design standards of Section 270.2(e)(5)-(12) of this Code is provided as a result of such merger.

1 (4) **Mission Street NCT District.** In the Mission Street NCT District, projects that
 2 propose lot mergers resulting in street frontages on Mission Street greater than 50 feet shall provide at
 3 least one non-residential space of no more than 2,500 square feet on the ground floor fronting Mission
 4 Street.

5 (5) **Ocean Avenue NCT District.** In the Ocean Avenue NCT District, projects that
 6 propose lot mergers resulting in street frontages of lots greater than 50 feet are permitted to create
 7 corner lots only, and shall require a conditional use authorization.

Street or District	Lot Frontage Limit
Hayes, from Franklin to Laguna	50 feet
RED and RED-MX	50 feet
Church Street, from Duboce to 16th Street	100 feet
Divisadero Street NCT except for the east and west blocks between Oak and Fell, Fillmore Street NCT, Folsom Street NCT, RCD, WMUG, WMUO, and SALI	100 feet; <i>for WMUO District (see subsection (b)(3))</i>
Mission Street, within the Mission Street NCT	100 feet; <i>(see subsection (b)(4f)-below)</i>
Market, from Octavia to Noe	150 feet
Ocean Avenue in the Ocean Avenue NCT	See subsection (e) 50 feet; <i>see subsection (b)(5)</i>
Inner and Outer Clement NCDs	50 feet
North Beach NCD and SUD, Telegraph Hill-North Beach Residential SUD, Polk Street NCD, and Pacific Avenue NCD*	25 feet*

<p>1 NC-2 districts on Balboa Street between 2nd 2 Avenue and 8th Avenue, and between 32nd 3 Avenue and 38th Avenue</p>	<p>50 feet</p>
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4 * For lots that do not have street frontage, the merger would not result in a lot with a
5 width greater than 25 feet.

6 *Notwithstanding the foregoing, merger of lots in the WMUO zoning district resulting in a lot
7 with a street frontage between 100 and 200 feet along Townsend Street is permitted so long as a
8 publicly accessible through block pedestrian alley at least 20 feet in width and generally conforming to
9 the design standards of Section 270.2(e)(5) (12) of this Code is provided as a result of such merger.*

10 (c) **Administrative Exceptions.** The Zoning Administrator may administratively waive
11 certain lot mergers from the restrictions of ~~§~~subsections (b) ~~and (c)~~ only when one or more of
12 the following conditions is present:

13 (1) One of the lots to be merged has total street frontage on the restricted
14 street of less than 20 feet; or

15 (2) ~~The p~~Project sponsor is a government agency or institution subject to
16 Section 304.5 of this Code, and the purpose of the project is for a public facility, public
17 building, or institutional building; or

18 (3) The project involves normalizing ~~of substandard or irregular parcels lots~~ that
19 are publicly owned or are being transferred from public to private ownership, including lots of
20 the former Central Freeway; or

21 (4) The lots to be merged contain a pre-existing single building spanning
22 multiple lots; or

23 (5) The lot merger will enable a specific residential project in which a majority
24 of the units on-site will be affordable as defined by Section ~~402.326.3(h)(2)~~.

1 (d) Conditionally Permitted Exceptions. The Planning Commission may approve, as a
2 ~~e~~Conditional ~~u~~Use according to the procedures of Section 303, ~~permit~~ mergers exceeding the
3 restrictions of subsections (b) and (c) only when one or more of the following findings can
4 affirmatively be made and the project meets the intent of this Section ~~as expressed in subsection~~
5 ~~(a)~~121.7:

6 (1) The lot merger will enable a specific residential project that provides
7 housing on-site at affordability levels significantly exceeding the requirements of Section 415.2;
8 or

9 (2) The lot merger will facilitate development of an underutilized site
10 historically used as a single use and the new project is comprised of multiple individual
11 buildings; or

12 (3) The lot merger serves a unique public interest that cannot be met by
13 building a project on a smaller lot.

14 ~~(e) — In the Ocean Avenue NCT, no lot merger which increases the frontage width of any lot~~
15 ~~on Ocean Avenue may be permitted except as permitted administratively by Subsection (e) above or~~
16 ~~with a Conditional Use according to the procedures of Section 303 where such a merger creates a~~
17 ~~corner parcel for the purpose of accommodating access to off-street from a cross street to Ocean~~
18 ~~Avenue.~~

19 ~~(f) — In the Mission Street NCT, projects that propose lot mergers resulting in street frontages~~
20 ~~on Mission Street greater than 50 feet shall provide at least one non-residential space of no more than~~
21 ~~2,500 square feet on the ground floor fronting Mission Street.~~

22 **SEC. 145.4. REQUIRED GROUND FLOOR COMMERCIAL USES.**

23 * * * *

24 (c) **Definitions.**

1 "Active commercial uses" shall include those uses specifically identified below in
2 Table 145.4, and:

3 * * * *

4 (5) In the Ocean Avenue NCT, shall include Arts Activities, Nighttime
5 Entertainment, and Institutional Community Uses, as those uses are defined in Section 102.

6 * * * *

7 **SEC. 307. OTHER POWERS AND DUTIES OF THE ZONING ADMINISTRATOR.**

8 * * * *

9 (h) **Exceptions from Certain Specific Code Standards through Administrative**
10 **Review.** The Zoning Administrator may allow complete or partial relief from certain standards
11 specifically identified below, in Section 161, or elsewhere in this Code when modification of
12 the standard would result in a project fulfilling the criteria set forth below and in the applicable
13 section.

14 (1) **Applicability.**

15 * * * *

16 (F) **Restriction of Lot Mergers in Certain Districts and on**
17 **Pedestrian-Oriented Streets.** For projects subject to the restrictions on lot mergers in Section 121.7,
18 the Zoning Administrator may approve exceptions from those restrictions as provided in Section
19 121.7(c).

20
21 **SEC. 311. PERMIT REVIEW PROCEDURES.**

22 * * * *

23 (b) **Applicability.** Except as indicated herein, all building permit applications in
24 Residential, NC, NCT, and Eastern Neighborhoods Districts for a change of use;
25 establishment of a Micro Wireless Telecommunications Services Facility; establishment of a

1 Formula Retail Use; demolition, new construction, or alteration of buildings; and the removal
2 of an authorized or unauthorized residential unit, shall be subject to the notification and review
3 procedures required by this Section 311. In addition, all building permit applications that would
4 establish Cannabis Retail or Medical Cannabis Dispensary uses, regardless of zoning district,
5 shall be subject to the review procedures required by this Section 311. Notwithstanding the
6 foregoing or any other requirement of this Section 311, a change of use to a Child Care
7 Facility, as defined in Section 102, shall not be subject to the review requirements of this
8 Section 311. Notwithstanding the foregoing or any other requirement of this Section 311,
9 building permit applications to construct an Accessory Dwelling Unit pursuant to Section
10 207(c)(6) shall not be subject to the notification or review requirements of this Section 311.

11 (1) **Change of Use.** For ~~the~~ purposes of this Section 311, a change of use is
12 defined as follows:

13 (A) **Residential, NC, and NCT Districts.** For all Residential, NC, and
14 NCT Districts, a change of use is defined as a change to, or the addition of, any of the
15 following land uses as defined in Section 102 of this Code: Adult Business, Bar, Cannabis
16 Retail, General Entertainment, Group Housing, Limited Restaurant, Liquor Store, Massage
17 Establishment, Medical Cannabis Dispensary, Nighttime Entertainment, Outdoor Activity Area,
18 Post-Secondary Educational Institution, Private Community Facility, Public Community
19 Facility, Religious Institution, Residential Care Facility, Restaurant, School, Tobacco
20 Paraphernalia Establishment, Trade School, and Wireless Telecommunications Facility. A
21 change of use from a Restaurant to a Limited-Restaurant shall not be subject to the provisions
22 of this Section 311. Any accessory massage use in the Ocean Avenue Neighborhood
23 Commercial Transit District shall be subject to the provisions of this Section 311.

24 * * * *

25

1 (iii) Exception for the Ocean Avenue Neighborhood Commercial
2 Transit District. Notwithstanding subsection 311(b)(1)(A), building permit applications in the Ocean
3 Avenue Neighborhood Commercial Transit District for a change of use to the following uses shall be
4 excepted from the provisions of subsections 311(d) and 311(e): General Entertainment, Limited
5 Restaurant, Nighttime Entertainment, Outdoor Activity Area, Private Community Facility, Public
6 Community Facility, Restaurant, and Tobacco Paraphernalia Establishment.

7 * * * *

8 **SEC. 755. OCEAN AVENUE NEIGHBORHOOD COMMERCIAL TRANSIT**
9 **DISTRICT.**

10 The Ocean Avenue Neighborhood Commercial Transit District is located on Ocean
11 Avenue from Howth Street to Manor Drive. Ocean Avenue is a multi-purpose transit-oriented
12 small-scale commercial district ~~that is modeled on the NCT-2 District~~. Ocean Avenue was
13 developed as a streetcar-oriented commercial district in the 1920s and continues to serve this
14 function, with the K-line streetcar on Ocean Avenue. Numerous other bus lines serve the
15 area, especially the eastern end, where the Phelan Loop serves as a major bus terminus. The
16 eastern end of the district is anchored by the main City College campus and direct linkages to
17 the Balboa Park BART/MUNI rail station a couple blocks to the east, which serves as the
18 southernmost San Francisco station for BART and the terminus of the J, K, and M streetcar
19 lines. Because of the immediate proximity of the BART/MUNI station the district has quick and
20 easy transit access to downtown.

21 * * * *

22 The Ocean Avenue NCT District is intended to provide convenience goods and
23 services to the surrounding neighborhoods as well as limited ~~comparison shopping~~ goods and
24 services for a wider market. The range of ~~comparison~~ goods and services offered is varied and
25 ~~often~~ includes ~~specialty~~ retail stores, retail services, restaurants, and neighborhood-serving arts.

1 entertainment, and institutional community uses ~~offices~~. Buildings may range in height, with height
 2 limits generally allowing up to four or five stories. Lots are generally small to medium in size
 3 and lot consolidation is restricted ~~prohibited~~ to preserve the fine grain character of the district,
 4 ~~unless the consolidation creates a corner parcel that enables off-street parking to be accessed from a~~
 5 ~~side street.~~

6 Rear yard requirements above the ground story and at residential levels preserve open
 7 space corridors of interior blocks.

8 Active Commercial, arts, entertainment, and institutional community uses are required at
 9 the ground level and permitted at the second story. For purposes of this Section, Arts Activities,
 10 Nighttime Entertainment, and Institutional Community Uses shall be considered "active commercial
 11 uses," as described in Section 145.4 of this Code.

12 * * * *

13 **Table 755. OCEAN AVENUE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**
 14 **ZONING CONTROL TABLE**

		<i>Ocean Avenue NCT</i>
Zoning Category	§ References	Controls
BUILDING STANDARDS		
* * * *		
Street Frontage and Public Realm		
* * * *		
Ground Floor Commercial	§ 145.4	Required on Ocean Avenue within the District, except on the north side of Ocean Avenue between Plymouth and Brighton Avenues. <u>(2)</u>

* * * *				
Miscellaneous				
* * * *				
Lot Merger Consolidation	§ 121.61 121.7	<i>Certain exceptions permitted by § 121.7. Not Permitted except to create corner lots</i>		
* * * *				
NON-RESIDENTIAL STANDARDS AND USES				
* * * *				
		Controls by Story		
		1st	2nd	3rd+
Entertainment, Arts and Recreation Use Category				
Entertainment, Arts and Recreation Uses*	§ 102	NP	NP	NP
<u>Arts Activities</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>NP</u>
* * * *				

* * * *

(2) ~~{Note deleted.}~~ In the Ocean Avenue NCT District, Arts Activities, Nighttime Entertainment, and Institutional Community Uses are considered to be "active uses," as described in Section 145.4 of this Code.

* * * *

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

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

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

9 By: /s/ _____
10 AUSTIN M. YANG
11 Deputy City Attorney

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