



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

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

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

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

Initiated by: Supervisor Peskin / Introduced April 11, 2017

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Recommendation: **Recommend Approval with Modifications**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to 1) limit lot sizes in the Pacific Avenue Neighborhood Commercial District ("Pacific NCD") and the Polk Street Neighborhood Commercial District ("Polk NCD"); 2) limit the size of non-residential uses in the Pacific NCD and Polk NCD, and exempting movie theaters in the Polk NCD from certain size limits; 3) restrict lot mergers in the Pacific NCD and Polk NCD; 4) require ground floor commercial uses in the Polk NCD and on certain portions of Pacific Avenue; 5) modify residential and non-residential off-street parking requirements in the Pacific NCD and Polk NCD; 6) prohibit garage entries, driveways, or other vehicular access to off-street parking or loading on certain streets and alleys in the Pacific NCD and Polk NCD; 7) deem nonconforming uses in the Polk NCD to be discontinued after 18 months of non-use; 8) clarify procedures for abating a Conditional Use authorization; 9) modifying the maximum concentration of eating and drinking uses in the Polk NCD; 10) prohibit and restrict medical service, massage establishment, kennel, and agriculture uses in the Polk NCD; 11) prohibit storefront merges in the Polk NCD; 12) prohibit and restrict medical service, kennel, and agriculture uses in the Pacific NCD; 13) modify the required dwelling unit mix in the Polk NCD and Pacific NCD; 14) require Conditional Use authorization before replacing a Legacy Business in Polk NCD and Pacific NCD; 15) prohibit removal, demolition, merger, or conversion of certain residential units in Polk NCD and Pacific NCD; and 16) correct, clarify, and simplify language in other Planning Code Sections.

The Way It Is Now:

Development Standards

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

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

Off-Street Parking and Loading

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

Nonconforming Uses

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

Retail Uses

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

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

Residential Uses

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

The Way It Would Be:

Development Standards

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

Off-Street Parking and Loading

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

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

Nonconforming Uses

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

Retail Uses

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

Residential Uses

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

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

ISSUES AND CONSIDERATIONS

Development Standards

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

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

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

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

Maintaining a Distinct Retail Character

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

¹ Planning Code Section 121.1

² Planning Code Section 121.2

³ Planning Code Section 121.7

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

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

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

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

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

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

⁶ Planning Code Section 145.4

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

Residential Dwelling Unit Mix

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

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

Loss of Residential Units

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

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

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

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

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

RECOMMENDATION

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

Development Standards

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

Retail Uses

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

Residential Uses

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

Technical Amendment

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

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

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

BASIS FOR RECOMMENDATION

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

Recommendations:

Development Standards

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

these streets as they would not harm the pedestrian experience along Polk Street. These include nighttime entertainment uses, a movie theater, a design professional use or a trades office use.

Retail Uses

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

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

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

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

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

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

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

Residential Uses

7. **Adopt the coming citywide dwelling unit mix requirement.** The City is on the verge of adopting a dwelling unit mix requirement for all zoning districts. Currently BF 161351 is proposing to require that residential developments of 10 units or more to provide no less than 25% of the total number of proposed dwelling units as two bedroom units and no less than 10% of the total number of proposed dwelling units as three bedrooms. This differs from what the Ordinance is proposing for the Polk Street and Pacific Avenue NCDs, which is to apply the existing 40% two bedroom unit or 30% three bedroom unit requirement. The Department understands that the exact details of the dwelling unit mix requirements may change during the legislative process. Nonetheless, new residential development in the Polk Street and Pacific Avenue NCDs should adhere to the final the citywide dwelling unit mix requirement. This would ease implementation of the new requirement.
8. **Do not prohibit the removal, demolition, merger or conversion of Residential Units.** Without question the City should strive to maintain as many functional and sound Residential Units as possible. However there are isolated instances where the removal of a unit is preferable to

maintaining a unit. This can be the case when it is financially infeasible to legalize a unit given an owner's resources and/or the ill condition of the unit.

Technical Amendment

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

REQUIRED COMMISSION ACTION

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

IMPLEMENTATION

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

ENVIRONMENTAL REVIEW

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

PUBLIC COMMENT

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

RECOMMENDATION: Recommendation of Approval with Modification
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Attachments:

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



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution

HEARING DATE JULY 13, 2017

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

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

Initiated by: Supervisor Peskin / Introduced April 11, 2017

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE TO 1) LIMIT LOT SIZES IN THE PACIFIC AVENUE NIEGHBORHOOD COMMERCIAL DISTRCT (“PACIFIC NCD”) AND THE POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT (“POLK NCD”); 2) LIMIT THE SIZE OF NON-RESIDENTIAL USES IN THE PACIFIC NCD AND POLK NCD, AND EXMEPTING MOVIE THEATERS IN THE POLK NCD FROM CERTAIN SIZE LIMITS; 3) RESTRICT LOT MERGERS IN THE PACIFIC NCD AND POLK NCD; 4) REQUIRE GROUND FLOOR COMMERCIAL USES IN THE POLK NCD AND ON CERTAIN PORTIONS OF PACIFIC AVENUE; 5) MODIFY RESIDENTIAL AND NON-RESIDENTIAL OFF-STREET PARKING REQUIREMENTS IN THE PACIFIC NCD AND POLK NCD; 6) PROHIBIT GARAGE ENTRIES, DRIVEWAYS, OR OTHER VEHICULAR ACCESS TO OFF-STREET PARKING OR LOADING ON CERTAIN STREETS AND ALLEYS IN THE PACIFIC NCD AND POLK NCD; 7) DEEM NONCONFORMING USES IN THE POLK NCD TO DE DISCONTINUED AFTER 18 MONTHS OF NON-USE; 8) CLARIFY PROCEDURES FOR ABATING A CONDITIONAL USE AUTHORIZATION; 9) MODIFYING THE MAXIMUM CONCENTRATION OF EATING AND DRINKING USES IN THE POLK NCD; 10) PROHIBIT AND RESTRICT MEDICAL SERVICE, MASSAGE ESTABLHSMNT, KENNEL AND AGRICULTURE USES IN THE POLK NCD; 11) PROHIBIT STOREFRONT MERGERS IN THE POLK NCD; 12) PROHIBIT AND RESTRICT MEDICAL SERVICE, KENNELM AND AGRICULTURE USES IN THE PACIFIC NCD; 13) MODIFY THE REQUIRED DWELLING UNIT MIX IN THE POLK NCD AND PACIFIC NCD; 14) REQUIRE CONDITIONAL USE AUTHORIZATION BEFORE REPLACING A LEGACY BUSINESS IN POLK NCD AND PACIFIC NCD; 15) PROHIBIT REMOVAL, DEMOLITION, MERGER, OR CONVERSION OF CERTAIN RESIDENTIAL UNITS IN POLK NCD AND PACIFIC NCD; AND 16) CORRECT, CLARIFY, AND SIMPLIFY LANGAUGE IN OTHER PLANNING CODE SECTIONS; AFFIRMING THE PLANNING DEPARTMENT’S DETERMINATION UNDER THE CALIFORNIA ENVIORNMENTAL QUALITY ACT; AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING SECTION 101.1, AND FINDINGS OF PUBLIC CONVENIENCE, NECESSITY, AND WELFARE UNDER PLANNING CODE SECTION 302.

WHEREAS, on April 11, 2017 Supervisors Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number170418, which would amend the Planning Code to 1) limit lot sizes in the Pacific Avenue Neighborhood Commercial District ("Pacific NCD") and the Polk Street Neighborhood Commercial District ("Polk NCD"); 2) limit the size of non-residential uses in the Pacific NCD and Polk NCD, and exempting movie theaters in the Polk NCD from certain size limits; 3) restrict lot mergers in the Pacific NCD and Polk NCD; 4) require ground floor commercial uses in the Polk NCD and on certain portions of Pacific Avenue; 5) modify residential and non-residential off-street parking requirements in the Pacific NCD and Polk NCD; 6) prohibit garage entries, driveways, or other vehicular access to off-street parking or loading on certain streets and alleys in the Pacific NCD and Polk NCD; 7) deem nonconforming uses in the Polk NCD to be discontinued after 18 months of non-use; 8) clarify procedures for abating a Conditional Use authorization; 9) modifying the maximum concentration of eating and drinking uses in the Polk NCD; 10) prohibit and restrict medical service, massage establishment, kennel, and agriculture uses in the Polk NCD; 11) prohibit storefront merges in the Polk NCD; 12) prohibit and restrict medical service, kennel, and agriculture uses in the Pacific NCD; 13) modify the required dwelling unit mix in the Polk NCD and Pacific NCD; 14) require Conditional Use authorization before replacing a Legacy Business in Polk NCD and Pacific NCD; 15) prohibit removal, demolition, merger, or conversion of certain residential units in Polk NCD and Pacific NCD; and 16) correct, clarify, and simplify language in other Planning Code Sections;

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

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

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

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

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

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

Those modifications include:

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

5. Base any concentration limit on eating and drinking uses in the Polk Street NCD on existing conditions.
6. Add Conditional Use findings for the proposed Legacy Business controls in the Polk Street and Pacific Avenue NCDs.
7. Adopt dwelling unit mix requirements that are consistent with forthcoming citywide requirements for the Polk Street and Pacific Avenue NCDs.
8. Do not prohibit the removal, demolition, merger or conversion of Residential Unit within the Polk Street and Pacific Avenue NCDs.
9. Locate the proposed Off-Street Parking controls for Dwellings in the Polk Street and Pacific Avenue NCDs in Table 151.1 rather than Table 151

FINDINGS

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

1. Maintaining the existing, fine-grained scale of the Polk Street and Pacific Avenue Neighborhood Commercial Districts (NCDs) and fostering the introduction and preservation of independent retail helps keep these NCDs distinctive and vibrant.
2. The Commission finds that amended controls should still provide avenues for discretion for relatively larger projects including through the Conditional Use authorization process.
3. The Commission also finds that prohibitions or limits on uses or their sizes should be based on surveys of the existing conditions in these NCDs.
4. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 6

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

Policy 6.1

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

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

Policy 6.7

Promote High Quality Urban Design on Commercial Streets.

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

HOUSING ELEMENT

OBJECTIVE 2

RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS WITHOUT JEOPARDIZING AFFORDABILITY.

Policy 2.1

Discourage the demolition of sound existing housing, unless the demolition results in a new increase in affordable housing.

Policy 2.2

Retain existing housing by controlling the merger of residential units, except where a merger clearly creates new family housing.

The proposed Ordinance and Commission modifications would maintain the existing entitlement processes for the demolition or merger of residential unit, thereby maintaining possibility that an unsound unit is lost in favor of either affordable housing or new family housing.

OBJECTIVE 4

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

Policy 4.1

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

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

URBAN DESIGN ELEMENT

OBJECTIVE 4

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

Policy 4.13

Improve pedestrian areas by providing human scale and interest

Policy 4.15

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. That the landmarks and historic buildings be preserved;

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

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

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

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

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

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

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: July 13, 2017



Middle Polk Neighborhood Association

June 20, 2017

(by e-mail only)

Diego Sanchez
Planning Department
City and County of San Francisco

RE: File Number 170418 – Planning Code Amendments Polk and Pacific NCD's

Dear Mr. Sanchez:

We write to support the above ordinance as an important update to the Planning Code for the Polk Street and Pacific Ave neighborhood commercial districts. Taken together, these amendments reflect a forward-thinking vision of our neighborhoods that welcomes new residents and businesses while maintaining sufficient protections for existing residents and businesses that make up the charm and character of our great neighborhoods. These changes are a product of hard work of several community members and neighborhood and merchant groups collaborating together. The particular changes of most relevance to the Planning Commission include:

1. Limiting the Use Size of commercial uses to less than 4,000 square feet similar to North Beach, Castro, and West Portal is appropriate given the small-scale nature of the majority of storefronts along our corridors of Polk Street and Pacific Avenue. Smaller storefronts are also more affordable and more accessible to a wider range of businesses. Large use sizes are more appropriate on Van Ness Avenue and other larger streets that can accommodate such uses.
2. Requiring a conditional use authorization to remove any legacy business is appropriate as a protection for our neighborhoods. This control has already been adopted in the Calle 24 SUD and is supported by our local businesses and our residents as an important tool to discourage the removal of legacy businesses.

PO Box 640918
San Francisco, CA 94164-0918
<http://www.middlenolk.org>



Middle Polk Neighborhood Association

3. In the Polk NCD only, setting a cap of 35% eating and drinking uses within 300 linear feet of a proposed use is another important tool to create a well-balanced neighborhood of multiple use types. This has already been adopted in the Calle 24 SUD and is supported by our local merchants and residents. Importantly, it allows flexibility for new businesses that are eating and drinking uses to come into the neighborhood that are located in an area that is within the threshold. Importantly, this provision does not set an overall cap on eating and drinking uses.
4. In new developments, ground floor retail will be required. This is important to activate the street level and have new businesses come into our neighborhood.
5. Storefront mergers will be prohibited. We have seen mega-stores emerge in other neighborhoods by the coming of storefront that results in storefronts that detract from the fine-grain, small-scale nature of our historic neighborhoods. Storefront mergers have similarly been adopted in the Calle 24 SUD and in North Beach and are a very effective way to keep storefronts more affordable and to preserve the charm and character of the neighborhood.
6. In the interests of promoting pedestrian and cyclist safety as our neighborhood is one of the designated high injury corridors, the ordinance limits new curb cuts along Polk Street and other streets in the neighborhood where such new curb cuts pose a substantial risk to pedestrians and cyclists.
7. We believe that requiring conditional use authorization for residential projects on lots greater than 2,500 square feet and for any lot merger greater than 25 feet will preserve the fine grain nature of the NCD but also allow for new housing where appropriate. It will also end the often long drawn out time period of multiple discretionary review hearings where neighbors are often fighting over details that could have been worked out ahead of time before a conditional use hearing.



Middle Polk Neighborhood Association

8. We believe the prohibition of removing dwelling units is a key component to solve our housing crisis. We must preserve homes and not encourage the demolition and merger of this key component of our housing stock.
9. We are a transit-first corridor and we are happy that this ordinance amends the off-street parking requirements to correspond to our transit wealth. For those that must drive, we have several parking garages that can provide parking on a short or long-term basis.
10. Lastly, we are happy to see a provision requiring 40% 2+ bedroom units or 35% 2+bedroom units with 10% 3+bedroom units. This will ensure the production of larger units that are more suitable for families.

We urge the Planning Department to support this legislation as it carefully addresses the local needs of the Polk and Pacific NCD's which are some of the most exciting and dynamic neighborhoods of San Francisco which are continuing to grow and prosper with new energy, new housing and new businesses while maintaining the aspects of our neighborhoods that we all love, the charm and character of the neighborhoods which is timeless.

Sincerely,
/s/Adam Mayer
Director of Planning & Design
Middle Polk Neighborhood Association

CC: Aaron Starr, Manager of Legislative Affairs, Planning Department

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

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

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

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

9 Section 1. Findings.

10 (a) The Planning Department has determined that the actions contemplated in this
11 ordinance comply with the California Environmental Quality Act (California Public Resources
12 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
13 Supervisors in File No. 170418 and is incorporated herein by reference. The Board affirms
14 this determination.

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

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

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

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

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

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

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

12 * * * *

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

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

17 * * * *

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

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

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

9
10 * * * *

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

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

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

24 * * * *

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

* * * *

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

SEC. 145.4 REQUIRED GROUND FLOOR COMMERCIAL USES.

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

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

* * * *

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

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

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

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

3 * * * *

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

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

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

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

21

22 Table 151	
23 OFF-STREET PARKING SPACES REQUIRED	
24 <i>Use or Activity</i>	25 <i>Number of Off-Street Parking Spaces Required</i>

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

10 * * * *

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

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

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

20 * * * *

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

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

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

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

* * * *

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

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

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

(2) Not permitted:

* * * *

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

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

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

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

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

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

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

2 * * * *

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

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

8 * * * *

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

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

18 * * * *

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

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

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

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

11 * * * *

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

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

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

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

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

3 * * * *

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

14 * * * *

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

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

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

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

9 (b) Controls.

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

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

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

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

4 Where an immediately prior use was a Legacy Business, as defined under Administrative Code Section
 5 2A.242, the controls require any new non-residential use to obtain Conditional Use authorization; this
 6 requirement shall not apply where: (A) the subject non-residential space has had no occupant and has
 7 not been open to the public for three or more years from the date the application for the new use is
 8 filed, or (B) where the Legacy Business has removed itself or has been otherwise removed from the
 9 Legacy Business Registry.

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

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

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

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

16

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

18 **ZONING CONTROL TABLE**

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

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

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723.53	Business or Professional Service	§ 790.108	P #	P	
723.54	Massage Establishment	§ 790.60, §§ 29.1-29.32 Health Code	C # <u>NP</u>		
723.55	Tourist Hotel	§ 790.46	C #	C #	C #
723.56	Automobile Parking	§§ 156, 160, 790.8	C #	C #	C #
723.57	Automotive Gas Station	§ 790.14			
723.58	Automotive Service Station	§ 790.17			
723.59	Automotive Repair	§ 790.15	C #		
723.60	Automotive Wash	§ 790.18			
723.61	Automobile Sale or Rental	§ 790.12			
723.62	Animal Hospital	§ 790.6	C		
<u>723.62A</u>	<u>Kenel</u>	<u>§ 102</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
723.63	Ambulance Service	§ 790.2			
723.64	Mortuary	§ 790.62			
723.65	Trade Shop	§ 790.124	P	C #	
723.66	Storage	§ 790.117			
723.68	Fringe Financial Service	§ 790.111	#	#	#
723.69	Tobacco Paraphernalia Establishments	§ 790.123	NP #	NP #	NP #
723.69B	Amusement Game Arcade (Mechanical Amusement Devices)	§ 790.4			
723.69C	Neighborhood Agriculture	§ 102. 35(a)	PNP	PNP	PNP

1	723.69D	Large-Scale Urban Agriculture	§ 102. 35(b)	<u>ENP</u>	<u>ENP</u>	<u>ENP</u>
2	Institutions and Non-Retail Sales and Services					
3	723.70	Administrative Service	§ 790.106			
4	723.80	Hospital or Medical Center	§ 790.44			
5	723.81	Other Institutions, Large	§ 790.50	P #	C #	C #
6	723.82	Other Institutions, Small	§ 790.51	P #	P #	P #
7	723.83	Public Use	§ 790.80	C #	C #	C #
8	723.84	Medical Cannabis Dispensary	§ 790.141	P		
9	RESIDENTIAL STANDARDS AND USES					
10	723.90	Residential Use	§ 790.88	P #	P #	P #
11	723.91	Dwelling Unit Density	§ 207	Generally, up to 1 unit per 400 sq. ft. lot area # § 207(c)		
12	<u>723.91A</u>	<u>Required Dwelling Unit Mix</u>	<u>§ 207.6</u>	<u>No less than 40% of the total number of proposed dwelling units shall contain at least two bedrooms; or no less than 30% of the total number of proposed dwelling units shall contain at least three bedrooms.</u>		
13	723.92	Residential Density, Group Housing	§§ 207, 208	Generally, up to 1 bedroom per 140 sq. ft. lot area # § 208		
14	723.92b	Residential Density, Homeless Shelters	§§ 102, 207.1, 790.88(c)	Density limits per Section 208(a) #		
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1	723.93	Usable Open Space [Per Residential Unit]	§§ 135, 136	Generally, either 60 sq. ft. if private, or 80 sq. ft. if common # § 135(d)		
2	723.94	Off-Street Parking, Residential	§§ 150, <u>151</u> , 153 - 157, 159 - 160, 204.5	<u>None required.</u> Generally, 1 space for each dwelling unit §§ 151, 161(a) (g)		
3	723.95	Community Residential Parking	§ 790.10	C #	C #	C #
4	723.96	Removal of Residential or Unauthorized Units through Conversion	§ 317	€ <u>NP</u>	€ <u>NP</u>	NP
5	723.97	Removal of Residential or Unauthorized Units through Conversion, Demolition, or Merger	§ 317	€ <u>NP</u>		
6	<u>723.98</u>	<u>Residential</u> <u>Division</u>	<u>§ 207.8</u>	<u>P</u>	<u>P</u>	<u>P</u>

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

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

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

SEC. 732. PACIFIC AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT.

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

1 **(b) Controls.**

2 **(1) Purposes.** The Pacific Avenue Neighborhood Commercial District controls
3 are designed to promote a small, neighborhood serving mixed-use commercial street that
4 preserves the surrounding neighborhood residential character. These controls are intended to
5 preserve livability in a largely low-rise development residential neighborhood, enhance solar
6 access on a narrow street right-of-way, and protect residential rear yard patterns at the
7 ground floor. Accessory dwelling units are permitted within the district pursuant to Subsection
8 207(c)(4) of this Code.

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

10 Where an immediately prior use was a Legacy Business, as defined under Administrative Code Section
11 2A.242, the controls require any new non-residential use to obtain Conditional Use authorization; this
12 requirement shall not apply where: (A) the subject non-residential space has had no occupant and has
13 not been open to the public for three or more years from the date the application for the new use is
14 filed, or (B) where the Legacy Business has removed itself or has been otherwise removed from the
15 Legacy Business Registry.

16 **(3) Loss of Residential Units.** To prevent the loss of existing Residential Units, the
17 removal, demolition, merger, or conversion of Residential Units above the First Story are prohibited
18 even if such loss of Residential Units would otherwise be allowed pursuant to Section 317 of this Code.

19

20 **Table 732. PACIFIC AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT**

21 **ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Polk Street Controls
BUILDING STANDARDS			
* * * *	* * * *	* * * *	* * * *

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1	732.11	Lot Size <i>[Per Development]</i>	§§ 121.1, 790.56	P up to 9,999 <u>3,499</u> sq. ft.;; C 10,000 <u>3,500</u> sq. ft. & above § 121.1		
2	No.	Zoning Category	§ References	Polk Street Controls by Story		
3			§ 790.118	1st	2nd	3rd+
4	COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES					
5	****	****	****	****		
6	Retail Sales and Services					
7	732.40	Other Retail Sales and Services <i>[Not Listed Below]</i>	§ 790.102	P	C	
8	732.41	Bar	§ 790.22			
9	732.43	Limited- Restaurant	§ 790.90	P		
10	732.44	Restaurant	§ 790.91	C		
11	732.45	Liquor Store	§ 790.55			
12	732.46	Movie Theater	§ 790.64			
13	732.47	Adult Entertainment	§ 790.36			
14	732.48	Other Entertainment	§ 790.38			
15	732.49	Financial Service	§ 790.110	P		
16	732.50	Limited Financial Service	§ 790.112	P		
17	732.51	Medical Service	§ 790.114	P	P	
18	732.52	Personal Service	§ 790.116	P	C	
19	732.53	Business or Professional Service	§ 790.108	P #	C	
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732.54	Massage Establishment	§ 790.60, §§ 29.1-29.32 Health Code			
732.55	Tourist Hotel	§ 790.46			
732.56	Automobile Parking	§§ 156, 160, 790.8	C #		
732.57	Automotive Gas Station	§ 790.14			
732.58	Automotive Service Station	§ 790.17			
732.59	Automotive Repair	§ 790.15	C #		
732.60	Automotive Wash	§ 790.18			
732.61	Automobile Sale or Rental	§ 790.12			
732.62	Animal Hospital	§ 790.6			
<u>732.62A</u>	<u>Kennel</u>	<u>§ 102</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
732.63	Ambulance Service	§ 790.2			
732.64	Mortuary	§ 790.62			
732.65	Trade Shop	§ 790.124	C		
732.66	Storage	§ 790.117			
732.68	Fringe Financial Service	§ 790.111	P #		
732.69	Tobacco Paraphernalia Establishments	§ 790.123	C		
732.69B	Amusement Game Arcade (Mechanical Amusement Devices)	§ 790.4			
732.69C	Neighborhood Agriculture	§ 102.35(a)	<u>PNP</u>	<u>PNP</u>	<u>PNP</u>
732.69D	Large-Scale Urban Agriculture	§ 102.35(b)	<u>CNP</u>	<u>CNP</u>	<u>CNP</u>
Institutions and Non-Retail Sales and Services					

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

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

SPECIFIC PROVISIONS FOR THE PACIFIC AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT

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

<p>1 <u>§§ 732.40-</u> 2 <u>732.83</u></p>	<p>3 <u>§ 145.4</u></p>	<p><u>GROUND FLOOR COMMERCIAL USES REQUIRED</u> <u>Boundaries: Pacific Avenue, between Van Ness Avenue and Jones Street, on lots where the last known ground floor use was a commercial or retail use.</u> <u>Controls: Active Commercial uses shall be required at the Ground Floor pursuant to Section 145.4.</u></p>
<p>5 § 732.68</p>	<p>6 § 249.35</p>	<p>7 FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT (FFSRUD) Boundaries: The FFSRUD and its 1/4 mile buffer includes, but is not limited to, the Pacific Avenue Neighborhood Commercial District. Controls: Within the FFSRUD and its 1/4 mile buffer, fringe financial services are NP pursuant to Section 249.35. Outside the FFSRUD and its 1/4 mile buffer, fringe financial services are P subject to the restrictions set forth in Subsection 249.35(c)(3).</p>
<p>12 * * * *</p>	<p>13 * * * *</p>	<p>14 * * * *</p>

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

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

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

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

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

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

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

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

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

23 By: _____
24 Christopher T. Tom
25 Deputy City Attorney
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