



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text Amendment

HEARING DATE: JULY 19, 2017

EXPIRATION DATE: OCTOBER 9, 2017

*Project Name:* **Commercial Uses in North Beach; Technical and Other Amendments**  
*Case Number:* **2017-005179PCA** [Board File No. 170419]  
*Initiated by:* Supervisor Peskin / Re-Introduced July 11, 2017  
*Staff Contact:* Diego R Sánchez, Legislative Affairs  
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*Reviewed by:* Aaron Starr, Manager of Legislative Affairs  
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*Recommendation:* **Recommend Approval with Modifications**

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### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to 1) support Legacy Businesses; 2) expand the definition of historic buildings and impose additional requirements in the Broadway NCD and North Beach SUD; 3) prohibit certain uses in the North Beach SUD; 4) reduce the lot size limit in the North Beach SUD; 5) modify the requirements for approval of parking garages in the Telegraph Hill-North Beach Residential SUD, the North Beach NCD, and Chinatown Mixed Use Districts; 6) reduce the off-street parking spaces permitted for residential uses in the Telegraph Hill-North Beach Residential SUD, and the Broadway and North Beach NCDs; and 7) revise the definition of Formula Retail.

#### The Way It Is Now:

##### Development Standards and Off-Street Parking

1. In the North Beach Neighborhood Commercial District (NCD) new construction or significant enlargement of existing buildings on lots 5,000 square feet or larger requires Conditional Use authorization.
2. To approve a garage installation in the North Beach NCD and the Telegraph Hill-North Beach SUD, the Planning Commission must make five findings at an MDR hearing. These include finding that (1) the garage would not cause the removal or conversion of a residential unit, (2) the proposed garage opening does not substantially decrease livability of a dwelling unit without increasing the floor area in a commensurate amount, (3) the building has not had two or more evictions within the past ten years, (4) the garage would not front on a public right of way narrower than 41 feet, and (5) the proposed garage is consistent with the Priority Policies of Section 101.1. The Department is required receive an affidavit attesting to findings (1) – (3) and verify those findings in addition to determining whether the proposal complies with findings (4) and (5) prior to a Planning Commission hearing or issuance of a neighborhood notification.
3. In the North Beach NCD up to 0.75 parking spaces per Dwelling Unit are allowed with Conditional Use authorization.

4. In the North Beach SUD, projects of at least ½ acre in size, exclusive of streets, alleys and other public property that will remain undeveloped, may elect to pursue authorization as a Planned Unit Development.
5. In the Telegraph Hill-North Beach SUD up to three cars for each four dwelling units is permitted and up to one car for each dwelling unit is allowed with Conditional Use authorization.

#### Retail Controls

6. Within the North Beach NCD, Health Services are principally permitted at the first and second stories and are prohibited at the third story and above.
7. In the North Beach Special Use District a non-residential use proposing to use a space last occupied by a Commercial Use that was a Legacy Business does not need to secure Conditional Use authorization solely because the immediately prior use occupying that space was a Legacy Business.
8. In the North Beach SUD, non-residential uses that are not considered Active Commercial Uses, pursuant to Planning Code Section 145.4, may locate at the ground floor if the underlying zoning district allows them either as of right or with Conditional Use authorization.
9. In the North Beach SUD, Health Services are regulated according to the controls in the underlying Zoning District.
10. In the North Beach SUD, the Planning Commission is not required to determine whether a new use seeking Conditional Use authorization supports any of the purposes of the North Beach SUD.

#### Historic Preservation Review

11. In the North Beach SUD and Broadway NCD the Planning Department, with the Historic preservation Commission, reviews the alteration or expansion of buildings according to the Secretary of the Interior Standards for the Treatment of Historic Properties when the property is designated pursuant to Article 10 of the Planning Code. Properties that are not designated however, are identified as potential or known historical resources. The Historic Preservation Commission does not review building permit applications or entitlements associated with properties that are not designated pursuant to either Article 10 or Article 11 of the Planning Code. The Planning Department reviews projects involving known or potential resources for conformance with the Secretary of the Interior's Standards recognizing the City's priority policies that historic buildings will be protected and preserved; and with the goal of issuing a Categorical Exemption for the purposes of CEQA review.

#### Formula Retail

12. Uses subject to the Formula Retail controls are listed under Planning Code Section 303.1. This list has been interpreted to include most, but not all, uses under the definition of Sales and Service, Retail, as found in Planning Code Section 102.
13. A Formula Retail establishment may change owner, operator or use in a zoning district that prohibits Formula Retail uses with Conditional Use authorization.

**The Way It Would Be:**

Development Standards and Off-Street Parking

1. In the North Beach Neighborhood Commercial District (NCD) new construction or significant enlargement of existing buildings on lots 2,500 square feet or larger would require Conditional Use authorization.
2. A MDR hearing would be required to approve a garage installation in a building, existing or proposed, of two units or more in the North Beach NCD and the Telegraph Hill-North Beach NCD. The Planning Commission would be required to make five modified findings at the MDR hearing. These include finding that that (1) the garage would not cause the elimination or reduction of ground-story retail or commercial space, (2) the proposed garage opening would not decrease square footage of a dwelling unit, (3) the building has not two or more evictions within the past ten years, (4) the garage would not front on an Alley pursuant to Section 155(r)(2) or a public right of way narrower than 41 feet, and (5) the proposed garage is consistent with the Priority Policies of Section 101.1. The Planning Department is required receive an affidavit from the Project Sponsor attesting to findings (1) – (3) and verify those findings in addition to determining the proposal complies with findings (4) – (5) prior to issuance of a neighborhood notification. If the project does not provide the affidavit or the garage would front on an Alley or public right of way narrower than 41 feet the Department would be required to disapprove the application and no Planning Commission hearing would be required.
3. In the North Beach NCD providing off-street parking spaces above a ratio of 0.5 parking spaces per Dwelling Unit would not be permitted.
4. Authorization as a Planned Unit Development would be prohibited within the North Beach Special Use District
5. No more than 0.5 parking spaces for each dwelling unit would be allowed in the Telegraph Hill-North Beach Special Use District.

Retail Controls

6. Within the North Beach NCD Health Services would be prohibited on the first story and require Conditional Use authorization on the second story and above.
7. Conditional Use authorization would be required in the North Beach SUD for a non-residential use proposing to occupy a space where the immediately prior use was a Commercial Use that was also a Legacy Business.
8. Active Commercial Uses at the Ground Floor would be required in the North Beach SUD, unless otherwise prohibited or limited by the North Beach SUD, the North Beach NCD or another Planning Code Section.
9. The North Beach SUD would regulate on which stories a Health Services use may locate. It would prohibit them on the first story and require Conditional Use authorization on the second story and above.
10. The Planning Commission would be required to find that a new use seeking Conditional Use authorization supports the purposes of the North Beach Special Use District prior to granting the

authorization. The findings concerning whether a project preserves and enhances the architectural and cultural heritage of North Beach and preserves the contributions of Legacy Businesses to the history and identity of North Beach would specifically apply for buildings in districts identified as potentially eligible for the National or California Register, including those buildings and districts listed in the California Historical Resources Information System Inventory, within the North Beach Special Use District

### Historic Preservation Review

11. In the North Beach SUD the Planning Department or the Historic Preservation Commission would be required to review the alteration or expansion of all buildings located within listed or potentially eligible National Register or California Register historic districts, including districts identified in the California Historical Resources Information System Inventory, according to the Secretary of the Interior Standards for the Treatment of Historic Properties. In the Broadway NCD, this analysis would only occur when a project is proposed, either through an addition or new construction, to exceed 40 feet in height.

### Formula Retail

12. All uses under the definition of Sales and Service, Retail, as found in Planning Code Section 102, would be subject to the Planning Code Section 303.1 Formula Retail controls.
13. A Formula Retail establishment would not be allowed to change owner, operator or use in a zoning district that prohibits Formula Retail uses unless the use changes to one that is no longer a Formula Retail use.

## **ISSUES AND CONSIDERATIONS**

### **Garage Installation Review**

Installing vehicular access, such as a garage, into an existing building must be done with care. The aesthetics and functioning of the existing building as well as the quality of the pedestrian environment can be adversely affected if the installation is done poorly.<sup>1</sup> Consideration for existing residential units and individuals residing there must be had. Losing or lessening the size of residential units or displacing tenants for the purposes of installing a garage should be avoided.<sup>2</sup>

The Planning Code incorporates such considerations.<sup>3</sup> It requires the Planning Department (Department) to verify that a garage installation is sensitive to those considerations. This verification occurs prior to a

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<sup>1</sup> General Plan, Urban Design Element, Objective 4 Improvement of the Neighborhood Environment to Increase Personal Safety, Comfort, Pride and Opportunity, Policy 4.4 Design Walkways and Parking Facilities to Minimize Danger to Pedestrians and Policy 4.13 Improve Pedestrian Areas by Providing Human Scale and Interest.

<sup>2</sup> General Plan, Housing Element, Objective 2 Retain Existing Housing Units, and Promote Safety and Maintenance Standards without Jeopardizing Affordability, Policy 2.3 Prevent the Removal or Reduction of Housing for Parking.

<sup>3</sup> Planning Code Section 155(t)

Planning Commission (Commission) hearing or neighborhood notice, resulting in either a 10 or 30 day period before a Commission action.

Improvements to this process can be made. Avoiding the loss of ground floor retail spaces because of the addition of vehicular access entries can be added to the list of considerations. This would help assure a quality pedestrian environment and preserve the retail sector. Requiring a 30 day period between Department verification of the fulfillment of the considerations and Commission hearing is one way to assure adequate project review and compliance. This also affords the concerned public with reasonable time to review the Department's verification. A 30 day period also coincides with the notice period for projects requiring notice pursuant to Planning Code Section 311 or 312. This is a standard, well known and codified time period and preferable to a metric that either provides less time or is vague and uncoded. Establishing a milestone from which to confirm an absence of tenant evictions would ease implementation as well. The date the Department accepts a complete building permit application for a garage installation is a useful milestone.

Determining whether a proposed garage installation complies with these considerations is easily done for existing buildings. As part of an application to install a garage a plan set indicating the existing and proposed condition will reveal any changes to existing residential or retail spaces. Doing this for proposed buildings is impossible since one cannot determine an initial condition that a proposed garage would worsen. Given this, these garage installation considerations should only apply to existing buildings.

#### **Historic Preservation Review**

The North Beach survey, including the Broadway commercial corridor was adopted by the Board of Supervisors in August 1999. This survey identified historic resources, both individual and contributors to larger districts throughout the survey area. A number of properties within the survey area are now age-eligible (45 years or older) to be considered potential historic resources until a definitive analysis is made on whether the property qualifies as a known historic resource.

Historic Preservation staff currently reviews alterations and new construction affecting properties designated as City Landmarks pursuant to Article 10 of the Planning Code. The Historic Preservation Commission has delegated to staff a number of minor scopes of work that it deems routine and should not require a hearing. Larger scopes of work, such as additions and new construction do require a full hearing before the Historic Preservation Commission. Pursuant to Article 10, all projects involving a city landmark must conform to the Secretary of the Interior's Standards, as well as any other city guidelines and policies. The Historic Preservation Commission is not involved in the review or approval of projects affecting known or potential historic resources that are not designated in the Code. Review of these building permit applications (BPA) is the responsibility of Department Preservation staff and the Planning Commission when an entitlement, such as a Conditional Use Authorization is required.

The proposed Ordinance states that either the Historic Preservation Commission or Department staff must make a finding of conformance with the Secretary of the Interior's Standards for all known and potential historic resources within the North Beach Survey area. If the areas of the North Beach SUD that meet Article 10 criteria for designation were designated as a City Landmark, this existing process would offer the Department and the Historic Preservation Commission oversight to the same effect as the proposed amendments.

Without Article 10 designation the Department currently applies an uncodified process and checklist to facilitate historic review to satisfy conformance with Secretary of Interior (SOI) standards pursuant to its requirements under the California Environmental Quality Act (CEQA) only. The checklist defines various scopes of work that can qualify for a Class 1 or Class 3 Categorical Exemption. Conformance with the SOI qualifies for a categorical exemption on the checklist. All discretionary review must receive CEQA clearance before the approval of the BPA. The checklist serves as a tool to assure adequate review and as a record of that review. It also allows non-preservation staff to review properties known to not be historic but in potentially eligible historic districts for some limited scopes of work. When a member of the public believes the Department has erred in its review, they may appeal the checklist determination to the Board of Supervisors.

As proposed the Ordinance would duplicate earlier work conducted to determine which properties require historic preservation staff review and the associated analysis. An analysis under Article 10 of the Planning Code requires a sometimes lengthy documentation of how a project does or does not conform to the SOI. Conversely, using the CEQA checklist requires only a short description or list of which of the ten Standards apply to the project. However an appellant or appellate body may expect a different, lengthier document, such as a Historic Resources Evaluation Report (HREER), from the Department as evidence of adequate review. Staff would be required to produce broader documentation to reiterate its determination even for properties known to not be of historic import. Because only historic preservation staff can draft an HREER, scarce preservation staff time will be diverted away from its core functions. This would significantly impact review and processing time for BPAs and entitlements within the North Beach SUD as preservation staff are the only members of the Department with the specialized skill set to review these projects. This would be a poor use of the Department's resources or require hiring of a substantial number of staff to maintain current review and processing times.

As currently drafted the language will cause delay and confusion in determining a clear process for the staff, decision-makers, and the public as the amendments may be interpreted as confusing to anticipate the Historic Preservation Commission to be involved in the review or appeal process. The language could distort the current process further if a project also requires Planning Commission review. The Department has no concern if the intent of the amendments is to codify the current process; however, the language could benefit from further refinement to provide a clear expectation for the content and format for the administrative documentation desired and better reflect the current process. While the Department has no concern to codify the current process, as it primarily relates to CEQA review, the City Attorney's Office should be consulted. If the process were to change or be refined in the future additional Code amendments would likely be required. To this effect, it may be more efficient and provide the same effect to provide a separate public policy document that outlines the process rather than inclusion in the Planning Code.

#### **Conditional Use Authorization Findings and Retail Character**

The CU process is a regulatory mechanism that can help influence neighborhood character. All proposals seeking CU are reviewed against a standard set of findings, including necessity, desirability and compatibility with the proposed project's surroundings.<sup>4</sup> Certain uses are also reviewed against findings specific and germane to that use.

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<sup>4</sup> Planning Code Section 303

Findings help steer projects toward meeting larger policy goals. These range from promoting alternative transportation modes, to improving the built environment to supporting a vibrant retail sector. Findings should also help guide the Commission in their decisions on granting CU.

In the case of Legacy Business controls requiring CU for a replacement use, customized findings can help assure desirability of the new use. For example, 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.<sup>5</sup> The CU findings can also incentivize the new use to provide opportunities for patrons to arrive at the site using mass transit or bicycles.<sup>6</sup> Overall, customized findings can assist decision makers determine if a replacement use is appropriate for a specific location.

The Planning Code also has, in essence, area specific findings embedded in SUDs. The Japantown SUD and the Calle 24 SUD are two examples. In the Japantown SUD, a use requiring CU must be found to support two of five SUD specific findings.<sup>7</sup> In the Calle 24 SUD, a use must be found to support four of six SUD specific findings.<sup>8</sup> The findings in these SUDs focus on whether a new use is compatible with the character of the area and whether the new use will contribute to the vitality of the local economy. The SUDs are structured so that a proposed use can meet relevant findings and disregard those that do not apply to the use. This assures that new uses may actively locate in the SUD and bring new business concepts and energy.

Land use controls that overly restrict or complicate the entrance of new uses risk prolonging vacancies. Exempting a CU requirement is sometimes appropriate when vacancy is a concern. In the case of Legacy Business controls, the Calle 24 SUD exempts replacement uses from the CU requirement when the storefronts have sat vacant for at least three years. This balances the need to create a disincentive for sudden lease rate escalations with the need to fill vacant storefronts and avoid accompanying blight. NCDs adopting similar Legacy Business controls should be attentive to this balance between competing goals.

In a similar vein, prohibiting a significant number of retail uses at the first story, for example, can also prolong vacancies. NCDs that allow a wide variety of uses, either as of right or through CU, cast a wider net of possible replacement tenants. These include uses that help residents satisfy their basic personal needs, such as groceries, personal toiletries and health services. As the General Plan notes, NCDs that

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<sup>5</sup> 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

<sup>6</sup> 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

<sup>7</sup> Planning Code Section 249.31

<sup>8</sup> Planning Code Section 249.59

have a diverse retail base and can continue to attract a variety of uses are also prosperous ones.<sup>9</sup> Should overconcentration concerns arise, the CU process is one method to evaluate its necessity for and desirability in an NCD.

### **Formula Retail Controls**

The last major change to the Planning Code Formula Retail controls occurred in 2014.<sup>10</sup> The changes were a result of a multi-month process including focus group meetings, an Office of the Controller's Economic Impact Report, and a Planning Department commissioned consultant study.<sup>11</sup> A key finding of the consultant study was that expanding the application of Formula Retail controls to more land use types could prolong existing vacancies. This is because the required CU process can serve as a deterrent for retailers to pursue sites with Formula Retail controls. In NCDs with vacancy rates higher than the citywide average this can be concerning.

Uses such as a veterinary office or kennel, an insurance brokerage office or a medical office can often fill a vacancy in an underserved corridor. These may fill a gap in retail offerings for the adjacent neighborhood residents and deter the blight associated with a vacant building or storefront. Avoiding additional process associated with Formula Retail controls can facilitate the entry of these uses where needed. The underlying zoning controls, such as standard neighborhood notice, can still provide a venue for community review. This arrangement, then, strikes a balance between corridor reinvestment and neighborhood compatibility. In other instances, such as with Hotel uses, the underlying zoning district control requires CU. Adding a second CU entitlement for Formula Retail may prove unnecessarily redundant in certain NCDs.

## **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:

1. For building permit application proposing garage installations in the North Beach NCD, Telegraph Hill- North Beach SUD and Chinatown Mixed Use Districts:
  - a. Clarify that these controls apply to existing buildings seeking to add a garage and not proposed buildings;
  - b. Clarify that the milestone for the proposed 10 year no-fault eviction period is the date of acceptance of a complete building permit application;

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<sup>9</sup> General Plan, Commerce and Industry Element, Objective 6 Maintain and Strengthen Viable Neighborhood Commercial Areas Easily Accessible to City Residents: *The successful district provides a variety of goods and services in an atmosphere of safety, convenience, and attractiveness.*

<sup>10</sup> Ordinance 235-14:

<http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances14/o0235-14.pdf>

<sup>11</sup> San Francisco Formula Retail Economic Analysis. Strategic Economics. June 2014

[http://208.121.200.84/ftp/files/legislative\\_changes/form\\_retail/Final\\_Formula\\_Retail\\_Report\\_06-06-14.pdf](http://208.121.200.84/ftp/files/legislative_changes/form_retail/Final_Formula_Retail_Report_06-06-14.pdf)



- c. Require the Planning Department to have verified and determined whether a garage installation application complies with the proposed five findings prior to issuance of a Section 311/312 neighborhood notice or 30 days prior to a Planning Commission hearing
2. Maintain the existing Historic Preservation review procedures for buildings in the North Beach SUD and the Broadway NCD.
3. Require Conditional Use authorization for Health Service uses on the first story in the North Beach SUD.
4. For the proposed Legacy Business controls in the North Beach SUD:
  - a. Exempt properties that have been vacant or otherwise removed from the Legacy Business Registry from the Conditional Use authorization requirement for uses occupying a space formerly occupied by a Legacy Business;
  - b. Add Conditional Use findings for the Planning Commission to consider when reviewing an application proposing to occupy a space formerly occupied by a Legacy Business.
5. Add clarifying language stating that the Planning Commission is to determine whether or not a proposed use supports the purposes of the North Beach SUD applicable to the proposed use and not each purpose.
6. Add clarifying language to the proposed amendments to the Formula Retail controls that explicitly exempt Animal Hospital, Hotel, Kennel, Health Services and Retail Professional Services uses from the Formula Retail controls.

## BASIS FOR RECOMMENDATION

The Department supports the Ordinance's intentions of promoting and improving the small scale and pedestrian friendly nature of the North Beach area. However, the Department believes that the proposed amendments can be modified to improve Department review and implementation practices as well as to further policy goals.

### Recommendations:

1. **For building permit application proposing garage installations in the North Beach NCD, Telegraph Hill- North Beach SUD and Chinatown Mixed Use Districts:**
  - a. **Clarify that these controls apply to existing buildings seeking to add a garage and not proposed buildings.**

The aim of the garage installation controls is to assure that the addition of a garage does not adversely affect existing residential or retail uses or the pedestrian environment. Determining whether this occurs for proposed buildings is impossible since a proposed building does not have any existing residential or retail uses to preserve.
  - b. **Clarify that the milestone for the proposed 10 year no-fault eviction period is the date of acceptance of a complete building permit application.**

In order to determine if a no-fault eviction has occurred within the last ten years in a building proposing a garage installation, a starting point for those 10 years is needed. Setting that 10 year period at the acceptance date of a complete building permit application is a milestone clear to the project sponsor, any past tenants, the concerned

public and the Department staff. This clarity eases implementation of this requirement as well.

- c. **Require the Planning Department to have verified and determined whether a garage installation application complies with the proposed five findings prior to issuance of a Section 311/312 neighborhood notice or 30 days prior to a Planning Commission hearing.**

Linking the period between Department verification of the fulfillment of the garage installation considerations and Commission hearing to the issuance of a Section 311/312 notice or 30 days prior to a Commission hearing provides adequate review time for the public. It also bases the time period on a standard and codified Department procedure. This avoids using a less well known or vague and uncodified milestone.

2. **Maintain the existing Historic Preservation review procedures for buildings in the North Beach SUD and the Broadway NCD.**

The Department's Historic Preservation staff has surveyed the North Beach and Broadway areas and has identified buildings that are known or potential historical resources and buildings which are not. The Department also has a functioning review procedure and appeals process, adequate for SOI considerations under CEQA and known to the appellate body. The proposed amendments would duplicate earlier work conducted to determine which properties require historic preservation staff review and which do not.

3. **Require Conditional Use authorization for Health Service uses on the first story in the North Beach SUD.**

Prohibiting a significant number of retail uses at the first story can stifle the vibrancy and diversity in uses of an NCD. The CU process works to assure that a new use is necessary, desirable and compatible with its surroundings. It can be relied upon to assure that uses like Health Service uses are appropriate for the NCD.

4. **For the proposed Legacy Business controls in the North Beach SUD:**

- a. **Exempt properties that have been vacant or otherwise removed from the Legacy Business Registry from the Conditional Use authorization requirement for uses occupying a space formerly occupied by a Legacy Business;**

Legacy Business controls should balance between the need to create a disincentive for a sudden lease rate spike to long term businesses and the need to fill vacant storefronts and not over burden subsequent tenants. Providing an exemption from the CU requirement for uses proposing to occupy a space formerly occupied by a Legacy Business and vacant for at least three years strikes a balance between those competing needs.

- b. **Add Conditional Use findings for the Planning Commission to consider when reviewing an application proposing to occupy a space formerly occupied by a Legacy Business.**

CU findings help direct proposed projects toward neighborhood compatibility, help achieve larger policy goals and help guide the Commission in their decisions on granting

Conditional Use authorization. Many use types have specific CU findings for these purposes. Legacy Business controls should also include specific findings and include:

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.

5. **Add clarifying language stating that the Planning Commission is to determine whether or not a proposed use supports the purposes of the North Beach SUD applicable to the proposed use and not each purpose.**

Findings particular to an SUD should help guide a project proposal and decision makers in their decisions. Because these types of findings seek to address a wide range of concerns particular to the SUD, not all findings will apply to a project. Projects should have to be found supporting only those findings that are relevant.

6. **Add clarifying language to the proposed amendments to the Formula Retail controls that explicitly exempt Animal Hospital, Hotel, Kennel, Health Services and Retail Professional Services uses from the Formula Retail controls.**

In NCDs with higher than average vacancy rates, the added process associated with a Formula Retail entitlement can prolong vacancies. Uses like a veterinary office or kennel, an insurance brokerage office or a medical office often fill a retail need of adjacent residents. Their presence may also deter the blighting effects a vacant building or storefront has upon a neighborhood commercial corridor. Relying on a zoning district's existing controls, such as neighborhood notice, can strike that balance between securing corridor investment and assuring community compatibility. For NCDs already requiring CU for those uses, as in the case of a Hotel use, a second CU entitlement is unnecessary.

## 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 impact our current implementation procedures. The proposed requirement to review all buildings in districts identified as potentially eligible for the National or California Register, including those buildings and districts listed in the California Historical Resources Information System Inventory, according to the Secretary of the Interior Standards for the Treatment of Historic Properties within the North Beach SUD and the Broadway NCD, would require additional staff to maintain current review times given the expanded review scope.

## **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.

<b>RECOMMENDATION:</b> <b>Recommendation of Approval with Modification</b>
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### **Attachments:**

- Exhibit A:        Draft Planning Commission Resolution
- Exhibit B:        Letters of Support/Opposition
- Exhibit C:        Board of Supervisors File No. 170419



# SAN FRANCISCO PLANNING DEPARTMENT

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## Historic Preservation Commission Draft Resolution

HEARING DATE JULY 19, 2017

*Project Name:* Commercial Uses in North Beach; Technical and Other Amendments  
*Case Number:* 2017-005179PCA [Board File No. 170419]  
*Initiated by:* Supervisor Peskin / Re-Introduced July 11, 2017  
*Staff Contact:* Diego R Sánchez, Legislative Affairs  
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*Reviewed by:* Aaron D Starr, Manager of Legislative Affairs  
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**RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO 1) SUPPORT LEGACY BUSINESSES; 2) EXPAND THE DEFINITION OF HISTORIC BUILDINGS AND IMPOSE ADDITIONAL REQUIREMENTS IN THE BROADWAY NCD AND NORTH BEACH SUD; 3) PROHIBIT CERTAIN USES IN THE NORTH BEACH SUD; 4) REDUCE THE LOT SIZE LIMIT IN THE NORTH BEACH SUD; 5) MODIFY THE REQUIREMENTS FOR APPROVAL OF PARKING GARAGES IN THE TELEGRAPH HILL-NORTH BEACH RESIDENTIAL SUD, THE NORTH BEACH SUD, AND THE CHINATOWN MIXED USE DISTRICTS; 6) REDUCE THE OFF-STREET PARKING SPACES PERMITTED FOR RESIDENTIAL USES IN THE TELEGRPAH HILL-NORTH BEACH RESIDENTIAL SUD, AND THE BROADWAY AND NORTH BEACH NCDs; 7) REVISE THE DEFINITION OF FORMULA RETAIL; AND AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE SECTION 101.1, AND FINDINGS OF PUBLIC CONVENIENCE, NECESSITY, AND WELFARE UNDER PLANNING CODE SECTION 302.**

WHEREAS, on July 11, 2017 Supervisor Peskin re-introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 170419, which would amend the Planning Code to 1) support Legacy Businesses; 2) expand the definition of historic buildings and impose additional requirements in the Broadway NCD and North Beach SUD; 3) prohibit certain uses in the North Beach SUD; 4) reduce the lot size limit in the North Beach SUD; 5) modify the requirements for approval of parking garages in the Telegraph Hill-North Beach Residential SUD, the North Beach NCD, and Chinatown Mixed Use Districts; 6) reduce off-street parking spaces permitted for residential uses in the Telegraph Hill-North Beach Residential SUD, and the Broadway and North Beach NCDs; and 7) review the definition of Formula Retail;

WHEREAS, The Historic Preservation Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on July 19, 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)(2) and 15378; and

WHEREAS, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of 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 Commission has reviewed the proposed Ordinance; and

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

Those modifications include:

1. For building permit application proposing garage installations in the North Beach NCD, Telegraph Hill- North Beach SUD and Chinatown Mixed Use Districts:
  - a. Clarify that these controls apply to existing buildings seeking to add a garage and not proposed buildings;
  - b. Clarify that the milestone for the proposed 10 year no-fault eviction period is the date of acceptance of a complete building permit application;
  - c. Require the Planning Department to have verified and determined whether a garage installation application complies with the proposed five findings prior to issuance of a Section 311/312 neighborhood notice or 30 days prior to a Planning Commission hearing
2. Maintain the existing Historic Preservation review procedures for buildings in the North Beach SUD and the Broadway NCD.
3. Require Conditional Use authorization for Health Service uses on the first story in the North Beach SUD.
4. For the proposed Legacy Business controls in the North Beach SUD:
  - a. Exempt properties that have been vacant or otherwise removed from the Legacy Business Registry from the Conditional Use authorization requirement for uses occupying a space formerly occupied by a Legacy Business;
  - b. Add Conditional Use findings for the Planning Commission to consider when reviewing an application proposing to occupy a space formerly occupied by a Legacy Business.

5. Add clarifying language stating that the Planning Commission is to determine whether or not a proposed use supports the purposes of the North Beach SUD applicable to the proposed use and not each purpose.

6. Add clarifying language to the proposed amendments to the Formula Retail controls that explicitly exempt Animal Hospital, Hotel, Kennel, Health Services and Retail Professional Services uses from the Formula Retail controls.

## 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. Promoting and preserving the existing small scale and pedestrian friendly nature of the North Beach area is of considerable importance to the City. This area is unique, nationally recognized and greatly contributes to the appeal of San Francisco.
2. New controls that strike a balance between preserving the existing housing and retail character of the North Beach area while still allowing in new uses and users can maintain the area's well known vibrancy.
3. **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 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

#### Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

*The proposed Ordinance will facilitate the establishment of retail uses that provide net benefits to the North Beach area. Any potential undesirable consequences may be addressed through existing regulatory controls.*

### OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

#### Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

**Policy 2.3**

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

*The proposed Ordinance helps retain existing commercial activity by establishing land use controls for the replacement of long standing, recognized legacy establishments. The preservation of these long standing legacy establishments helps maintain the favorable social and cultural climate that attracts visitors and firms alike.*

**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.

**Policy 6.7**

Promote high quality urban design on commercial streets.

*The proposed controls helping preserve long standing legacy establishments will help retain neighborhood-serving goods and services in the city's NCDs. The proposed bolstered controls on new garage installations in existing buildings will help promote high quality urban design on commercial streets, assuring that ground floor retail uses are not adversely affected.*

**URBAN DESIGN ELEMENT**

**OBJECTIVE 4**

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

**Policy 4.4**

**Design Walkways and Parking Facilities to Minimize Danger to Pedestrians.**

**Policy 4.13**

**Improve Pedestrian Areas by Providing Human Scale and Interest.**

*The proposed Ordinance will facilitate the improvement of the pedestrian environment by bolstering the findings required for installing garages, assuring that any new garage does not front on alleys or other narrow public rights of way.*

**HOUSING ELEMENT**

**OBJECTIVE 2**



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

**Policy 2.3**

Prevent the Removal or Reduction of Housing for Parking.

*The proposed Ordinance will assist in the prevention of the reduction of housing for parking as it proposes to bolster existing findings for projects seeking to install a garage in an existing building.*

4. **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 beneficial on neighborhood serving retail uses as it proposes new land use controls to assure neighborhood compatibility as well as preservation of long standing retail uses.*

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 will have a beneficial effect on housing and neighborhood character as it proposes development controls that steer new projects toward compatibility with the established housing and neighborhood character.*

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.*

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 maintain existing Planning Department procedures that preserve 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 not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.*

5. **Planning Code Section 302 Findings.** The 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 19, 2017.

Jonas P. Ionin  
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: July 19, 2017



June 26, 2017

North Beach Business Association  
PO Box 330187  
San Francisco, CA  
94133

Planning Commission  
City and County of San Francisco  
Re: File 170419 – Planning code Amendments North Beach NCD

Commissioners,

The North Beach Business Association would like to share our support for the Above ordinance. The changes spelled out in the ordinance are consistent with the needs of the North Beach merchant and residential community.

These amendments will provide much needed protections in order to ensure the Vitality of our commercial corridor and will preserve the unique and vital neighborhood district that is a landmark destination for both residents and Visitors alike.

Among the essential amendments are : prohibition of storefront mergers to protect the fine grain nature of smaller storefronts, codifying that all ground floor spaces be exclusively used by commercial uses, codifies the non- exchangeable definitions for Eating and drinking uses, and requiring a CU before removing any Legacy Business in the district.

We urge you to support this legislation so that our NCD is able to continue to preserve the exceptional nature of our district.

Yours,  
Fady Zoubi  
President, North Beach Business Association

1 [Planning Code - North Beach, Telegraph Hill, Broadway and Chinatown Area Controls;  
2 Formula Retail]

3 **Ordinance amending the Planning Code to 1) support Legacy Businesses; 2) expand**  
4 **the definition of historic buildings and impose additional requirements in the Broadway**  
5 **NCD and North Beach SUD; 3) prohibit certain uses in the North Beach SUD; 4) reduce**  
6 **the lot size limit in the North Beach SUD; 5) modify the requirements for approval of**  
7 **parking garages in the Telegraph Hill-North Beach Residential SUD, the North Beach**  
8 **NCD, and Chinatown Mixed Use Districts; 6) reduce off-street parking spaces permitted**  
9 **for residential uses in the Telegraph Hill - North Beach Residential SUD, and the**  
10 **Broadway and North Beach NCDs; 7) revise the definition of Formula Retail; and**  
11 **affirming the Planning Department's determination under the California Environmental**  
12 **Quality Act and making findings of consistency with the General Plan and the eight**  
13 **priority policies of Planning Code Section 101.1, and findings of public convenience,**  
14 **necessity, and welfare under Planning Code Section 302.**

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

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

23 Section 1. Findings.

24 (a) The Planning Department has determined that the actions contemplated in this  
25 ordinance comply with the California Environmental Quality Act (California Public Resources  
Code Sections 21000 *et seq.*). Said determination is on file with the Clerk of the Board of

1 Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference. The Board affirms  
2 this determination.

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

8 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code  
9 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth  
10 in Planning Commission Resolution No. \_\_\_\_\_, and the Board incorporates such reasons  
11 herein by reference.

12

13 Section 2. The Planning Code is hereby amended by revising Sections 121.1, 151,  
14 151.1, 155, 249.25, 249.49, 253.1, 303.1, 722, and 780.3, to read as follows:

15

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

18 (a) Purpose. In order to promote, protect, and maintain a scale of development ~~which~~  
19 that is appropriate to each district and compatible with adjacent buildings, new construction or  
20 significant enlargement of existing buildings on lots of the same size or larger than the square  
21 footage stated in the table below shall be permitted only as Conditional Uses.

22

District	Lot Size Limit
* * * *	* * * *
North Beach	<del>5,000</del> <u>2,500</u> sq. ft.

23

24

25

* * * *	* * * *
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\* \* \* \*

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

\* \* \* \*

**(b) Minimum Parking Required.**

**Table 151**

**OFF-STREET PARKING SPACES REQUIRED**

<b>Use or Activity</b>	<b>Number of Off-Street Parking Spaces Required</b>
<b>RESIDENTIAL USES</b>	
* * * *	* * * *
Dwelling Units in the Telegraph Hill - North Beach Residential Special Use District	None required. P up to <del>three cars</del> <u>0.5 parking spaces</u> for each <del>four</del> Dwelling Units, <u>subject to the controls and procedures of Section 249.49(c) and Section 155(t); € up to one car for each Dwelling Unit, subject to the criteria and procedure of 303(u);</u> NP above.
* * * *	* * * *

\* \* \* \*

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

\* \* \* \*



Table 151.1

OFF-STREET PARKING PERMITTED AS ACCESSORY

Use or Activity	Number of Off-Street Car Parking Spaces or Space Devoted to Off-Street Car Parking Permitted
<b>RESIDENTIAL USES</b>	
* * * *	* * * *
Dwelling Units and SRO Units in NCT, RC, RCD, RSD, Chinatown Mixed Use Districts, and the <del>Broadway, and North Beach, and</del> Upper Market Street Neighborhood Commercial Transit Districts, except as specified below	P up to one car for each two Dwelling or SRO Units; Cup to 0.75 cars for each Dwelling Unit, subject to the criteria and procedures of Section 151.1 (e); NP above 0.75 cars for each Dwelling Unit.
<u>Dwelling Units and SRO Units in the Telegraph Hill - North Beach Residential Special Use District</u>	<u>P up to 0.5 parking spaces for each Dwelling Unit, subject to the controls and procedures of Section 249.49(c) and Sections 155(r) and 155(t); NP above.</u>
<u>Dwelling Units and SRO Units in the Broadway and North Beach Neighborhood Commercial Districts outside of the boundaries of the Telegraph Hill - North Beach Residential Special Use District</u>	<u>P up to 0.5 parking spaces for each Dwelling Unit, C up to 0.75 cars for each Dwelling Unit; NP above 0.75 cars for each Dwelling Unit, subject to the controls and procedures of Sections 155(r), 155(t) and Section 151.1(e).</u>
* * * *	* * * *

\* \* \* \*

1  
2           **SEC. 155. GENERAL STANDARDS AS TO LOCATION AND ARRANGEMENT OF**  
3 **OFF-STREET PARKING, FREIGHT LOADING AND SERVICE VEHICLE FACILITIES.**

4           \* \* \* \*

5           **(t) Garage Additions in the North Beach Neighborhood Commercial District,**  
6 **North Beach-Telegraph Hill Special Use District, and Chinatown Mixed Use Districts.**

7 Notwithstanding any other provision of this Code to the contrary, a mandatory discretionary  
8 review hearing by the Planning Commission is required in order to install a garage in an  
9 existing *or proposed* structure of ~~four~~*two* units or more in the North Beach NCD, the North  
10 Beach-Telegraph Hill *Residential* SUD, and the Chinatown Mixed Use Districts;~~Section 311~~  
11 ~~notice is required for a building of less than four units.~~

12 In ~~approving order to approve the~~ installation of ~~the any~~ garage ~~in these districts~~, the ~~Commission~~  
13 ~~City~~ shall find that: (1) the proposed garage opening/addition of off-street parking will not  
14 cause ~~the elimination or reduction of ground-story retail or commercial space; the "removal" or~~  
15 ~~"conversion of residential unit," as those terms are defined in Section 317 of this Code;~~ (2) the  
16 proposed garage opening/addition of off-street parking will not ~~substantially eliminate or~~  
17 decrease the ~~livability of a square footage of any~~ dwelling unit ~~without increasing the floor area in a~~  
18 ~~commensurate amount~~; (3) the building has not had two or more evictions with each eviction  
19 associated with a separate unit(s) within the past ten years, and (4) ~~the garage would not front~~  
20 ~~on an Alley pursuant to Section 155(r)(2) of this Code or on a public right-of-way narrower than 41~~  
21 ~~feet, and (5)~~ the proposed garage/addition of off-street parking is consistent with the Priority  
22 Policies of Section 101.1 of this Code. Prior to ~~the Commission hearing, or prior to~~ the issuance  
23 of notification under Section 311~~(e)(2)~~ ~~or 312~~ of this Code, the ~~Planning~~ Department shall  
24 require a signed affidavit by the project sponsor attesting to (1), (2), and (3) above, which the  
25 Department shall independently verify, ~~and the Department shall determine whether The~~

1 ~~Department shall also have made a determination that~~ the project complies with subsection (4)  
2 above. If the project sponsor does not provide such signed affidavit, or the garage would front on an  
3 Alley or on a public right-of-way narrower than 41 feet, the Department shall disapprove the  
4 application and no Planning Commission hearing shall be required.

5  
6 **SEC. 249.49. TELEGRAPH HILL - NORTH BEACH RESIDENTIAL SPECIAL USE**  
7 **DISTRICT.**

8 (a) **Purposes.** To regulate the amount of off street parking and limit the installation of  
9 garages in ~~existing~~ all residential structures in order to ensure that they do not ~~significantly~~  
10 increase the level of automobile traffic, increase pollution, cause the removal of on-street parking  
11 spaces, or impair pedestrian use on narrow public rights-of-way in the District, ~~or;~~ and to  
12 preserve existing affordable housing by preventing the ability to add parking from providing the  
13 addition of off-site parking, which provides an incentive to convert existing affordable residential  
14 buildings ~~from rental buildings~~ to market-rate tenancies in common housing.

15 \* \* \* \*

16 (c) **Controls.**

17 (1) Number of Off-Street Residential Parking Spaces. Up to ~~three cars~~ 0.5  
18 parking spaces for each ~~four~~ dwelling units is a Permitted use; ~~up to one car for each dwelling unit~~  
19 ~~requires a Conditional use, subject to the criteria and procedures of Section 151.1(f) (g);~~ above ~~one~~  
20 ~~car~~ 0.5 parking spaces for each dwelling unit is Not Permitted.

21 (2) Installation of a Parking Garage. Installation of a garage in an existing or  
22 proposed residential building of ~~four~~ two or more units requires a mandatory discretionary  
23 review hearing by the Planning Commission; ~~Section 311 Notice is required for a building of less~~  
24 ~~than four units.~~ In approving order to approve the installation of ~~the any~~ garage in these districts, the  
25 Commission shall find that: (1) the proposed garage opening/addition of off-street parking will

1 not cause ~~the elimination or reduction of ground-story retail or commercial space; the "removal" or~~  
2 ~~"conversion of residential unit," as those terms are defined in Section 317 of this Code;~~ (2) the  
3 proposed garage opening/addition of off-street parking will not ~~substantially eliminate or~~  
4 decrease the ~~livability of a square footage of any~~ dwelling unit ~~without increasing the floor area in a~~  
5 ~~commensurate amount;~~ (3) the building has not had two or more ~~"no-fault" evictions, as defined in~~  
6 ~~37.9(a)(78) (1316) of the San Francisco Administrative Code, with each eviction associated with a~~  
7 ~~separate unit(s)~~ within the past ~~10~~ten years, ~~with each eviction associated with a separate unit(s).~~ (4)  
8 the garage would not front on ~~an Alley pursuant to Section 155(r)(2) of this Code or on~~ a public  
9 right-of-way narrower than 41 feet, and (5) the proposed garage ~~or~~ addition of off-street  
10 parking ~~installation~~ is consistent with the Priority Policies of Section 101.1 of this Code.

11 Prior ~~to the Planning Commission hearing, or prior~~ to issuance of any required  
12 notification under Section 311~~(e)(2)~~ or 312 of this Code, the ~~Planning~~ Department shall require  
13 a signed affidavit by the project sponsor attesting to (1), (2), and (3) above, which the  
14 Department shall independently verify, and the Department shall determine whether. ~~The~~  
15 ~~Department shall also have made a determination that~~ the project complies with (4) and (5) above.  
16 If the project sponsor does not provide such signed affidavit, or the garage would front on an Alley or  
17 public right-of-way narrower than 41 feet, the Department shall disapprove the application and no  
18 Planning Commission hearing shall be required.

19  
20 **SEC. 253.1. REVIEW OF PROPOSED BUILDINGS AND STRUCTURES IN THE**  
21 **BROADWAY NEIGHBORHOOD COMMERCIAL DISTRICT.**

22 \* \* \* \*

23 (b) In authorizing any such proposal for a building or structure exceeding 40 feet in  
24 height, the Planning Commission shall find, in addition to the criteria of Section 303(c), that  
25 the proposal is consistent with the expressed purposes of this Code, of the Broadway

1 Neighborhood Commercial District, and of the height and bulk districts, set forth in Sections  
2 101, 714 and 251 of this Code, and that the following criteria are met:

3 (1) The height of the new or expanding development will be compatible with the  
4 individual neighborhood character and the height and scale of the adjacent buildings.

5 (2) The height and bulk of the new or expanding development will be designed  
6 to allow maximum sun access to nearby parks, plazas, and major pedestrian corridors.

7 (3) The architectural and cultural character and features of existing buildings shall be  
8 preserved and enhanced. The Historic Preservation Commission or its staff shall review any proposed  
9 alteration of historic resources and must determine that such alterations comply with the Secretary of  
10 Interior’s Standards for the Treatment of Historic Properties before the City approves any permits to  
11 alter such buildings. For purposes of this section, “historic resources” shall include Article 10  
12 Landmarks and buildings located within Article 10 Historic Districts, buildings and districts identified  
13 in surveys adopted by the City, buildings listed or potentially eligible for individual listing on the  
14 National or California Registers, and buildings located within listed or potentially eligible National  
15 Register or California Register historic districts. The Planning Department shall also consult  
16 materials available through the California Historical Resources Information System (CHRIS) and  
17 Inventory to determine eligibility.

18  
19 **SEC. 303.1. FORMULA RETAIL USES.**

20 \* \* \* \*

21 (c) **Retail Sales or Service Activity or Retail Sales or Service**  
22 **Establishment."** For the purposes of this Section 303.1, a retail sales or service activity or  
23 retail sales or service establishment shall include the following uses whether functioning as a  
24 principal or accessory use, as defined in Articles 1, 2, 7, and 8 of this Code:

- 25 - Bar, §102;

- 1 - Drive-up Facility, §§ 102, 890.30;
- 2 - Eating and Drinking Use, §102;
- 3 - Liquor Store, §102;
- 4 - Sales and Service, Other Retail, § 890.102, and Retail Sales and Service,
- 5 General;
- 6 - Restaurant, §102;
- 7 - Limited-Restaurant, §102;
- 8 - Sales and Service, Retail, §§ 102, 890.104, *including but not limited to the*
- 9 *following specific uses: Adult Business, Animal Hospital, Bar, Cat Boarding, Chair and Foot Massage,*
- 10 *Tourist Oriented Gift Store, General Grocery, Specialty Grocery, Gym, Hotel, Jewelry Store, Kennel,*
- 11 *Liquor Store, Massage Establishment, Chair and Foot Massage, Mobile Food Facility, Mortuary*
- 12 *(Columbarium), Motel, Non-Auto Sales, Pharmacy, Restaurant, Limited Restaurant, General Retail*
- 13 *Sales and Service, Financial Services, Fringe Financial Services, Limited Financial Services, Health*
- 14 *Services, Instructional Service, Personal Service, Retail Professional Service, Self-Storage, Tobacco*
- 15 *Paraphernalia Establishment, and Trade Shop;*
- 16 - Service, Financial, §§ 102, 890.110;
- 17 - Movie Theater, §§ 102, 890.64;
- 18 - Amusement and Game Arcade, §§ 102, 890.4;
- 19 - Service, Limited Financial, except single automated teller machines at the street
- 20 front that meet the Commission's adopted Performance-Based Design Guidelines and
- 21 automated teller machines located within another use that are not visible from the street,
- 22 §102;
- 23 - Service, Fringe Financial, §§ 102, 890.113;
- 24 - Tobacco Paraphernalia Establishment, §§ 102, 890.123;
- 25 - Massage Establishment, §§ 102, 890.60;

- 1 - Service, Personal, §§ 102. 890.116;
- 2 - Service, Instructional, §102;
- 3 - Gym, §102;
- 4 - General Grocery, §102;
- 5 - Specialty Grocery, §102;
- 6 - Pharmacy, §102;
- 7 - Jewelry Store, §§ 102, 890.51;
- 8 - Tourist Oriented Gift Store, §§ 102, 890.39; and
- 9 - Non-Auto Vehicle Sales or Rental, §§ 102, 890.69.

10 \* \* \* \*

11  
12 **SEC. 722. NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT.**

13 \* \* \* \*

14 **Table 722. NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT**  
15 **ZONING CONTROL TABLE**

Zoning Category	§ References	North Beach NCD Controls
<b>BUILDING STANDARDS</b>		
* * * *		
Street Frontage and Public Realm		
* * * *		
Vehicular Access Restrictions	§§ 155(r) and (t)	Prohibited on Columbus Avenue between Washington and North Point Streets, Grant Avenue between Columbus Avenue and

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		Filbert Street, and Green Street between Grant Avenue and Columbus/Stockton Streets, and Alleys in the NBNCD and Telegraph Hill-NB Residential SUD. Mandatory discretionary review required to install garages in buildings with <del>four</del> <u>two</u> or more units.
* * * *		
<b>RESIDENTIAL STANDARDS AND USES</b>		
Development Standards		
* * * *		
Off Street Parking Requirements	§§ 145.1, 150, 151.1, 153 - 156, 166, 204.5	No car parking required. P up to 0.5 parking spaces for each Dwelling Unit; <del>C up to 0.75 parking spaces for each Dwelling Unit</del> . <u>NP above 0.5 parking spaces for each Dwelling Unit</u> (1) Per 155(t), special controls when installing garages in <u>existing or proposed</u> Residential Buildings. Bike parking required per §155.2
* * * *		



**NON-RESIDENTIAL STANDARDS AND USES**

\* \* \* \*

Sales and Service Use Category	<u>Controls by Story</u>		
	<u>1st</u>	<u>2nd</u>	<u>3rd+</u>

\* \* \* \*

<u>Services, Health</u>	<u>§102</u>	<u>NP</u>	<u>C</u>	<u>C</u>
-------------------------	-------------	-----------	----------	----------

\* \* \* \*

(1) NORTH BEACH OFF-STREET PARKING, RESIDENTIAL (Section 155(t))

**Boundaries:** North Beach NCD, North-Beach Telegraph Hill SUD

**Controls:**

(a) Installing a garage in an existing or proposed residential building of ~~four~~two or more units requires a mandatory Discretionary Review by the Planning Commission; ~~Section 311 notice is required for a building of less than four units.~~ In ~~approving~~order to approve the installation of ~~the~~any garage in these districts, the Commission shall find that:

(i) the proposed garage opening/addition of off-street parking will not cause the elimination or reduction of ground-story retail or commercial space; the "removal" or "conversion of residential unit," as those terms are defined in Section 317 of this Code;

(ii) the proposed garage opening/addition of off-street parking will not substantially decrease the livability of a square footage of any dwelling unit ~~without increasing the floor area in a commensurate amount;~~

(iii) the building has not had two or more "no fault" evictions, as defined in Sections 37.9(a)(78) (1316) of the San Francisco Administrative Code, with each eviction associated with a separate unit(s) within the past 10~~ten~~ years;

1 (iv) the garage would not front on an Alley pursuant to Section 155(r)(2) of this Code or on  
2 a public right-of-way narrower than 41 feet, and

3 (v) the proposed garage/addition of off-street parking ~~installation~~ is consistent with the  
4 Priority Policies of Section 101.1 of this Code.

5 (b) Prior to ~~scheduling the Planning Commission hearing, or prior to~~ issuance of any required  
6 notification under Section 311~~(e)(2)~~ or 312 of this Code, the ~~Planning~~ Department shall require  
7 a signed affidavit by the project sponsor attesting to ~~(1), (2), and (3)~~ (i) (ii) and (iii) above,  
8 which the Department shall independently verify, and the Department shall determine whether:  
9 ~~The Department shall also have made a determination that. The Department shall also have made a~~  
10 ~~determination that~~ the project complies with ~~(4) and (5)~~ (iv) and (v) above. If the project sponsor  
11 does not provide such affidavit or the Department determines that the garage would violate subsection  
12 (iv) above, the Department shall disapprove the application and no Planning Commission hearing  
13 shall be required.

14 \* \* \* \*

15  
16  
17 **SEC. 780.3. NORTH BEACH SPECIAL USE DISTRICT.**

18 (a) **Purpose~~s~~.** In order to (1) preserve and maintain the mix and variety of  
19 neighborhood-serving retail sales and personal services of a type that supplies commodities  
20 or offers personal services to residents of North Beach and nearby neighborhoods; ~~(2), to~~  
21 preserve and maintain the District's small-scale, fine grain storefronts; ~~(3), to~~ protect and  
22 encourage upper-story Residential Uses; (4) preserve and enhance the architectural and cultural  
23 heritage of North Beach; and (5) preserve the contributions of Legacy Businesses to the history and  
24 identity of North Beach, there shall be a North Beach Special Use District applicable to the  
25

1 North Beach Neighborhood Commercial District, as designated on the Sectional Map SU01 of  
2 the Zoning Map of the City and County of San Francisco.

3 (b) **Definitions.** The following definitions ~~s applies~~ shall apply only to the North Beach  
4 Special Use District:

5 (1) **Specialty Food Manufacturing.** A Commercial Use that includes the  
6 manufacturing and processing of foods on the premises for retail and/or wholesale sales and  
7 also provides a customer service counter for sale of such manufactured or processed food  
8 directly to the consumer. It may have seating as a minor and incidental use that occupies less  
9 than 15% of the Occupied Floor Area of the establishment. It includes, but is not limited to,  
10 bakeries, coffee roasters, confectionaries, chocolatiers, makers of homemade ice cream and  
11 handmade gelato or sorbet. It shall not provide any alcohol sales for consumption on or off  
12 the premises.

13 (2) **Legacy Business.** A business as defined under Administrative Code Section  
14 2A.242 and included in the Legacy Business Registry.

15 (3) **Historic Buildings.** “Historic buildings” shall include Planning Code Article 10  
16 Landmarks and buildings located within Article 10 Historic Districts, buildings and districts identified  
17 by surveys adopted by the City, buildings listed or potentially eligible for individual listing on the  
18 National or California Registers, and buildings located within listed or potentially eligible National  
19 Register or California Register historic districts. The Planning Department shall also consult  
20 materials available through the California Historical Resources Information System (CHRIS) and  
21 Inventory to determine eligibility.

22 (c) **Controls.** The following provisions shall apply within such district:

23 \* \* \* \*

24 (6) **Legacy Business.** Unless otherwise prohibited by this Section 780.3, Section  
25 722, or any other section of this Code, any new Non-Residential Use proposed where the immediately

1 prior Commercial Use was a Legacy Business shall require Conditional Use authorization pursuant to  
2 Section 303 of this Code.

3 (7) **Architectural and Cultural Heritage of North Beach.** Section 101.1 of the  
4 Planning Code includes the priority policy that historic buildings be preserved. The architectural and  
5 cultural character and features of existing historic buildings shall be preserved and enhanced. The  
6 Historic Preservation Commission or its staff shall review any proposed alterations to historic  
7 buildings, as defined in subsection 780.3(b)(3), and must determine that such alterations comply with  
8 the Secretary of Interior's Standards for the Treatment of Historic Properties before the City approves  
9 any permits to alter such buildings.

10 (8) **Additional Controls:** The following additional controls shall apply in the North  
11 Beach Special Use District. (1) A Planned Unit Development shall not be permitted; (2) Large-Scale  
12 Urban Agriculture uses shall not be permitted; (3) Hours of Operation shall not be permitted from 2  
13 a.m. to 6 a.m.; (4) Unless otherwise prohibited or limited by this Section 780.3, Section 722, or any  
14 other section of this Code, active commercial uses, as defined in Planning Code Section 145.4(c), shall  
15 be required at the Ground Floor; and (5) A Health Service use, as defined in Section 102 of this Code,  
16 shall be prohibited on the ground floor. On the second floor and above, a Health Service use shall  
17 require Conditional Use authorization pursuant to Section 303 of this Code.

18 (9) **Conditional Use Authorizations.** In addition to the findings required under  
19 Section 303 of this Code, for any use or project within the District that is subject to Conditional Use  
20 authorization under this Section 780.3, Section 722, or any other section of this Code, the Planning  
21 Commission shall find that the proposed project supports the purposes of the North Beach SUD set  
22 forth in this Section 780.3.

23  
24 Section 3. Effective and Operative Dates. This ordinance shall become operative as  
25 of July 20, 2017. This ordinance shall become effective 30 days after enactment. Enactment

1 occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or  
2 does not sign the ordinance within ten days of receiving it, or the Board of Supervisors  
3 overrides the Mayor’s veto of the ordinance.

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

11  
12 APPROVED AS TO FORM:  
13 DENNIS J. HERRERA, City Attorney

14 By: \_\_\_\_\_  
15 KATE H. STACY  
16 Deputy City Attorney

17  
18 n:\legana\as2017\1700531\01205566.docx