



# SAN FRANCISCO PLANNING DEPARTMENT

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## Memo to the Planning Commission

HEARING DATE: MARCH 1, 2012  
Continued from the February 9, 2012 hearing

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

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

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

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

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

*Recommendation:* **Approval with Modifications**

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### BACKGROUND

This case was originally heard by the Planning Commission (Commission) on October 20, 2011 as an informational item; the item was continued to the December 15, 2011 Commission hearing. At a special 10:00 AM hearing on December 15<sup>th</sup> the Commission heard the item again, along with Staff's proposed recommended changes. The Commission did not take action, but continued the item again to February 9, 2012 to allow for more outreach by the Supervisor. At the February 9 hearing, the Commission heard public comment and a presentation by Supervisor Chiu's office detailing how the Supervisor intended to break-up the legislation into separate categories, which was also detailed in a letter that was sent to the Commissioners on February 8, 2012. The Commission then continued the item again to March 1, 2012 so that they could have more time to consider the Supervisor's revised proposal.

### CURRENT PROPOSAL

Please see the attached letter from Supervisor Chiu's office addressing comments made by the Commission at the February 9 hearing.

The Department's recommendation has not changed.

### ADDITIONAL RECOMMENDATIONS

Please see the packets sent to the Commission for the February 9 hearing, which can be found by following these links:

<http://commissions.sfplanning.org/cpcpackets/2011.0532Tc2.pdf>

<http://commissions.sfplanning.org/cpcpackets/2011.0533Zc2.pdf>

## **REQUIRED COMMISSION ACTION**

Please see the packets sent to the Commission for the February 9 hearing, which can be found by following these links:

<http://commissions.sfplanning.org/cpcpackets/2011.0532Tc2.pdf>

<http://commissions.sfplanning.org/cpcpackets/2011.0533Zc2.pdf>

## **BASIS FOR RECOMMENDATION**

Please see the packets sent to the Commission for the February 9 hearing, which can be found by following these links:

<http://commissions.sfplanning.org/cpcpackets/2011.0532Tc2.pdf>

<http://commissions.sfplanning.org/cpcpackets/2011.0533Zc2.pdf>

<b>RECOMMENDATION:</b> <b>Recommend Approval with Modifications</b>
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### **Attachments:**

- Letter from Supervisor Chiu's Office
- The draft Ordinance was delivered to the Commission for the October 20<sup>th</sup> hearing; additional hardcopies can be provided upon request or downloaded from the October 20<sup>th</sup> hearing agenda on the Planning Department's web site (<http://commissions.sfplanning.org/cpcpackets/2011.0532T.pdf>)
- Commission Packet from February 9, 2012 (online document only)

President, Board of Supervisors  
District 3  
第三區  
市參事會主席



City and County of San Francisco  
三藩市市及縣政府

**DAVID CHIU**  
邱信福

February 23, 2012

VIA PLANNING COMMISSION PACKET AND EMAIL

Mr. Ron Miguel  
President  
San Francisco Planning Commission  
1650 Mission Street, 4th Floor  
San Francisco, CA 94103

RE: Case Nos. 2011.0532T and 2011.0533Z

Dear President Miguel and Commissioners,

I write to provide you with a further update on this legislation, which I introduced on May 4, 2011 and which is before you for the fourth time at your meeting on March 1, 2012.

First, I appreciate the robust dialogue between the Commission and my office at your February 9 meeting. Please allow me to briefly respond to points raised in that discussion, though I fully understand that additional conversations will occur in advance of and during your March 1 consideration of these items.

Process

Since the first Planning Commission hearing on this legislation last fall, my office has had dozens of meetings and conversations with stakeholders who have questions and concerns about this legislation. That outreach and recommendations by Planning Commissioners and staff have resulted in my commitment to amend the legislation in various areas and to move some portions of the legislation separately, as outlined in my February 8 letter. That letter and the chart provided with it are attached again for your reference.

In addition, my office is currently working to revise the legislation to reflect these agreements. I want to reiterate my previous commitment to bringing the separated pieces of legislation back to the Commission for your feedback prior to scheduling them at the Board. My office will continue to conduct extensive outreach as the legislation moves through the legislative process, and I am more than willing to reach out to any specific constituencies recommended by Commissioners.

Substance

Much of the substantive discussion at the last hearing centered on parking issues related to the "C-3 Compromise" and discount parking at downtown parking facilities. I do support continued efforts in this legislation to fulfill our City's Transit First policy, but I am committed to further discussion of these issues in the months ahead as we consider the separate legislation related to these topics.

The issue of grandfathering for projects in the pipeline was also raised, and I am in discussions with some developers and Planning staff about grandfathering some projects that are not yet entitled. Finally, on the issue of surface parking lots along the waterfront, I believe the compromise we have worked out with the Port of San Francisco and others will have no impact on existing lots.

I would greatly appreciate it if you would let me or my staff know if there are additional issues that you would like us to address before the hearing.

I again offer my thanks for your work on these items and on making San Francisco an even greater city.

Sincerely,



David Chiu

(attachments)

cc: Michael J. Antonini, Commissioner  
Gwyneth Borden, Commissioner  
Rodney Fong, Commissioner  
Hisashi Sugaya, Commissioner  
Kathrin Moore, Commissioner  
John Rahaim, Planning Director  
Linda Avery, Commission Secretary  
Aaron Starr, SF Planning Department  
Diane Oshima, Port of San Francisco



President, Board of Supervisors  
District 3  
第三區  
市參事會主席



City and County of San Francisco  
三藩市市及縣政府

**DAVID CHIU**  
邱信福

February 8, 2012

VIA EMAIL

Mr. Ron Miguel  
President  
San Francisco Planning Commission  
1650 Mission Street, 4th Floor  
San Francisco, CA 94103

RE: Case Nos. 2011.0532T and 2011.0533Z

Dear President Miguel and Commissioners,

I write to provide you with an update on my perspective on this legislation, which I introduced on May 4, 2011 and which is before you for the third time at your meeting on February 9, 2012

Let me begin by offering my appreciation for the investment of time and energy that you and your fellow commissioners have given to this ordinance and the related zoning map amendment. Similarly, Planning staff members, particularly Aaron Starr and AnMarie Rodgers, have done an incredible job of creating a comprehensive and insightful summary of the legislation for public review. I am also grateful for our close collaboration with Port staff on the portions of the proposal related to Port property. Numerous members of the public have also provided helpful feedback.

My aim with this legislation has been to simplify the Planning Code while also advancing broadly shared goals such as furthering San Francisco's voter-mandated Transit First Policy, incentivizing affordable housing, supporting historic preservation and encouraging small business formation and retention.

In the weeks following your consideration, my office will work with the City Attorney's office to make amendments to the current legislation. We are accepting most of the recommendations by Planning staff as detailed in the attached table. We will also continue to make changes in response to input from stakeholders. My staff will keep you informed as this process proceeds.

In addition, in response to stakeholder feedback and comments from Planning Commissioners, we will separate out portions of the legislation into at least two additional ordinances. Specifically, we are considering making the "Big C-3 Compromise" (as detailed on pages 4-5 of the December 15, 2011 staff report) its own ordinance, and at a minimum we will make into a separate piece of legislation the components that decontrol for density in the C-3 and exempt affordable and inclusionary housing from Floor Area Ratio calculations in the Downtown Commercial (C-3) and Van Ness Special Use Districts.

Similarly, we will separate out the changes to Planning Code Section 155(g) that modify the Code's existing discouragement of long-term commuter parking through a limitation on daily and monthly rates for parking facilities. As mentioned in the attached table, we will work with both Planning and the Municipal Transportation Agency to advance the goal of these amendments even as we conduct additional outreach to affected parking operators.

Given the outreach and work that still needs to be done, my office will not seek to schedule the remaining core of this legislation for action at the Board's Land Use Committee before this March, though we may schedule an earlier informational hearing to begin to inform my colleagues about its specifics. For the additional pieces of legislation, we will not ask for action in committee until at least May and only after extensive outreach.

Thank you again for your consideration of this legislation and your work on behalf of our City.

Sincerely,



David Chiu

(attachment)

cc: Michael J. Antonini, Commissioner  
Gwyneth Borden, Commissioner  
Rodney Fong, Commissioner  
Hisashi Sugaya, Commissioner  
Kathrin Moore, Commissioner  
John Rahaim, Planning Director  
Linda Avery, Commission Secretary  
Aaron Starr, SF Planning Department  
Diane Oshima, Port of San Francisco

**Board of Supervisors President David Chiu**  
**Detailed Table – Zoning Ordinance and Zoning Map Amendment**  
**Case Nos. 2011.0532T and 2011.0533Z**  
**February 8, 2012**

<b>Modifications by Supervisor David Chiu’s Office</b>		
<b>#</b>	<b>Subject</b>	<b>Next Steps</b>
1	“Big C-3 Compromise”	Will consider severing from core legislation and proceed on slower timeline.
2	Decontrol for density in C-3	Will sever from core legislation and proceed on slower timeline.
2	FAR exclusion for affordable housing	Will sever from core legislation and proceed on slower timeline.
3	Accessory Uses	Will eliminate revisions that increase allowable square footage in PDR districts.
4	Waterfront SUD boundary changes	Leave Waterfront SUD boundaries as is.
5	Transferrable Development Rights	Will conduct additional analysis and as well as outreach particularly in high demand development areas such as SOMA.
6	Plastic awnings	Will eliminate the amendment that prohibits plastic awnings.
<b>Zoning Ordinance Staff Report Recommendations 2-9-2012</b>		
<b>#</b>	<b>Modifications Recommended by Planning Staff</b>	<b>Response from Supervisor Chiu</b>
1	<p>The proposed legislation changes Section 182 to allow “any nonconforming use to be converted to dwelling units or to group housing, in a district where such use is principally permitted, without regard to the requirements of this Code with respect to residential density or required off-street parking.”</p> <p>The Department finds that this change is too broad because it allows any nonconforming use in any Zoning District where housing and group housing are principally permitted to be converted to an unspecified number of dwelling units. The Department believes that one housing unit is acceptable, but anything more than that should require Conditional Use Authorization. The Department also feels that that group housing should be excluded from this section.</p>	Agree – CU for more than one unit and exclude group housing.

**Board of Supervisors President David Chiu**  
**Detailed Table – Zoning Ordinance and Zoning Map Amendment**  
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2	Currently the Code identifies the Planning Commission as the reviewing body for using TDRs on a lot which is or was a significant or contributory building. The Department finds that this review is more appropriately handled by the Historic Preservation Commission and recommends changing the review body from the Planning Commission to the Historic Preservation Commission. Similarly, the reference may need to change for lines 3-4 on Page 30, if the Ordinance amending Articles 10 & 11 is adopted. This change was reviewed and approved by the HPC at their January 18 <sup>th</sup> hearing.	Agree.
<b>Zoning Ordinance Staff Report Recommendations 12-15-2011</b>		
<b>#</b>	<b>Non Clerical Modifications Recommended by Planning Staff</b>	<b>Response from Supervisor Chiu</b>
1	Modify the proposed controls for parking lots in Section 223 for the C-2 District from “prohibited” as proposed in the draft Ordinance to allow parking lot uses via “Conditional Use Authorization”. (Currently such lots are permitted in the C-2 District.) This recommended modification would allow existing lots to continue in operation with as an assumed CU but would require new lots to receive CU authorization from the Commission.	Agree.
2	Amend Section 161 of the Planning Code to allow the Zoning Administrator to grant exceptions to off-street parking requirements in C-2 Districts per Section 307. This recommended change would result in allowing administrative exceptions to off-street parking requirements in all districts except the RH and RM districts.	Agree.
3	Modify the requirements for permanent off street parking lots in C-3 Districts regulated by Section 184 so that these lots will require renewal by conditional authorization at least every 5 years instead of every 2 years as proposed in the Ordinance.	Agree.
4	Amend Section 151.1 to remove the minimum off-street parking requirement for the RC districts. Continue to regulate the parking maximum requirements by the more permissive Section 151 controls.	Agree.



**Board of Supervisors President David Chiu**  
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5	Move the and amend the controls governing the Waterfront Design Advisory Committee (WDAC) from the existing Code Section 240 to a new location after Section 330, while maintaining reference to the WDAC in Sections 240.1 and 240.3:	Partially agree with 5a – 5d and will continue to work with the Port and stakeholders.
a	The WDAC currently governs major developments north of China Basin. In consultation with the Port of San Francisco, the Planning Department recommends that the WDAC should have expanded jurisdiction to all Port properties, not just those north of China Basin. Therefore, the Planning Code controls for the WDAC should be removed from the Waterfront Special Use Districts (Section 240) to a new location in Article 3 of the Planning Code which governs general processes. Currently Section 330 describes the “Coastal Zone” permit area. The Department recommends adding new controls after the “Oceanside” Coast Zone that would establish controls for the “Bayside” coast. These controls should be established in the standard format of purpose, definitions, applicability, controls, and exceptions. The area should be defined by adding the existing map of Port Properties ( <a href="http://sfport.com/ftp/uploadedfiles/about_us/divisions/real_estate/map00.pdf">http://sfport.com/ftp/uploadedfiles/about_us/divisions/real_estate/map00.pdf</a> ) to the Planning Code. Planning Department Staff would work with the Port to assure the changes addressed all provisions recognizing the Burton Act Public Trust and Waterfront Design Review procedures and definitions.	
b	Consider changes in the appointment process for members of the WDAC. Currently the Planning Department and Port each appoint one member of their respective staff to serve on the WDAC. The proposed changes would allow Departments to appoint either a staff member of person outside the agency staff with qualified expertise in general or historic architecture, urban design and planning, or landscape design and architecture.	
c	The Port has also requested that Section 240.3(h)(2) be maintained	

**Board of Supervisors President David Chiu**  
**Detailed Table – Zoning Ordinance and Zoning Map Amendment**  
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	in order to reaffirm the Port’s obligations under the Burton Act.	
	d On the waterside of the Embarcadero, relocation of existing curbcuts that did not increase the total linear feet of curbcuts or otherwise diminish pedestrian or bicycle access would be permitted other proposed alteration to waterside curbcuts, including new curbcuts should be referred to the Waterfront Design Advisory Committee instead of requiring a Conditional Use authorization as proposed in the Ordinance.	
6	Modify proposed Section 223(o) to require a CU for Storage Yards for Commercial Vehicles or Trucks in C-M Districts rather than prohibiting them outright.	Agree.
7	Recommend that the Board of Supervisors consider putting Section 155(g) in the Transportation Code and as a temporary measure allow the Planning Director to authorize the Director of Transportation to enforce this section of the Planning Code.	Agree - will pursue separate legislation including an amendment to the Transportation Code.
8	Do not modify the controls for Limited Corner Commercial (LCC) Uses under Section 231. The Department generally recommends that ideas specific to the community planning efforts be continued through the initial 5-year post-plan adoption period. The Planning Code provides an avenue for re-evaluating these controls after 5 years. It should be noted that while the LCC use concept was originated with the community planning efforts, these controls currently apply outside of the plan areas in the RM-3 and RM 4 districts.	Partially agree – will only move forward after additional outreach to leaders of community planning efforts.
9	Do not add proposed Section 231(k), which requires conditional use authorization when converting a dwelling unit to establish a Limited Corner Commercial Use. Dwelling unit conversions are already controlled by Section 317.	Agree.
10	Add the following modifications to Section 184 to clarify when surface parking lots would need to cease operation: Any nonconforming commercial or industrial use of land where no enclosed building is involved in such use, <del>except for permanent off-street parking lots in the C 3 O, C 3 R, C 3 G Districts existing on the</del>	Agree.

**Board of Supervisors President David Chiu**  
**Detailed Table – Zoning Ordinance and Zoning Map Amendment**  
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	<p><del>effective date of Ordinance 414 85, provided that such lots are screened in the manner required by Section 156(e) except for permanent off-street parking lots in the C-3-O, C-3-R, or C-3-G Districts,</del>  <u>which shall be eliminated no later than five years and 90 days from the effective date of Ordinance No. [INSERT];</u></p>	
11	Integrate the changed outline in Attachment B, which cover Section 138.1 of the Planning Code.	Agree.
12	Consider the implications of adding the Embarcadero to Scenic Street Special Sign District controls to large events held along the Embarcadero.	Partially agree – will work on possible exceptions for temporary events like the America’s Cup.
13	Remove the provision in the proposed combined Washington-Broadway Special Use District that allows Wholesale Establishments as of right.	Agree.
14	Clarify the proposed changes in Section 102.9(b)(13) so that only affordable on-site units are exempt from FAR limits by inserting the following text (proposed text not included in the legislation is underlined): “In C-3 Districts <u>affordable on-site</u> dwelling units or group housing in affordable housing projects, as defined by Section 401 of this Code.”	Agree – will also make this provision separate legislation to allow for further outreach and analysis.
15	Merge the criteria for publicly owned and privately own accessory parking in Section 158.	Agree.
16	Add a grandfather clause to the proposed legislation that would exempt projects that have already been approved by the Planning Commission, but not vested yet, from the new parking requirements. This should include both the C-3 Districts and the Van Ness Avenue Special Use District.	Agree – will add a 3-year grandfather clause.
17	Remove the prohibition on reinstating lapsed LCUs where a residential unit has been established.	Agree.

**Board of Supervisors President David Chiu  
Detailed Table – Zoning Ordinance and Zoning Map Amendment  
Case Nos. 2011.0532T and 2011.0533Z  
February 8, 2012**

<b>Zoning Map Amendment Staff Report Recommendations</b>		
<b>#</b>	<b>Recommendation</b>	<b>Response</b>
1	Remove the provision in the Washington - Broadway SUD that allows Wholesale Establishments as of right in the proposed combined district.	Agree.
2	Remove the rezoning of lots 0015, 0016, and 0017 (Seawall Lots 311, 313 and 314) from the proposed legislation.	Agree.
3	Consider the impacts that adding the Embarcadero to the Special District for Scenic Streets will have on future events held along the Embarcadero that seek to install temporary signs.	Partially agree – will work on possible exceptions for temporary events like the America’s Cup.



# SAN FRANCISCO PLANNING DEPARTMENT

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## Memo to the Planning Commission

HEARING DATE: FEBRUARY 9, 2012  
Continued from the December 15, 2012 hearing

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Suite 400  
San Francisco,  
CA 94103-2479

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

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

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

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

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

*Recommendation:* **Approval with Modifications**

### BACKGROUND

This case was originally heard by the Planning Commission (Commission) on October 20, 2011 as an informational item; the item was continued to the December 15, 2011 Commission hearing. At a special 10:00 AM hearing on December 15<sup>th</sup> the Commission heard the item again, along with Staff's proposed recommended changes. The Commission did not take action, but continued the item so that the Supervisor's office could conduct more outreach to stakeholders. Some commissioners requested that the Supervisor consider splitting up the legislation into smaller pieces so that the various sections or topics could be considered separately. Supervisor Chiu's office indicated to the Department that they will submit a letter to the Commission prior to the February 9 hearing outlining their position on staff's recommendations and how they would like to proceed with the legislation.

### CURRENT PROPOSAL

Since the last hearing, the legislation has not changed; however, the Department has added two additional recommended changes to the legislation, which are outlined below. The case report from the last hearing is also attached to this memo.

Since the December 15 Commission hearing, the Planning Department, along with Supervisor Chiu's office, presented the legislation to the Historic Preservation Commission (January 18, 2012), SPUR's Community Planning Policy Board Meeting (January 27, 2012) and the Neighborhood Network (January 13 & 20, 2012). Supervisor Chiu's office also met independently with San Francisco Heritage.

The Historic Preservation Commission recommended approval of the proposed legislation with Staff's recommendations with the statement that more should be done to make it easier for small businesses to occupy abandoned Limited Conforming Uses (LCUs), which could be reinstated with Conditional Use Authorization if this legislation is enacted.



## **ADDITIONAL RECOMMENDATIONS**

The Department recommends approval of the proposed Ordinance with the modifications identified in the Case Report from December 15, 2012 hearing and with the following two new modifications:

1. The proposed legislation changes Section 182<sup>1</sup> to allow “any nonconforming use to be converted to dwelling units or to group housing, in a district where such use is principally permitted, without regard to the requirements of this Code with respect to residential density or required off-street parking.” Currently, only nonconforming uses in R Districts that are subject to termination under the provisions of Section 185<sup>2</sup> of the Planning Code may be converted to one dwelling unit without regard to dwelling unit density. This change can be found on page 168 lines 3-12 of the proposed Ordinance.

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

2. Currently the Code identifies the Planning Commission as the reviewing body for using TDRs on a lot which is or was a significant or contributory building. This section can be found on page 29 lines 23-24 of the proposed Ordinance.

*The Department finds that this review is more appropriately handled by the Historic Preservation Commission and recommends changing the review body from the Planning Commission to the Historic Preservation Commission. Similarly, the reference may need to change for lines 3-4 on Page 30, if the Ordinance amending Articles 10 & 11 is adopted. This change was reviewed and approved by the HPC at their January 18<sup>th</sup> hearing.*

## **REQUIRED COMMISSION ACTION**

Please see the attached case report.

## **BASIS FOR RECOMMENDATION**

Please see the attached case report.

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<sup>1</sup> Planning Code Section 182 governs changes of use for nonconforming uses such that these uses can generally not be intensified.

<sup>2</sup> Planning Code Section 185 governs the continuance of nonconforming uses. The purpose of this Section is to provide for the gradual elimination or conversion, after a reasonable allowance of time for the amortization of investments therein, of certain classes of nonconforming uses in buildings, in order to encourage and promote the orderly and beneficial development of the land and buildings with conforming uses.

<b>RECOMMENDATION:</b> <b>Recommend Approval with Modifications</b>
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**Attachments:**

Additional Comment letter

Case Report from December 15, 2012 hearing.

The draft Ordinance was delivered to the Commission for the October 20<sup>th</sup> hearing; additional hardcopies can be provided upon request or downloaded from the October 20<sup>th</sup> hearing agenda on the Planning Department's web site (<http://commissions.sfplanning.org/cpcpackets/2011.0532T.pdf>)

# Oyster Development Corp.

January 27, 2012

Mr. Ron Miguel  
President  
San Francisco Planning Commission  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

RE: Case No. 2011.0532T

Dear President Miguel and Commissioners,

I am pleased to see that the Planning Department is recommending that the Proposed Ordinance initiated by Supervisor Chiu be modified to include a grandfather provision to exempt projects that have already been approved by the Planning Commission and I urge the Planning Commission to require that a grandfather clause be part of any such approved ordinance. I believe that such a provision is vital for 3 primary reasons: (1) for approved projects to proceed towards construction in this fragile economy, (2) to continue to attract institutional investment in the entitlement of property in San Francisco and (3) as a matter of fairness.

In regards to existing approved projects, such projects were all financed at some point based on the rules that existed when the applications were submitted. As a specific example, my property at 1800 Van Ness was financed based on the 1:1 parking allowed then and presently in the Van Ness Special Use District. The financial feasibility to secure construction financing and build our project is tied partially to the revenue related with the parking. The above-referenced legislation would significantly impact that anticipated revenue and challenge the feasibility of the project. Moreover, we are presently pursuing construction financing and a change in the approved parking would be particularly harmful to the project.

Projects of any significant size in San Francisco depend on attracting institutional investment for their feasibility given the capital-intensive nature of real estate and, specifically, development. In regards to high-density residential development, I believe the threshold of size is 50 units or \$30M in project costs. Without such institutional investment, these large projects would not be financeable and growth of housing would be severely constrained. Primary to attracting institutional capital to a market such as San Francisco is an established set of "ground rules" that do not retroactively change once a project is approved. This certainty is essential to providing institutional capital the security they require to invest. As you may recall, my project at 1800 Van Ness is approved for 98 units and is financed with the institutional capital of teachers, police and firemen and women and public employees.

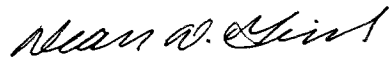
Thirdly, there is also the issue of fairness. Developers are required to invest significant sums of money and time to obtain entitlements. For large projects as I have referenced above, it commonly costs over \$1M and takes at least 2 years. Once approval has been obtained, it plainly is not "fair" to be subject to a change in the "rules" which impacts the project and also likely requires a subsequent additional redesign and approval process. There must be a definitive end to the process upon receipt of approvals and

expiration of appeal periods provided that the approvals have not expired. Without a sense of fairness and belief in the system, who would be interested in subjecting themselves to such a process?

I am hopeful that the above arguments supporting the grandfathering of approved projects and exempting them from the proposed ordinance will resonate with the Planning Commission, Planning Department and Supervisor Chiu's office when this legislation is eventually considered.

Sincerely,

Oyster Development Corp.



Dean D. Givas  
President

CC: Michael J. Antonini, Commissioner  
Gwyneth Borden, Commissioner  
Rodney Fong, Commissioner  
Hisashi Sugaya, Commissioner  
Kathrin Moore, Commissioner  
John Rahaim, Planning Director  
Linda Avery, Commission Secretary  
Aaron Starr, SF Planning Department  
Andrew Junius, Reuben & Junius



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Code Text Change

INFORMATIONAL HEARING DATE: OCTOBER 20, 2011  
PROPOSED ACTION HEARING DATE: DECEMBER 15, 2011

1650 Mission St.  
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*Project Name:* Amendments relating to:  
Parking, Awning, Signs, Exposure, Open Space, and Limited  
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*Case Number:* 2011.0532T [Board File No. 11-0548]

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

*Recommendation:* **Approval with Modifications**

### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the San Francisco Planning Code (herein after "Code") by repealing Sections 136.2, 136.3, 158, 187, 249.15, 263.2, 263.3, 602.25, 602.26, 607.3 and 607.4 and amending various other Code sections to (1) increase the amount of principally permitted parking spaces for dwellings in RC-4 and C-3 Districts, (2) make off-street parking requirements in the Van Ness Special Use District and RC-3 Districts consistent with those of RC-4 Districts, (3) eliminate minimum parking requirements for the Chinatown Mixed Use Districts and North Beach Neighborhood Commercial Districts, (4) allow exceptions from required parking under specified circumstances, (5) amend the restrictions on off-street parking rates and extend them to additional zoning districts, (6) revise sign, awning, canopy and marquee controls in specified zoning districts, (7) increase the permitted use size for limited corner commercial uses in RTO and RM districts, and allow reactivation of lapsed limited commercial uses in R districts, (8) revise the boundaries of and modify parking and screening requirements in the Washington-Broadway and Waterfront Special Use Districts, (9) modify controls for uses and accessory uses in Commercial and Residential-Commercial Districts, (10) permit certain exceptions from exposure and open space requirements for historic buildings, and (11) modify conformity requirements in various use districts; adopting findings, including environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Code Section 101.1.



**Note to the reviewer:** At the request of the Commission, this report is organized as follows:

1. Summary of proposed changes, including relationship to existing City policy (pg 2-4);
2. Specific details of proposed changes, organized by topic (pg 4-16);
3. Department recommendations, including both clerical and non-clerical recommendations (pg 16-17);
4. Environmental review and public comment (pg17-18);
5. Chart summarizing proposed changes in relation to geographic zoning districts (Attachment A) and;
6. Detailed recommendations from the Department for Section 138.1 (Attachment B).

## SUMMARY OF PROPOSED CHANGES:

The proposed ordinance aims to advance several goals of the City's General Plan and the Priority Policies of Code Section 101.1, as follows:

**Reduce off-street parking requirements in dense, mixed-use neighborhoods located near transit.** San Francisco's Code has provided for reduced parking requirements in dense and transit-rich neighborhoods since the 1960s, as a way of reducing traffic congestion, encouraging walking, cycling, and public transit, and making efficient use of scarce land. Code changes in the past decade have eliminated minimum parking requirements in many transit-rich areas of the City, including Rincon Hill (2005), Downtown (2006), The Market & Octavia Plan area (2008), Eastern Neighborhoods (2008), Balboa Park (2009) and for residential uses in Chinatown, North Beach, and Telegraph Hill (2010). This proposed ordinance removes the remaining parking requirements in Chinatown, North Beach, and lower Broadway areas, and reduces residential parking requirements in the Van Ness corridor, which Proposition K (2003) designated as a bus rapid transit corridor. The proposed ordinance would also permit administrative exceptions from minimum parking requirements in the Fisherman's Wharf area (Waterfront SUD #2), and facilitates conversion of automobile service stations located on transit and pedestrian streets to other compatible uses.

**Encourage the preservation and reuse of existing buildings.** San Francisco's existing buildings contribute to the unique character of San Francisco. Reusing buildings, rather than demolishing and rebuilding them, can preserve the built character of neighborhoods, as well as foster sustainability by conserving the energy and materials embodied in these buildings. Certain provisions of the Code can be difficult for existing buildings to comply with, which limits their potential uses, or can entail a costly and time-consuming variance process for the building owner. This ordinance would permit the conversion of non-conforming uses to residential uses, without regard to density limits or parking requirements, in all districts where residential uses are principally permitted. It establishes an administrative exception process from open space and dwelling unit exposure requirements for historic buildings, and permits dwellings to front onto alleys of 20' or more in width.

**Encourage small, neighborhood-serving commercial uses in residential areas.** For decades, the Code has recognized that small commercial uses, although often nonconforming, "tend to provide convenience goods and services on a retail basis to meet the frequent and recurring needs of neighborhood residents within a short distance of their homes". Older storefronts are common in residential districts, and can be difficult to convert to residential uses because of lack of privacy and open space. This proposed ordinance would permit storefronts that were in active commercial use before 1960 to be reactivated with conditional use authorization. It also increases the maximum size of new street-corner commercial uses permitted in RTO, RM-3, and RM-4 to 2500 square feet, the size of a typical residential lot, to extend further than 50' from a corner. These changes, if adopted, would make more existing corner retail uses conforming, and to discourage inactive street fronting uses like storage or garage doors on prominent corner lots. This proposed ordinance would also establish an appropriate set of signage standards that takes into account the essentially residential nature of the neighborhoods where these uses are found, with limitations on the size of signs and sign illumination outside of business hours.

**Encourage small business formation and retention by increasing flexibility for accessory uses in Commercial, Industrial, and Residential-Commercial Districts.** Small businesses that combine office, production, retail, and even residential uses are increasingly common in San Francisco, but frequently do not fit into traditional zoning categories. This proposed ordinance would create more flexibility in zoning around accessory uses, by increasing the maximum square footage for accessory uses in Commercial,

Industrial, and Residential-Commercial Districts from one-quarter to one-third of available square footage, and replacing limitations on the horsepower of machines and number of employees in Commercial Districts with a 'good neighbor' performance standard.

**Reduce Variances from the Code and Conditional Use Authorizations and increase code compliance.**

The proposed ordinance seeks to decrease the number of Planning Code variances and conditional use authorizations, by providing administrative process for certain exceptions which are otherwise desirable (appropriate reuse of historic buildings, or ensuring the earthquake safety of buildings) and making certain projects or features which conform to general plan and area plan goals (dense residential projects in C-3 districts, and residential projects with less than one space for every two units in C-3 and RC districts) principally permitted. The ordinance also provides more flexibility in converting non-conforming uses to residences where residences are principally permitted.

**Allow TDRs to be swapped throughout the C-3.** The TDR market is largely at a standstill, allowing transfer of TDRs across C-3 districts will provide further incentives to preserve existing buildings.

**Code Simplification:** The proposed ordinance seeks to simplify the Code by removing obsolete sections, consolidating controls for a single use or feature into a single code sections, and harmonizing similar definitions and controls across use districts.

**The "Big C-3 Compromise".** While this document summarizes themes of the proposed Ordinance by topic area, some of elements of the proposal work across topic areas to achieve goals of the General Plan (such as dense, transit-oriented development in the Downtown) within the framework of the history of approvals by the Department, the Commission and the Board of Supervisors. Recent approvals seem to indicate that the Commission is generally inclined to permit projects in the C-3 with higher levels of parking than the permitted as of right levels of 1 space/ 4 units. With this history in mind, the proposed Ordinance would raise the levels of permitted parking equivalent to the rate historic approval rate with the intent of increasing the rate of approvals for parking beyond the permitted levels. The main elements are:

- **Decontrol for density in the C-3 District.** The proposed Ordinance would amend Section 215 to eliminate the CU for dwelling unit density in excess of an RC-4 district. The proposed controls mimic the form-based control of density developed by the community planning efforts within the C-3 district.
- **Raise "as-of-right" residential parking levels while making higher levels more difficult to attain.** By raising the 'by right' ratio from one space for every four units to one space for every two units, the proposed Ordinance seeks to encourage more projects to be built by right. Several new projects, especially rentals, seem to state a desire for parking at 0.5 spaces per unit. If this is the final goal, this level should be allowed "by right" but higher levels of parking should be difficult to secure.
- **Create Disincentives for exceeding the "as-of-right" residential parking rates in the C-3 District.**
  - **Change the process for additional parking from a §309 Exception by the Zoning Administrator to a Conditional Use authorization before the Commission.** By restoring the CU process for excess residential parking, an incentive is created for project sponsors to stay within the by-right amounts. Some have complained that the existing process for the Zoning Administrator to grant exceptions by §309 is too easy.

- **Count excess parking towards FAR.** By counting non-accessory parking, above-grade parking, and parking in excess of by-right maximums towards gross FAR, the Code would create an incentive for the project sponsor to evaluate how limited project space should be used. The developer can decide how much of their FAR limit should be consumed by parking verses higher uses.;
- **Exempt certain uses such as affordable housing, inclusionary housing and bicycle parking from FAR.** By exempting affordable housing from Floor-Area Ratio limits in the Downtown Commercial (C-3) and Van Ness Special Use Districts, this Ordinance would provide a significant incentive for construction of affordable projects and the inclusion of affordable units in market rate residential projects rather than their location off-site. State law requires that municipalities provide significant incentives to developers for including affordable units in market rate projects, and this ordinance would further San Francisco's compliance with the California Density Bonus law. Current controls for open space and set backs would remain intact. In this way, the City can incentive uses that are prioritized by the General Plan.

#### Sections Proposed for Deletion

**Sections 136.2, 136.3:** These Sections regulate awnings, canopies and marquees in the Mixed Use Districts and the North of Market Residential Special Use District. They are proposed for deletion in order to consolidate these regulations into one section of the Code, 136.1. There is currently little variation between the different awnings, canopies and marquees regulations. Consolidating these Sections would create negligible change in how awnings, canopies and marquees are regulated in these areas.

**Section 158:** This Section covers the regulations for "major parking garages" in the C-3 Districts. A major parking garage is defined as "any garage for the parking of passenger automobiles, for short- or long-term periods and for any use, which is not classified as an accessory parking facility under Section 204.5 of the Code." This section is being deleted to consolidate the conditional use findings for non-accessory parking in C-3 Districts into a single section. Current findings for approval include 1) freeway access to the proposed site, 2) convenient service to areas of concentrated development, 3) minimization of pedestrian conflict, the breaking of continuity of shopping facilities and drawing of traffic through areas of heavy pedestrian conflict, 4) service patterns of other forms of transportation, 5) establishment of parking rate structure to discourage long-term parking 6) conflict with transit operations and loading zones, 7) objectives and policies of the Downtown Plan, and 8) other criteria deemed appropriate. Consolidating the findings into one Section would likely have minimal effect on regulating garages.

**Section 187:** This Section regulates Garment Shops and Factories as nonconforming uses. This section dates back to 1960 and is now obsolete and eliminating this Section would have no effect on the City's regulation of uses.

**Section 249.15:** This Section describes the Restricted Light Industrial Special Use District. This district is no longer in use and eliminating this Section would have no effect on the City's regulation of uses..

**Sections 263.2 and 263.3:** These Sections establish special height exceptions along the Embarcadero with the intent of encouraging greater flexibility in project design and a gradual stepping down of height of buildings from the Embarcadero toward the bay. Through the Conditional Use authorization process, the existing Code allows the Commission to increase the height of a building north of the Ferry building from 84' to 125' and south of the Ferry Building from 84' to 175'. According to the Height and Bulk Map

(HT01) this would impact Piers 1, 3, 24, and property directly to the northwest of the Pier 24. Removing this would eliminate the ability to increase height on these properties with a CU.

**Sections 602.25, 602.26:** These Sections define Historic Movie Theater Signs and Marquees and refer to Section 188 for controls on their preservation, rehabilitation, or restoration. This section is being deleted in order to consolidate definitions and controls for historic signs into one location. No content is being lost in this consolidation.

**Section 607.3:** This Section establishes the Van Ness Special Sign District. This section is being removed in order to remove the special sign provisions allowed along Van Ness Avenue. The existing Van Ness Special Sign District generally allows signs that are larger than would be permitted if this proposed ordinance were to be adopted.

**Section 607.4:** This Section establishes special sign controls for the areas zoned RC-4 in the North of Market Special Use District. This is not a designated Special Sign District and is being deleted to bring greater consistency between RC-4 Zoning Districts. This section generally does not provide greater flexibility than would be permitted if this ordinance is adopted.

## **SPECIFIC CHANGES OF PROPOSED ORDINANCE ORGANIZED BY TOPIC**

Current controls are indicated with regular font while *proposed changes and staff analysis are indicated in italic font.*

**Use District Changes:** Changes in this category would affect the categories for organizing zoning districts but would generally not create any change in the substance of the controls.

1. In Section 202, Residential Transit Oriented (RTO) Districts are currently under their own use district category.

*The proposed legislation would put them under Residential Districts. The purpose of this change is to simplify the Code.*

2. Section 102.5 lists the various districts in the Code. For instance it defines the different districts that make up R Districts, M Districts, PDR Districts, etc.

*This portion of Section 102.5 will be moved to Section 202. The purpose of this is to simplify the Code. It does not appear that there are any substantial changes to these definitions. Two clerical corrections should be made: under the description of RH Districts there is an added parenthesis in front of RH-2, this should be deleted. Also, under the description of PDR Districts "PDR-1-" should be changed to "PDG-1-G."*

**Gross Floor Area and Calculations:** Amendments described under this category would alter the way the Department and Commission regulate Gross Floor Area. If a feature or use is counted towards the allowable maximum Gross Floor Area, it may create a disincentive for providing that feature. Similarly, excluding any feature or use from Gross Floor Area calculations may create an incentive for providing that feature.

1. Gross Floor Area in C-3 Districts does not include floor space used for accessory off-street parking and loading spaces.

*Gross Floor Area would include floor space used for accessory off-street parking and loading spaces in C-3 Districts, creating an incentive to reduce accessory parking.*



2. Affordable dwelling units and group housing is currently included in the Gross Floor Area calculation in C-3 Districts.

*Affordable Dwelling units and Group Housing would not be included in Gross Floor Area calculations, creating an incentive to construct affordable housing and group housing, particularly constructing on site affordable housing.*

3. Bicycle parking is currently included in Gross Floor Area calculations.

*Bicycle parking would no longer be included in Gross Floor Area calculations, creating an incentive to dedicate more space to bike parking than required.*

4. The definition of Gross Floor Area for all districts excludes accessory off-street parking or loading spaces.

*Gross Floor Area in C-3 Districts would include accessory parking<sup>1</sup>, but exclude parking permitted as of right, so long as it is located underground, creating an incentive to underground permitted parking.*

**Floor Area Ratio Calculations (FAR):** FAR is the ratio of the gross floor area of all the buildings on a lot to the area of the lot, and is used in conjunction with height and bulk limitations to regulate the size of a development. Like the proposed changes to Gross Floor Area, amendments in this category would provide either incentives for uses and features not counted towards FAR limits or disincentives for uses and features that are counted towards FAR limits.

1. Affordable Housing and Group Housing are included in FAR calculations

*Affordable Housing and Group Housing would be excluded from Floor Area Ratio Calculations in C-3 Districts, creating an incentive to construct more affordable housing. While it would remove affordable housing from FAR limits, it would not impose a unit mix requirement that exists in other areas that provides this exemption. This is consistent with the City's policy on encouraging affordable housing. However, as drafted, this section would appear to exempt the entire building containing BMR units from FAR because Section 401 defines a "affordable housing project" as a building containing any BMR units, not just the square footage of the BMR units themselves. Therefore, the Department recommends clarifying this Section so that only affordable on-site units are exempt from FAR limits by changing the proposed Section 102.9(b)(13) as follows (proposed text underlined):*

*In C-3 Districts affordable on-site dwelling units or group housing in affordable housing projects, as defined by Section 401 of this Code.*

2. Short term parking is excluded from FAR calculations in C-3 Districts.

*Short Term parking would be included in FAR calculations in C-3 Districts, creating a disincentive for adding Short Term Parking to new developments in C-3 Districts. This change is consistent with the City's Transit First policy and the Downtown Plan.*

3. Dwelling unit density in C-3 Districts is allowed to be exceeded with Conditional Use authorization.

*Per the proposed legislation, dwelling unit density would no longer be determined by lot area or FAR calculations, but by other limitations in the Code such as height, bulk, setbacks, open space and exposure.*

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<sup>1</sup> "Accessory Parking" is parking that exceeds the minimum parking requirement in the Planning Code, but which is also allowed as of right.

*This proposed change is consistent with the City's desire to increase its housing stock in order to meet current and future housing demand.*

**Open Space:** This amendment would likely have impact only on rare occasions.

1. Buildings in the C-3 Districts that are primarily retail (2/3 of the occupied floor area is dedicated to retail) are not required to provide open space.

*Buildings in the C-3 Districts that are primarily retail would be required to provide open space at the ratios outlined in Section 138.1(b) of the Code. Of the 63 large projects in the C-3 reviewed since 2000, only 2 were completely retail. While this isn't a significant change, the Department finds that it doesn't make sense to require retail projects to provide open spaces like other use, such as commercial office space because the nature of the uses are so different.*

**Automotive Uses:** These amendments would both achieve Code simplification by reducing use categories as well as have significant changes to controls by prohibiting or requiring CU for certain uses.

1. There are currently 5 different use categories for automotive sales, based on whether or not business is conducted in an open lot or within a building, and whether or not the business is selling cars, trucks, or trailers.

*The proposed legislation would reduce the number of use categories to two, based on whether or not business conducted on an open lot or within a building. This does not significantly change the existing regulations.*

2. The Code currently has Automotive Use definitions listed in both Articles 2 and 8.

*The proposed legislation would remove the definitions for Automotive Uses in Article 2 that are duplicated in Article 8, and reference the Article 8 definitions in Article 2, creating no substantive changes to the existing controls.*

3. Surface public parking lots are principally permitted in C-2 and C-M Districts and require Conditional Use authorization in C-3-S District.

*The proposed legislation would prohibit public parking lots in C-2, C-M and C-3-S Districts. Temporary parking lots, like those permitted in the C-3 District, would not be permitted in C-2 and C-M Districts unless the Code was changed to include these districts in the temporary parking lot controls. The Department recommends modify the proposed controls for parking lots in Section 223 for the C-2 District from "prohibited" as proposed in the draft Ordinance to allow parking lot uses via "Conditional Use Authorization".*

4. Parking garages are currently divided up into 5 different categories in Article 2. There are similar definitions in Article 8 of the Code.

*The proposed legislation would remove most of the different parking garage categories and reference parking garages in Section 156 and in Article 8. Currently C-2, C-M, M-1 and M-2 Districts allow parking garages as of right; the proposed legislation would now require Conditional Use authorization in all districts where parking garages are currently permitted.*

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

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

6. Storage garage for commercial passenger vehicles and light delivery trucks requires Conditional Use Authorization in C-3-G Districts and are principally permitted in C-3-S and C-M Districts

*This use would be prohibited in C-3-G Districts and require Conditional Use Authorization in C-3-S and C-M Districts. This change is consistent with the definitions and intent of these districts. C-3-S and C-3-G Districts are located within the downtown. C-M Districts tend to be located between C-3 Districts and South of Market Mixed Use Districts. There are very few still in existence.*

7. Storage yard for commercial vehicles or trucks, if conducted within an area completely enclosed by a wall or concealing fence not less than six feet high are currently permitted in C-M Districts and require Conditional Use Authorization in C-3-S Districts.

*This type of use would not be permitted in either the C-M or C-3-S Districts. This change appears to be consistent with the intent of C-3-S Districts, which encompasses Yerba Buena Gardens and includes the Convention Center, hotels, museums and cultural facilities, housing, retail, and offices. C-M Districts tend to be located between C-3 Districts and South of Market Mixed Use Districts. There are very few still in existence. Prohibiting this use outright in C-M Districts does not appear to be consistent with the intent of this Zoning District, which is designated for heavy commercial uses with an emphasis upon wholesaling and business services. Requiring a CU for this use in C-M Districts would be more consistent with the intent of this district rather than prohibiting them outright.*

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

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

*The two additional criteria are:*

- *The importance of the street on which the service station fronts to walking, cycling, and public transit, and the impact of automobile access and egress to the service station and of the proposed new uses and structures on the safety and comfort of pedestrians, cyclists, and transit riders.*
- *The compatibility of the existing service station and of the proposed new use or structure with the General Plan and area plan urban design policies and the street frontage standards of this Code.*

*The proposed changes are consistent with the City's s Transit First Policy and Better Streets Plan.*

**Parking:** Changes in this section would be substantive in that the Ordinance would increase permitted levels of parking in certain instances and would decrease allowable parking in others.

1. Parking is permitted as of right in C-3 Districts at a ratio of 1 parking space to 4 dwelling units. Accessory parking at a ratio greater than 1 to 4 is granted through the Section 309 review.

*As-of-right parking would be increased to 1 space per every 2 units. Accessory parking at a ratio greater than that would require Conditional Use authorization and would not be permitted above 3 cars for every 4 dwelling units. While this proposed change increases the amount of parking permitted as-of-right, it also creates a higher standard for parking in excess of what is permitted as of right. Conditional Use authorization is more expensive than Section 309 review and requires that accessory parking be "necessary or desirable"; Section 309 Review does not have such a threshold and is focused on design review. In addition, Conditional Use authorization focuses on city wide implications and policies, while Section 309 review focuses on making projects more consistent with the Downtown Plan.*

*The Department believes that this should include a grandfather clause for any project that has already been approved by the Planning Commission, but which has not yet received its entitlements. Without adding this clause, projects that are currently on-hold waiting for funding would have to come back to the Commission if they did not meet the current parking requirements in C-3 Districts. This would change the rules for some projects that appear to have approvals in place. Any grandfathering clause should also include a time limit for a period of three to five years from the date that this legislation takes place.*

2. Required parking for dwelling units in RC-4 Districts is required at a ratio of 1 parking space to 4 dwelling units and parking for dwelling units in RC-3 Districts is currently 1 parking space to 1 dwelling unit.

*The proposed legislation would institute a 1 space to 4 unit required parking ratio in all RC Districts. RC Districts are located in dense areas of the city, like the Van Ness Avenue corridor and the Tenderloin. The proposed change is consistent with other transit oriented districts in San Francisco and recognizes the dense, transit rich nature of these districts.*

*The Department recommends amending Section 151 to remove the minimum off-street parking requirements for dwelling units in all RC districts; and to establish a parking maximum in Section 151.1 for RC districts of 150% of the one to four ratio currently in RC-4 Districts. The Department also recommends removing the minimum parking requirements for commercial uses in RC Districts.*

3. Parking requirements for non-residential uses in the Broadway and North Beach Neighborhood Commercial Districts and the Chinatown Mixed Use Districts are regulated by the standard parking requirements in table 151 that apply to much of the city.

*The proposed legislation would remove minimum parking requirements for non-residential uses in these districts. Maximum parking requirements for non-residential uses in these districts would be added to Table 151.1. The proposed change is consistent with other transit oriented districts in San Francisco and recognizes the dense, transit rich nature of these districts; however it does not remove minimum parking requirements for residential uses, which has been done in other high density transit rich neighborhoods through a community planning process.*

4. Code Section 158.1 regulates non-accessory parking garages in NCT, RTO and the Van Ness and Market Downtown Residential Special Use District. Code Section 158 regulates major parking garages in the C-3 Districts.

*The proposed legislation would delete the Section for C-3 District garages contained in Section 158 and move these controls into the newer section developed as part of the Market and Octavia Plan, Section 158.1. New findings would be added to Section 158.1 to ensure that proposed public garages do not*

*conflict with the General Plan or with other modes of traffic. Every use of public property needs to be found conforming with the General Plan so it is not necessary to add this finding to the Code.*

5. Section 161 provides exemptions from the parking requirement in certain Zoning Districts and due to certain lot situations, such as topography.

*The proposed legislation adds a subsection to Section 161 that allows the Zoning Administrator (hereinafter "ZA") to reduce or waive required parking or loading for a project when the only feasible street frontage for a driveway or entrance to off-street parking or loading is located on a protected pedestrian-, cycling-, or transit-oriented street frontage, or the only feasible street frontage for a driveway or entrance to off-street parking or loading is located at a transit stop. The legislation also adds a provision that would allow the ZA to waive parking requirements to protect street trees with either the recommendation of the Department of Public Works Bureau of Urban Forestry or the recommendation of a certified arborist, consistent with other recently adopted ordinances, BF-101053, "Consistent Street Frontages 2."*

6. Section 161 includes a provision that allows the ZA to waive or reduce parking for principle uses and the Commission to waive or reduce parking for conditional uses in the Waterfront SUDs 1 and 3.

*The proposed legislation would add the Waterfront SUD 2 to this provision, which is consistent with other dens, transit rich areas of the City. Waterfront SUDs 1 and 3 are already included in this section.*

**Transportation and Congestion Management:** Changes to this category of uses would generally alter existing text about parking rate structures that are generally ill-enforced. These changes would affect parking facilities approved after the effective date of the Ordinance and would be consistent with the General Plan and efforts of SFMTA staff.

1. Code Section 155(g) restricts the rates parking operators can charge for long term parking in C-3 District in an effort to discourage long-term commuter parking. It currently applies to accessory or conditional use parking that is available for use for long-term parking by downtown workers. This Code section is often found to be confusing in that it currently states "the rate charged for four hours of parking duration is no more than four times the rate charge for the first hour, and the rate charge for eight or more hours of parking duration is no less than 10 times the rate charge for the first hour. Additionally, no discounted parking rate shall be permitted for weekly, monthly or similar time-specific periods."

*The proposed legislation would overhaul this section of the Code based on guidance from the MTA. It would also expand this provision to include parking garages located in C-M, DTR, SLR, SSO, SPD, MUG, MUR and MUO Districts, and include non-accessory or principle parking, temporary or permanent. Among other changes it allows for an "early bird" special, where cars enter or leave the garage during off-peak hours, and maintains incentives to discourage long-term commuter parking. It also authorizes the Director of Transportation to establish discount rate structures and time periods without further action by the Board of Supervisors. This proposed Ordinance would not dictate the parking rate to be charged at any location, rather it would establish a framework for rates that seeks to discourage commuter parking.*

*The Department supports the proposed changes; however, enforcing the current regulations is problematic; the Department agrees with SFMTA staff that these regulations could be implemented more effectively if they were included in the City's Transportation Code, rather than the Planning Code. Therefore, the Department recommends that the Commission recommend to the Board of Supervisors that they consider putting this section in the Transportation Code. Having this section in the Transportation Code would*



*make the new regulations effective retroactively to existing parking garages. If it stays in the Code, it would only apply to new parking garages approved after the effective date of the proposed ordinance; therefore it would have limited impact on long term rate structures.*

*As a way to transition this section to the Transportation Code, this Section should also be amended to allow the Director of the MTA to enforce this Section of the Code with the following language "The Planning Director may authorize the Director of Transportation to ensure compliance with this section."*

2. Section 163 requires property owners to provide an onsite transportation brokerage service and transportation management plan when they construct a new building or there is a conversion of an existing building in the C-3, Eastern Neighborhood and South of Market Mixed Use Districts.

*The proposed legislation would change this section to include C-2 Districts and all Mixed Use Districts; this change is consistent with City's transit first policy and recognizes the dense, transit rich nature of the districts that would be added to this section.*

**Limited Corner Commercial Uses<sup>2</sup> (LCCUs) and Limited Commercial Uses<sup>3</sup> (LCUs):** These changes would generally allow more flexibility with commercial uses in residential districts. While, the Department generally supports these efforts, LCC were developed as part of multiyear planning efforts and should not be amended without more thorough examination.

1. Section 231(b)(3) allows Limited Corner Commercial uses with a maximum of 1,200 sq. ft. in floor area in RTO, RTO-M, RM-3, or RM-4 Districts on or below the ground floor; and on a corner lot with no part of the use extending more than 50 feet in depth from said corner.

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

*The existing controls were developed as part of 8 year long community planning processes that had particular ideas about what should be permitted in an RTO district. The intent of the corner store in these districts was to allow for neighborhood serving uses, with a very limited capacity and impact on the residential context. Accordingly the Department feels that leaving the controls as currently drafted makes the most sense. The Department generally recommends that ideas specific to the community planning efforts be continued through the initial 5-year post-plan adoption period. The Planning Code provides an avenue for re-evaluating these controls after 5 years. It should be noted that while the LCC use concept was originated with the community planning efforts, these controls currently apply outside of the plan areas in the RM-3 and RM-4 districts.*

2. Code Section 317 requires mandatory DR to convert one dwelling unit to another use.

*The proposed legislation would amend Section 231 to require Conditional Use Authorization in order to convert a dwelling unit into a Limited Corner Commercial Use. The Department doesn't see the benefit to*

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<sup>2</sup> "Limited Corner Commercial Uses" (LCCUs) are defined in Code § 231 as small neighborhood-oriented establishments provide convenience goods and services on a retail basis to meet the frequent and recurring needs of neighborhood residents within a short walking distance of their homes. They are permitted as of right in RTO and RM Districts.

<sup>3</sup> "Limited Commercial Uses" (LCUs) are defined in Code § 186 as nonconforming uses and can be beneficial to or accommodated in Residential Districts. They are not permitted uses, but typically existed prior to changes in the Code that made them noncomplying.

*this change. Converting a dwelling unit already requires either a mandatory DR or a Conditional Use hearing; the proposed change appears duplicative without any clear public benefit.*

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

*The proposed legislation would allow lapsed LCUs to be reinstated with Conditional Use Authorization so long as the space is located on or below the ground floor and was in commercial or industrial use prior to January 1, 1960; the subject space has not been converted to a dwelling unit; and the proposed commercial use meets all other requirements in the Code. This change will help provide greater convenience for residents by placing more goods and services closer to where they live, which is a hallmark and benefit of living in a dense urban environment. The Department recommends removing the prohibition on reinstating LCUs that have been converted to residential units. Often, these spaces are not very well suited for residential units since they were originally designed as commercial spaces. Allowing ones that have been converted to residential units would allow the Commission to determine whether or not the conversion is appropriate on a case by case basis, rather than making a blanket prohibition.*

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

1. Among other restrictions, TDRs are permitted when the Transfer lot and the Development lot are located in the same C-3 District.

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

**Bike Parking:** These changes seek to increase compliance with existing bicycle land use regulations and expand the existing requirements. The Department supports these efforts.

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

*Under the proposed legislation, violations would be handled through the regular Planning Department enforcement procedures and fees for violating this section of the Code would be the same as any other Code violation and fees would still be collected for the MTA's Bicycle Program. The current provision separates out bicycle parking from the rest of the Code provisions without any clear reason. Bike parking violations should be treated like any other Code violation. To that end, the Department believes the money generated from enforcement should go to the Planning Department to cover costs associated with that enforcement, and not to the MTA's Bicycle Program.*

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

*The proposed legislation would require bicycle parking when a building undergoes a major change of use: any use involving half or more of the building's square footage, or 10,000 or more square feet or any*

*increase in the amount of off-street automobile parking. This change helps to advance the City's goal of having 20% of trips by bike by 2012.*

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

*The proposed legislation would require bike parking for new hotels under the same rules that apply to Retail Buildings. This change helps to advance the City's goal of having 20% of trips by bike by 2012.*

**Non Conforming Uses<sup>4</sup>:** The proposed amendments would create a slight incentive in retaining most existing conforming uses while adding protections for group housing, however, the proposed amendments would create a strong disincentive for retaining nonconforming parking in the C-3 District. While these changes appear to be generally consistent with contemporary planning, the Port of San Francisco has expressed concerns about the multitude of demands on Port property.

1. Nonconforming uses in Neighborhood Commercial Districts can be changed to another use that is conditionally permitted in that district without Conditional Use authorization except where major work on the structure is involved.

*The proposed legislation would require Conditional Use authorization if a nonconforming use sought to change to a use that would otherwise require a Conditional Use authorization in that zoning district. This change creates more consistency in how uses are permitted in Neighborhood Commercial Districts. This change can add more process when a property owner is attempting to eliminate a nonconforming use.*

2. A nonconforming use in an R District may be converted to a dwelling unit without regard to the requirements of this Code with respect to dwelling unit density under Article 2, dimensions, areas and open space under Article 1.2, or off-street parking under Article 1.5.

*The proposed legislation adds group housing to this section in addition to dwelling units, and allows the ZA greater flexibility on what provisions of the Code can be waived when replacing a nonconforming use with housing per Code Section 307(h). This provision helps meet the City's current and future demand for affordable housing, special population housing, and housing in general. It also encourages the reuse of existing building stock.*

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

*The proposed legislation would remove this provision, which would require off-street parking lots in the C-3-O, C-3-R and C-3-G Districts to cease operation within 5 years of the adoption of the proposed legislation. After the 5 year window, these parking lots could still apply for a 2-year temporary Conditional Use authorization and would have to come back to the commission every two years to have it renewed as a temporary use. This proposed change is consistent with the goals of the Downtown Plan but may ignore compromises that were embedded in the adoption process of the Downtown Plan. The Department believes two additional steps are needed: first, that more research into the history of the Downtown Plan should be done and second, additional outreach should be provided to the affected business owners prior to instituting this change. Please note, that while there was concern expressed by some members of the public that the proposed change would require surface parking to go out of business immediately after the adoption of this ordinance. From the Department's understanding, this is not the intention of the legislation; to clear up any ambiguity the Department proposes the following change:*

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<sup>4</sup> A "Nonconforming Use" is a use which was legally permitted at the time it was established, but which currently fails to conform to one or more of the use limitations in the Code.

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

*In addition to the modification listed above, the Department recommends modifying the Section 184 of the Code so that off-street parking lots in C-3 Districts require renewal by Conditional Authorization every 5 years instead of every 2 years as proposed in the Ordinance.*

**Accessory Uses:** The proposed amendments would regulate accessory uses by performance standards instead of numerical limits that may no longer be appropriate. Other changes would be nonsubstantive in nature.

1. Accessory Uses in RC Districts are governed under Section 204.2.

*Under the proposed legislation, Accessory uses in RC District would be covered under Section 204.3, which currently govern accessory uses in C, M and PDR Districts. This change recognizes the mixed use nature of the R-C Districts.*

2. Section 204.3, which currently covers accessory uses in C, M and PDR Districts sets specific limitations on accessory uses, such as engine horsepower. It also limits accessory uses to ¼ of the floor area in C-2 Districts and prohibits accessory uses that employ more than 10 people.

*The proposed legislation would change the specific restriction, such as horse power, to performance based restrictions (i.e, no noise, vibration or unhealthful emissions beyond the premises). It would also increase to 1/3 of the total square footage that an accessory use could occupy in C-2 Districts and RC Districts (added to this section under this legislation) and remove any limit on the number of employees and accessory use could have. It also removes antennas as a permitted accessory use. This change makes more practical sense. The horsepower limits currently established in the Code can be violated by standard vacuums or coffee grinders. Tying accessory uses to performance based standards allows for greater flexibility.*

**Streetscape Improvements.** These proposed amendments would increase the Code requirements consistent with this recently adopted plan. While the intent is laudable, some of the proposed amendments seem overly aggressive in removing existing encroachments.

1. Code Section 138.1 establishes requirements for improvements to the public right-of-way associated with development projects based on the City's Better Streets Plan. Typically, these requirements apply to new developments, or additions of a certain size. There are no explicit provisions that require existing encroachments into the public right-of-way to be removed or modified in order to meet the new Better Street Standards.

*The proposed legislation would create a new subsection that would require projects that involve new construction, additions over 20% of the floor area, changes in use of more than ½ the building's floor area, the addition off-street loading, or the remove off street parking or loading, to remove or reduce the number of encroachments into the public right-of-way. This may include narrowing or reducing the number of driveways, removing encroachments that impede pedestrian travel or remove basements that extend under*

*the public right-of-way. This proposed change would enhance the efforts to implement the City's Better Streets Plan.*

*The Department is concerned that this added provision is too broad. For instance, even if one parking space is added or removed a property owner could potentially be required to remedy their existing encroachments. Further tying this provision to a change of use could add a significant burden on property owners that are only seeking to rent out vacant space. The Department feels that the triggers should be narrowed and only include changes where a new building is being constructed, or where there is a significant addition; or by identifying a clearer nexus between the types of work being done on the building and the type of improvements that would be required.*

*The Department would also like to strike out a provision in Section 138.1(c)(i) that requires streetscape and pedestrian elements in conformance with the Better Streets Plan when there is a permit to alter greater than 50% of the existing square footage of a building. This provisions, like the one proposed in this legislation which ties the removal of encroachments to a change of use greater than 50%, is proving difficult to enforce because changes of use are often over the counter permits, and determining what use was there prior to the proposed change is problematic.*

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

1. Section 136.1 regulates awnings, canopies and marquees for Limited Commercial Uses, <sup>5</sup> NC Districts, Eastern Neighborhood Mixed Use Districts and SOMA Mixed Use Districts. Awnings are currently permitted for Limited Conforming Uses, but may not project more than 4' from the face of the building.

*Section 136 would regulate awnings, canopies and marquees in all zoning districts. Only Limited Commercial Uses would be permitted to have awnings in Residential and Residential Enclave Districts. Canopies and marquees would not be permitted in Residential or Residential Enclave Districts. This provision helps to simplify the Code by making awning controls consistent throughout the City.*

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

*The existing regulations would still apply; in addition awnings would not be able to extend above the bottom of projecting upper-story window bays, or cover and belt cornice or horizontal molding. And where piers or columns define individual store front bays an awning may not cover such piers or columns. The goal here is to make awning controls more inline with the Kearny Mason Market Street awning controls. This provision helps to simplify the Code by making awning controls consistent throughout the City.*

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

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<sup>5</sup> Limited Commercial Uses are defined in Code § 186 as nonconforming uses and can be beneficial to or accommodated in Residential Districts. They are not permitted uses, but typically existed prior to changes in the Code that made them noncomplying.

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

4. 606(c) Signs for Limited Conforming Uses are currently regulated by the sign requirements in Residential Districts.

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

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

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

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

*Signs in all C and M Districts would be limited to 40' in height. This would include the C-3 Downtown Districts and the C-2 Districts, which are generally located along the Northeast Waterfront and Stonestown Mall. M Districts include the piers along the Northeast Waterfront and south of the Bay Bridge, as well as parcels located in Mission Bay, Eastern Neighborhoods and the Bayview/Hunters Point area. The Department doesn't find that the 100' height limit is problematic in the C-3 District given the scale of the District. It recommends either keeping the height at 100' or reducing it to no less than 60'.*

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

*Signs in RC Districts, which include some of San Francisco's densest neighborhoods such as the Tenderloin and areas along Van Ness Avenue, would now be regulated by the controls in Section 607.1, which currently regulates signs in NC Districts. This proposed change is intended to make controls in various mixed use districts consistent.*

8. Signs for Gas Stations can project 10 above the roof line.

*Gas stations signs could not project above the roof line.*

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

*The Embarcadero would be included on this list. Signs would be restricted to 200 sq. ft. and general advertising signs would be prohibited. While the Department thinks it is appropriate to add the Embarcadero to the Scenic Street Special Sign District list, it is concerned about impacts this would have on the ability of large events along the Embarcadero, such the America's Cup, to install temporary signs during the event that don't meet the requirements of the Scenic Street Special Sign District controls.*

10. Section 602.25 and Section 602.26 contain provisions for Historic Movie Theater Signs and Marquees respectively. Section 188(e) contains provisions that allow Historic Movie Theater

Signs and marquees to be preserved and enhanced. Section 602.9 contains provisions for Vintage Signs.

*The proposed ordinance deletes sections 602.25 and 602.26 and consolidates those controls under Section 602.9, the recently revised Vintage Sign controls. While the Department supports the consolidation, the proposed legislation should be amended to reflect the recent change to Section 602.9, keeping a clear distinction between Vintage Signs and Historic Movie Theater Signs and Marquees. Also, the process for preserving and enhancing Historic Movie Theater Signs and Marquees is different than establishing a Vintage Sign and this distinction should be made clear in this section by adding a subsection titled "Application for Historic Movie Theater Signs and Marquees" that details the current process for designating Historic Movie Theater Signs and Marquees.*

*The Department would like the prohibition on logos stricken from the proposed text for Section 602.9(e)(5)(B)(ii). Often signs and marquees are restored with the help of businesses or corporations and in return a small logo of that business is placed on the marquee or sign. As written the controls require that new lettering be in character with the lettering on the movie theater signboard and staff has the authority to determine what is appropriate on these signs. The Department believes that these controls are sufficient enough to stop any egregious logos from appearing on historic movie theater sign boards.*

**Washington-Broadway and Waterfront Special Use Districts:** Combining the districts to remove duplicative controls seems to be largely a good step towards simplifying the Code. However, there are substantive changes that may affect Port property and/or the America's Cup.

1. See map for new boundaries of Washington-Broadway SUD and Waterfront SUD.
2. There are two Washington-Broadway SUDs. The only difference is that Washington Broadway Special Use District 2 principally permits wholesale uses.

*The two Washington-Broadway SUDs would be combined into one. This provision helps simplify the Code and provides greater consistency in the Washington-Broadway SUD. Combining the SUDs would make Wholesaling Establishments principally permitted in the entire district. However, the Washington Broadway SUD 1 contains residential and neighborhood commercial zoning districts that may not be compatible with Wholesaling Establishments; therefore the Department recommends removing the provision that allows Wholesale Establishments as of right in the proposed district. The C-2 Zoning District already principally permits Wholesale Establishments; therefore removing this provision will still allow Wholesale Establishments to operate in the area previously known as Washington-Broadway SUD 2.*

*A clerical error should be addressed in this section; the proposed legislation still reads "...there shall be two Washington-Broadway SUDs". It should read "...there shall be the Washington-Broadway SUD."*

3. Parking is only required for residential uses in the Washington-Broadway SUDs, but other uses are exempt per section 161(d).

*The proposed legislation would make parking not required for any use under the rules in Code Section 161(d). Parking maximums would be set by zoning district in Section 151.1. A clerical error should be addressed in this section; this legislation changes 161(d) to 161(e). The language in this section should refer to 161(e).*

4. Parking lots open to the public are permitted with Conditional Use Authorization.

*The proposed legislation would no longer permit permanent parking lots; however temporary parking lots would be permitted as a temporary use for up to two years. Port property is under multiple demands from the State Lands Trust, the General Plan and the Waterfront Land Use Plan. The Department recommends*

*reviewing comments from the Port staff on the implications of this change with regard to the multiple demands as well as on the properties to be used as parking for the Americas Cup.*

5. Off-street parking requirements cannot be waived by Section 161 of this Code in the Waterfront Special Use District 2, but can be in the Waterfront Special Use Districts 1 and 3.

*Parking for any principle or conditional use may be waived by the ZA per Code Section 161 in all three Waterfront Special Use Districts. A clerical error should be addressed in this section; this legislation changes 161(f) to 161(g). The language in this section should refer to 161(g).*

6. In both the Waterfront Special Use Districts 2 and 3, any use, whether principal or accessory, not screened from view from adjacent streets and other public areas, with certain exceptions such as temporary uses, limited accessory off-street parking areas, or any new off-street parking areas under the jurisdiction of the Port of San Francisco, is permitted only upon approval by the Planning Commission as with Conditional Use authorization under Section 303 of this Code. The proposed legislation is not changing Waterfront SUD 1.

*This provision would be deleted in both Waterfront SUDs 2 and 3. In Waterfront SUD 2, this section will be replaced with language that would require any new development under the Port's jurisdiction of at least one-half an acre be subject to the Waterfront Design Review Process, as outlined under Section 240(c). This same language is already included in the Waterfront SUD 3. The intent of striking out this provision is to subject Waterfront SUDs 2 and 3 to the City's street frontage requirements. The Waterfront Design Review Process is undertaken by the Waterfront Design Advisory Committee, which is staffed by a mayoral appointee and by staff from the Planning Department and the Port. The Department is recommending a series of changes as requested by the Port, which are detailed at the end of the Executive Summary.*

*The Port requests that Section 240.3(h)(2), which is proposed for removal be maintained in the Code as reaffirmation of the Ports obligations under the Burton Act. This Section reiterates that existing Port parking lots are not subject to Conditional Use requirements. From the Department's perspective, the Code already has a provision that exempts legally existing uses from having to go through the Conditional Use process; therefore the removal of the line does not make any substantial changes to the Code. However, keeping it in the Code would also not have any substantial impact. Since the Port believes that this section further affirms their obligations under the Burton Act, the Department recommends not removing it from the Planning Code.*

**Van Ness Special Use District:** The proposed Ordinance would amend this district so that it was more in line with current planning practices. While it would remove affordable housing from FAR limits, it would not impose a unit mix requirement that exists in other areas that provides this exemption.

1. Floor Area Ratio limits apply to all housing in the Van Ness Special Use District.

*The proposed legislation would exempt affordable housing projects, as defined by Section 401, from the FAR limits, which would encourage developers to build more affordable housing. In other areas of the City where affordable housing is exempt from FAR, there is a unit mix requirement. This legislation does not establish one in this district.*

2. Van Ness Special Use District includes a Special Sign District that allows for directly illuminated signs that are larger and taller than what would be permitted in the RC-4 Zoning District.

*The proposed legislation would remove the specific sign provisions for the Van Ness Special Use District. This area would now be controlled by the provisions in Section 606, which allow for smaller signs that are not directly illuminated. It would also reduce the permitted height of projecting signs from 24' to 14'.*



*Businesses would also be required to turn off illumination when the business is closed. This area has had and will continue to have an increase in residential units. The purpose of the proposed change is to recognize that transition by making the sign controls along Van Ness more compatible with residential uses.*

1. The Van Ness Special Use District requires residential parking at a ratio of 1 parking space to 1 dwelling unit; RC-4 Districts require residential parking at a ratio of 1 parking space to every 4 dwelling units.

*This provision would be removed from the Van Ness Special Use District. The parking requirement would revert to the parking controls for the zoning district, which for this area of Van Ness is RC-4. RC-4 parking requirements are currently required at a ratio of 1 parking space to every 4 dwelling units; this would not change under the proposed legislation.*

**Powers of the ZA:** The proposed Ordinance would expand the powers of the ZA but only when specific parameters are met.

1. The Code currently allows the ZA to waive certain Code requirements under certain circumstances such as parking, exposure requirements and open space requirements.

*The proposed legislation would expand the ZA's authority by allowing him to waive Dwelling Unit Exposure requirements for Article 11 buildings, consistent with the ZA's current authority to waive Dwelling Unit Exposure requirements for Article 10 buildings. For Article 10 and 11 buildings it would also permit the ZA to allow off-site publicly accessible open space to be credited toward the residential open space requirements. The proposed legislation would also permit the ZA to waive or modify exposure requirements, rear yard requirements and open space requirements when converting a non-conforming use to a residential use, with certain restrictions and criteria.*

## **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.

## **RECOMMENDATION**

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

### **Clerical Modifications:**

1. In Section 202 under the description of RH Districts, there is an added parenthesis in front of RH-2, this should be deleted. Also, under the description of PDR Districts "PDR-1-" should be changed to "PDG-1-G."
2. Section 239 in the proposed legislation still reads "...there shall be two Washington-Broadway SUDs". It should read "...there shall be the Washington Broadway SUD."
3. Section 239(a) should reference 161(e) not 161(d).
4. Section 240.2 (d) should reference Section 161(g) and not 161(f)
5. Section 249.5(a) should also reference map SU02, the North of Market Residential SUD is on both SU01 and SU02.

6. Section 309.1(b)(1)(F) references 827(a)(8)(AO(ii)), it should reference 827(a)(8)(A)(ii)
7. Sections 604(a) should reference Vintage Signs and not historic signs in conformance with Ordinance # 0160-11
8. Section 155(c)(4) should be amended to read as follows:

“In all districts other than NC, 15 spaces or seven percent of the total gross floor area of the structure or development, which is ever greater, where no other spaces are required by this Section.”

This section was moved to Section 155 from another Section of the Code and reformatted. In the process, the underlined portion was inadvertently deleted.

**Non Clerical Modifications:**

1. Modify the proposed controls for parking lots in Section 223 for the C-2 District from “prohibited” as proposed in the draft Ordinance to allow parking lot uses via “Conditional Use Authorization”. (Currently such lots are permitted in the C-2 District.) This recommended modification would allow existing lots to continue in operation with as an assumed CU but would require new lots to receive CU authorization from the Commission.
2. Amend Section 161 of the Planning Code to allow the Zoning Administrator to grant exceptions to off-street parking requirements in C-2 Districts per Section 307. This recommended change would result in allowing administrative exceptions to off-street parking requirements in all districts except the RH and RM districts.
3. Modify the requirements for permanent off-street parking lots in C-3 Districts regulated by Section 184 so that these lots will require renewal by conditional authorization at least every 5 years instead of every 2 years as proposed in the Ordinance.
4. Amend Section 151.1 to remove the minimum off-street parking requirement for the RC districts. Continue to regulate the parking maximum requirements by the more permissive Section 151 controls.
5. Move the and amend the controls governing the Waterfront Design Advisory Committee (WDAC) from the existing Code Section 240 to a new location after Section 330, while maintaining reference to the WDAC in Sections 240.1 and 240.3:
  - a. The WDAC currently governs major developments north of China Basin. In consultation with the Port of San Francisco, the Planning Department recommends that the WDAC should have expanded jurisdiction to all Port properties, not just those north of China Basin. Therefore, the Planning Code controls for the WDAC should be removed from the Waterfront Special Use Districts (Section 240) to a new location in Article 3 of the Planning Code which governs general processes. Currently Section 330 describes the “Coastal Zone” permit area. The Department recommends adding new controls after the “Oceanside” Coast Zone that would establish controls for the “Bayside” coast. These controls should be established in the standard format of purpose, definitions, applicability, controls, and exceptions. The area should be defined by adding the existing map of Port Properties ([http://sfport.com/ftp/uploadedfiles/about\\_us/divisions/real\\_estate/map00.pdf](http://sfport.com/ftp/uploadedfiles/about_us/divisions/real_estate/map00.pdf)) to the Planning Code. Planning Department Staff would work with the Port to assure the

changes addressed all provisions recognizing the Burton Act Public Trust and Waterfront Design Review procedures and definitions.

- b. Consider changes in the appointment process for members of the WDAC. Currently the Planning Department and Port each appoint one member of their respective staff to serve on the WDAC. The proposed changes would allow Departments to appoint either a staff member or person outside the agency staff with qualified expertise in general or historic architecture, urban design and planning, or landscape design and architecture.
  - c. The Port has also requested that Section 240.3(h)(2) be maintained in order to reaffirm the Port's obligations under the Burton Act.
  - d. On the waterside of the Embarcadero, relocation of existing curbcuts that did not increase the total linear feet of curbcuts or otherwise diminish pedestrian or bicycle access would be permitted other proposed alteration to waterside curbcuts, including new curbcuts should be referred to the Waterfront Design Advisory Committee instead of requiring a Conditional Use authorization as proposed in the Ordinance.
6. Modify proposed Section 223(o) to require a CU for Storage Yards for Commercial Vehicles or Trucks in C-M Districts rather than prohibiting them outright.
  7. Recommend that the Board of Supervisors consider putting Section 155(g) in the Transportation Code and as a temporary measure allow the Planning Director to authorize the Director of Transportation to enforce this section of the Planning Code.
  8. Do not modify the controls for Limited Corner Commercial (LCC) Uses under Section 231. The Department generally recommends that ideas specific to the community planning efforts be continued through the initial 5-year post-plan adoption period. The Planning Code provides an avenue for re-evaluating these controls after 5 years. It should be noted that while the LCC use concept was originated with the community planning efforts, these controls currently apply outside of the plan areas in the RM-3 and RM-4 districts.
  9. Do not add proposed Section 231(k), which requires conditional use authorization when converting a dwelling unit to establish a Limited Corner Commercial Use. Dwelling unit conversions are already controlled by Section 317.
  10. Add the following modifications to Section 184 to clarify when surface parking lots would need to cease operation:

Any nonconforming commercial or industrial use of land where no enclosed building is involved in such use, ~~except for permanent off-street parking lots in the C-3-O, C-3-R, C-3-G Districts existing on the effective date of Ordinance 414-85, provided that such lots are screened in the manner required by Section 156(e)~~ except for permanent off-street parking lots in the C-3-O, C-3-R, or C-3-G Districts, which shall be eliminated no later than five years and 90 days from the effective date of Ordinance No. [INSERT];
  11. Integrate the changed outline in Attachment B, which cover Section 138.1 of the Planning Code.
  12. Consider the implications of adding the Embarcadero to Scenic Street Special Sign District controls to large events held along the Embarcadero.
  13. Remove the provision in the proposed combined Washington-Broadway Special Use District that allows Wholesale Establishments as of right.

14. Clarify the proposed changes in Section 102.9(b)(13) so that only affordable on-site units are exempt from FAR limits by inserting the following text (proposed text not included in the legislation is underlined):

“In C-3 Districts affordable on-site dwelling units or group housing in affordable housing projects, as defined by Section 401 of this Code.”
15. Merge the criteria for publicly owned and privately own accessory parking in Section 158.
16. Add a grandfather clause to the proposed legislation that would exempt projects that have already been approved by the Planning Commission, but not vested yet, from the new parking requirements. This should include both the C-3 Districts and the Van Ness Avenue Special Use District.
17. Remove the prohibition on reinstating lapsed LCUs where a residential unit has been established.

## **ENVIRONMENTAL REVIEW**

The proposal to amend the Code by repealing Sections 136.2, 136.3, 158, 187, 249.15, 263.2, 263.3, 602.25, 602.26, 607.3 and 607.4 and amending various other Code sections would result in no physical impact on the environment. The proposed legislation was determined to be exempt from environmental review under the General Rule Exclusion (Section 15061(b)(3) of the CEQA Guidelines).

## **PUBLIC COMMENT**

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

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

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

The Port of San Francisco contacted the Department about how the proposed project would affect their properties. The Port has concerns about how some of the proposed amendments would apply to land under the jurisdiction of the Port Commission, especially in the context of the Port Commission’s duties

and responsibilities under the San Francisco Charter and Burton Act. The Burton Act is the state legislation which promulgated the transfer of former State tidelands to the City and County of San Francisco. A copy of the letter from the Port regarding the proposed legislation is included as an attachment.

On October 3, 2011, the Small Business Commission voted 5-1 to recommend that the Board of Supervisors approve selected parts of BOS File No. 110767. A Copy of the letter form the Small Business Commission is attached.

On December 7, 2011, portions of the proposed legislation were presented to the Historic Preservation Commission (HPC) for their review and comments. The HPC did not take action on this item, but continued it to January 18, 2011. While the Commission as a whole did not take action, individual commissioners did comment on the proposed legislation and those comments are summarized below.

- Regarding the removal of signs on businesses that have ceased operation, there was a desire to clarify the legislation to say that signs must be removed when a business has “voluntary” ceased operations. The intention behind this is to recognize that some businesses go out of businesses due to fire or other accidents, and it may take longer than 9 months to get the business open again. Also, require that all parts of the sign, such as supports and wiring are required to be removed after 9 month.
- There was a desire expressed to go further in incentivizing the reuse of historic buildings, such as allowing abandoned LCUs to reactivate as-of-right instead of requiring a CU, and to create lower thresholds for open space and exposure requirements for Historic Buildings.
- The Commission wanted more information on the TDR program and the impact that the proposed legislation would have on the program.
- The Commission sought clarification and more information on the impact to the Historic Sign ordinance and how those signs differ from Vintage Signs. This information will be provided to them at the January hearing.
- Include buildings that are eligible for the California Register, and not just designated historic buildings, to the list of building that the ZA can exempt from certain Code requirements.

**Attachments:**

- Exhibit A: Table of Proposed Changes Specific to Geographic Zoning Districts  
Exhibit B: Detailed Section 138 Recommendations  
Exhibit C: Port Property Map  
Exhibit C: Letters





# SAN FRANCISCO PLANNING DEPARTMENT

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## Draft Planning Commission Resolution

HEARING DATE: DECEMBER 15, 2011

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

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

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

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

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

*Recommendation:* **Recommend Approval with Modifications**

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

**PREAMBLE**

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

Whereas, on December 15, 2011, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

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

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

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

Whereas, the Commission has reviewed the proposed Ordinance; and

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

**Clerical Modifications:**

1. In Section 202 under the description of RH Districts, there is an added parenthesis in front of RH-2, this should be deleted. Also, under the description of PDR Districts "PDR-1-" should be changed to "PDG-1-G."
2. Section 239 in the proposed legislation still reads "...there shall be two Washington-Broadway SUDs". It should read "...there shall be the Washington Broadway SUD."



3. Section 239(a) should reference 161(e) not 161(d).
4. Section 240.2 (d) should reference Section 161(g) and not 161(f)
5. Section 249.5(a) should also reference map SU02, the North of Market Residential SUD is on both SU01 and SU02.
6. Section 309.1(b)(1)(F) references 827(a)(8)(AO(ii), it should reference 827(a)(8)(A)(ii)
7. Sections 604(a) should reference Vintage Signs and not historic signs in conformance with Ordinance # 0160-11
8. Section 155(c)(4) should be amended to read as follows:

“In all districts other than NC, 15 spaces or seven percent of the total gross floor area of the structure or development, which is ever greater, where no other spaces are required by this Section.”

This section was moved to Section 155 from another Section of the Code and reformatted. In the process, the underlined portion was inadvertently deleted.

**Non Clerical Modifications:**

1. Modify the proposed controls for parking lots in Section 223 for the C-2 District from “prohibited” as proposed in the draft Ordinance to allow parking lot uses via “Conditional Use Authorization”. (Currently such lots are permitted in the C-2 District.) This recommended modification would allow existing lots to continue in operation with as an assumed CU but would require new lots to receive CU authorization from the Commission.
2. Amend Section 161 of the Planning Code to allow the Zoning Administrator to grant exceptions to off-street parking requirements in C-2 Districts per Section 307. This recommended change would result in allowing administrative exceptions to off-street parking requirements in all districts except the RH and RM districts.
3. Modify the requirements for permanent off-street parking lots in C-3 Districts regulated by Section 184 so that these lots will require renewal by conditional authorization at least every 5 years instead of every 2 years as proposed in the Ordinance.
4. Amend Section 151.1 to remove the minimum off-street parking requirement for the RC districts. Continue to regulate the parking maximum requirements by the more permissive Section 151 controls.
5. Move the and amend the controls governing the Waterfront Design Advisory Committee (WDAC) from the existing Code Section 240 to a new location after Section 330, while maintaining reference to the WDAC in Sections 240.1 and 240.3:
  - a. The WDAC currently governs major developments north of China Basin. In consultation with the Port of San Francisco, the Planning Department recommends that the WDAC should have expanded jurisdiction to all Port properties, not just those north of China Basin. Therefore, the Planning Code controls for the WDAC should be removed from the Waterfront Special Use Districts (Section 240) to a new location in Article 3 of the Planning Code which governs general processes. Currently Section 330 describes the “Coastal Zone” permit area. The Department recommends adding new controls after the “Oceanside” Coast Zone that would establish controls for the “Bayside” coast. These

controls should be established in the standard format of purpose, definitions, applicability, controls, and exceptions. The area should be defined by adding the existing map of Port Properties ([http://sfport.com/ftp/uploadedfiles/about\\_us/divisions/real\\_estate/map00.pdf](http://sfport.com/ftp/uploadedfiles/about_us/divisions/real_estate/map00.pdf)) to the Planning Code. Planning Department Staff would work with the Port to assure the changes addressed all provisions recognizing the Burton Act Public Trust and Waterfront Design Review procedures and definitions.

- b. Consider changes in the appointment process for members of the WDAC. Currently the Planning Department and Port each appoint one member of their respective staff to serve on the WDAC. The proposed changes would allow Departments to appoint either a staff member or person outside the agency staff with qualified expertise in general or historic architecture, urban design and planning, or landscape design and architecture.
  - c. The Port has also requested that Section 240.3(h)(2) be maintained in order to reaffirm the Port's obligations under the Burton Act.
  - d. On the waterside of the Embarcadero, relocation of existing curbcuts that did not increase the total linear feet of curbcuts or otherwise diminish pedestrian or bicycle access would be permitted other proposed alteration to waterside curbcuts, including new curbcuts should be referred to the Waterfront Design Advisory Committee instead of requiring a Conditional Use authorization as proposed in the Ordinance.
6. Modify proposed Section 223(o) to require a CU for Storage Yards for Commercial Vehicles or Trucks in C-M Districts rather than prohibiting them outright.
  7. Recommend that the Board of Supervisors consider putting Section 155(g) in the Transportation Code and as a temporary measure allow the Planning Director to authorize the Director of Transportation to enforce this section of the Planning Code.
  8. Do not modify the controls for Limited Corner Commercial (LCC) Uses under Section 231. The Department generally recommends that ideas specific to the community planning efforts be continued through the initial 5-year post-plan adoption period. The Planning Code provides an avenue for re-evaluating these controls after 5 years. It should be noted that while the LCC use concept was originated with the community planning efforts, these controls currently apply outside of the plan areas in the RM-3 and RM-4 districts.
  9. Do not add proposed Section 231(k), which requires conditional use authorization when converting a dwelling unit to establish a Limited Corner Commercial Use. Dwelling unit conversions are already controlled by Section 317.
  10. Add the following modifications to Section 184 to clarify when surface parking lots would need to cease operation:

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

11. Integrate the changed outline in Attachment B, which cover Section 138.1 of the Planning Code.
12. Consider the implications of adding the Embarcadero to Scenic Street Special Sign District controls to large events held along the Embarcadero.
13. Remove the provision in the proposed combined Washington-Broadway Special Use District that allows Wholesale Establishments as of right.
14. Clarify the proposed changes in Section 102.9(b)(13) so that only affordable on-site units are exempt from FAR limits by inserting the following text (proposed text not included in the legislation is underlined):

“In C-3 Districts affordable on-site dwelling units or group housing in affordable housing projects, as defined by Section 401 of this Code.”
15. Merge the criteria for publicly owned and privately own accessory parking in Section 158.
16. Add a grandfather clause to the proposed legislation that would exempt projects that have already been approved by the Planning Commission, but not vested yet, from the new parking requirements. This should include both the C-3 Districts and the Van Ness Avenue Special Use District.
17. Remove the prohibition on reinstating lapsed LCUs where a residential unit has been established.

## FINDINGS

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

1. San Francisco’s Planning Code has provided for reduced parking requirements in dense and transit-rich neighborhoods since the 1960s, as a way of reducing traffic congestion, encouraging walking, cycling, and public transit, and making efficient use of scarce land;
2. In 1973, the San Francisco City Planning Commission and Board of Supervisors adopted the "Transit First Policy", giving top priority to public transit investments as the centerpiece of the city's transportation policy and adopting street capacity and parking policies to discourage increases in automobile traffic;
3. Off-street parking facilities increase building costs, which in turn are transferred to costs of housing and doing business. As a land use, off-street parking facilities compete with and displace land uses that provide greater social and economic benefit to the city;
4. A basic assumption of the Transportation Element is that a desirable living environment and a prosperous business environment cannot be maintained if traffic levels continue to increase in any significant way. A balance must be restored to the city's transportation system, and various methods must be used to control and reshape the impact of automobiles on the city. This includes limiting the city's parking capacity, especially long-term parking in commercial areas;

5. On October 26, 2010 the Board of Supervisors adopted the goal of having 20% of trips by bike by the year 2020;
6. The City of San Francisco's housing element seeks to remove unnecessary constraints to the construction and rehabilitation of housing;
7. Existing buildings contribute to the unique character of San Francisco. Reusing buildings, rather than demolishing and rebuilding them, can preserve the built character of neighborhoods, as well as foster sustainability by conserving the energy and materials embodied in these buildings.
8. Small commercial uses, although often nonconforming, tend to provide convenience goods and services on a retail basis to meet the frequent and recurring needs of neighborhood residents within a short distance of their homes;
9. Small businesses that combine office, production, retail, and even residential uses are increasingly common in San Francisco, but frequently do not fit into traditional zoning categories. Creating more flexibility in zoning around accessory uses will help add to the vibrancy of the City's neighborhoods and to the City's diverse economic base;
10. Over the years, the Planning Code has been amended and expanded. While many of these changes have been necessary to address emerging issues and changing policy in the City, the current Planning Code can be overly complex and redundant;
11. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

## **I. HOUSING ELEMENT**

### **OBJECTIVE 1**

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

### **POLICY 1.6**

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

### **POLICY 1.10**

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

### **OBJECTIVE 8**

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

**POLICY 8.1**

Support the production and management of permanently affordable housing.

*The proposed ordinance will make it easier to build affordable housing in transit rich neighborhoods by excluding dwelling units and group housing from Gross Floor Area and Floor Area Ratio calculations in C-3 Zoning Districts. The proposed legislation would also remove dwelling unit density calculations in C-3 Zoning Districts and exempt affordable housing projects from the FAR limits in Van Ness Special Use District.*

**OBJECTIVE 11**

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO NEIGHBORHOODS.

**Policy 11.7**

Respect San Francisco's historic fabric, by preserving landmark buildings and ensuring consistency with historic districts.

*The proposed ordinance makes it easier to convert existing buildings into residential units by granting the Zoning Administrator greater powers to waive certain Planning Code requirements.*

**OBJECTIVE 12**

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

**Policy 12.1**

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

*The proposed ordinance recognizes the dense transit rich nature of many of San Francisco's neighborhoods and removes or significantly reduces minimum parking requirements to encourage transit use and other forms of transportation.*

**II. TRANSPORTATION ELEMENT**

**OBJECTIVE 1**

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

**Policy 1.2**

Ensure the safety and comfort of pedestrians throughout the city.

**Policy 1.3**

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

*The proposed ordinance requires that projects of certain sizes implement the Better Street Plans, which enhances the pedestrian realm; it allows the Zoning Administrator to reduce or waive required parking or loading for a project when the only feasible street frontage for a driveway or entrance to off-street parking or loading is located on a protected pedestrian-, cycling-, or transit-oriented street frontage, or the only feasible street frontage for a driveway or entrance to off-street parking or loading is located at a transit stop; and it would exempt Automotive Service Stations that are located on Primary Transit Streets or Citywide Pedestrian Network Streets from the conversion process for Automotive Service Station*

#### **OBJECTIVE 7**

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

##### **Policy 7.1**

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

*The proposed legislation would strengthen and expands the City's long term parking controls in the Downtown.*

### **III. URBAN DESIGN ELEMENT**

#### **OBJECTIVE 1**

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE AND A MEANS OF ORIENTATION

##### **Policy 1.10**

Indicate the purposes of streets by adopting and implementing the Better Streets Plan, which identifies a hierarchy of street types and appropriate streetscape elements for each street type.

*The proposed ordinance would require more projects to remove encroachments into the public right-of-way in order to implement the City's Better Streets Plan.*

#### **OBJECTIVE 4**

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

##### **Policy 4.14**

Remove and obscure distracting and cluttering elements.

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

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

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

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

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

*The proposed legislation would remove minimum parking requirements from transit rich urban areas of the City*

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

*The proposed Ordinance will reduce some of the barriers to constructing affordable housing by removing it from Gross Floor Area and Floor Area Ratio calculations in certain districts.*

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

*The proposed Ordinance seeks to reduce the impact that private automobiles have on City streets by eliminating minimum parking requirements and replacing them with maximum parking requirements.*

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

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

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

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

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

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

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

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

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

Linda Avery  
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: December 15, 2011





<p>102.9 Bicycle parking is currently included in Gross Floor Area calculations. <i>Bicycle parking would no longer be included in Gross Floor Area calculations, creating an incentive to dedicate more space to bike parking than required.</i></p>				x	x	x	x	x	x	x
<p>102.9 Affordable Housing and Group Housing are included in FAR calculations <i>Affordable Housing and Group Housing would be excluded from Floor Area Ratio Calculations in C-3 Districts, creating an incentive to construct more affordable housing. While it would remove affordable housing from FAR limits, it would not impose a unit mix requirement that exists in other areas that provides this exemption. This is consistent with the City's policy on encouraging affordable housing. However, as drafted, this section would appear to exempt the entire building containing BMR units from FAR because Section 401 defines a "affordable housing project" as a building containing any BMR units, not just the square footage of the BMR units themselves. Therefore, the Department recommends clarifying this Section so that only affordable on-site units are exempt from FAR limits by changing the proposed Section 102.9(b)(13) as follows (proposed text underlined): In C-3 Districts <u>affordable on-site</u> dwelling units or group housing in affordable housing projects, as defined by Section 401 of this Code.</i></p>									x	
<p>102.9 Short term parking is excluded from FAR calculations in C-3 Districts. <i>Short Term parking would be included in FAR calculations in C-3 Districts, creating a disincentive for adding Short Term Parking to new developments in C-3 Districts. This change is consistent with the City's Transit First policy and the Downtown Plan.</i></p>										x
<p>215 Dwelling unit density in C-3 Districts is allowed to be exceeded with Conditional Use authorization. <i>Per the proposed legislation, dwelling unit density would no longer be determined by lot area or FAR calculations, but by other limitations in the Code such as height, bulk, setbacks, open space and exposure. This proposed change is consistent with the City's desire to increase its housing stock in order to meet current and future housing demand.</i></p>									x	



161	<p>Section 161 provides exemptions from the parking requirement in certain Zoning Districts and due to certain lot situations, such as topography.</p> <p><i>The proposed legislation adds a subsection to Section 161 that allows the Zoning Administrator (hereinafter "ZA") to reduce or waive required parking or loading for a project when the only feasible street frontage for a driveway or entrance to off-street parking or loading is located on a protected pedestrian-, cycling-, or transit-oriented street frontage, or the only feasible street frontage for a driveway or entrance to off-street parking or loading is located at a transit stop. The legislation also adds a provision that would allow the ZA to waive parking requirements to protect street trees with either the recommendation of the Department of Public Works Bureau of Urban Forestry or the recommendation of a certified arborist, consistent with other recently adopted ordinances, BF-101053, "Consistent Street Frontages 2."</i></p>	x	x	x	x	x	x	x	x	x
161	<p>Section 161 includes a provision that allows the ZA to waive or reduce parking for principle uses and the Commission to waive or reduce parking for conditional uses in the Waterfront SUDs 1 and 3.</p> <p><i>The proposed legislation would add the Waterfront SUD 2 to this provision, which is consistent with other dens, transit rich areas of the City. Waterfront SUDs 1 and 3 are already included in this section.</i></p>						x			

**Automotive Uses**

223	<p>There are currently 5 different use categories for automotive sales, based on whether or not business is conducted in an open lot or within a building, and whether or not the business is selling cars, trucks, or trailers.</p> <p><i>The proposed legislation would reduce the number of use categories to two, based on whether or not business conducted on an open lot or within a building. This does not significantly change the existing regulations.</i></p>					x	x	x	x	x
223	<p>The Code currently has Automotive Use definitions listed in both Articles 2 and 8.</p> <p><i>The proposed legislation would remove the definitions for Automotive Uses in Article 2 that are duplicated in Article 8, and reference the Article 8 definitions in Article 2, creating no substantive changes to the existing controls.</i></p>						x	x	x	x
223	<p>Surface public parking lots are principally permitted in C-2 and C-M Districts and require Conditional Use authorization in C-3-S District.</p> <p><i>The proposed legislation would prohibit public parking lots in C-2, C-M and C-3-S Districts. Temporary parking lots, like those permitted in the C-3 District, would not be permitted in C-2 and C-M Districts unless the Code was changed to include these districts in the temporary parking lot controls. The Department recommends modify the proposed controls for parking lots in Section 223 for the C-2 District from "prohibited" as proposed in the draft Ordinance to allow parking lot uses via "Conditional Use Authorization".</i></p>						x	x	x	x
223	<p>Parking garages are currently divided up into 5 different categories in Article 2. There are similar definitions in Article 8 of the Code.</p> <p><i>The proposed legislation would remove most of the different parking garage categories and reference parking garages in Section 156 and in Article 8. Currently C-2, C-M, M-1 and M-2 Districts allow parking garages as of right; the proposed legislation would now require Conditional Use authorization in all districts where parking garages are currently permitted.</i></p>						x	x		

223	<p>Parcel delivery service where the operation is conducted entirely within a completely enclosed building including garage facilities for local delivery trucks, but excluding repair shop facilities are principally permitted in C-3-S and C-M Districts.</p> <p><i>The proposed legislation would change the Code to require Conditional Use authorization in C-3-S and C-M Districts for this use. C-3-S District encompasses Yerba Buena Gardens and includes the Convention Center, hotels, museums and cultural facilities, housing, retail, and offices. C-M Districts provide a limited supply of land for certain heavy commercial uses not permitted in other commercial districts. Both Districts have very specific purposes; requiring this use as to receive Conditional Use authorization would still permit the use, but provide greater oversight to ensure that the district is still able to serve it's primary function.</i></p>								x	x
223	<p>Storage garage for commercial passenger vehicles and light delivery trucks requires Conditional Use Authorization in C-3-G Districts and are principally permitted in C-3-S and C-M Districts</p> <p><i>This use would be prohibited in C-3-G Districts and require Conditional Use Authorization in C-3-S and C-M Districts. This change is consistent with the definitions and intent of these districts. C-3-S and C-3-G Districts are located within the downtown. C-M Districts tend to be located between C-3 Districts and South of Market Mixed Use Districts. There are very few still in existence.</i></p>								x	x
223	<p>Storage yard for commercial vehicles or trucks, if conducted within an area completely enclosed by a wall or concealing fence not less than six feet high are currently permitted in C-M Districts and require Conditional Use Authorization in C-3-S Districts.</p> <p><i>This type of use would not be permitted in either the C-M or C-3-S Districts. This change appears to be consistent with the intent of C-3-S Districts, which encompasses Yerba Buena Gardens and includes the Convention Center, hotels, museums and cultural facilities, housing, retail, and offices. C-M Districts tend to be located between C-3 Districts and South of Market Mixed Use Districts. There are very few still in existence. Prohibiting this use outright in C-M Districts does not appear to be consistent with the intent of this Zoning District, which is designated for heavy commercial uses with an emphasis upon wholesaling and business services. Requiring a CU for this use in C-M Districts would be more consistent with the intent of this district rather than prohibiting them outright.</i></p>								x	x
228	<p>Section 228 limits the ability of Automotive Service Station (gas stations) to convert to other uses. Currently to convert an Automotive Service Station the property owner either needs to obtain a Conditional Use Authorization from the Planning Commission or a conversion determination from the Zoning Administrator. There are no exceptions for Automotive Service Stations that are located on Primary Transit Streets or Citywide Pedestrian Network Streets.</p> <p><i>The proposed legislation would exempt Automotive Service Stations that are located on Primary Transit Streets or Citywide Pedestrian Network Streets from the requirements outlined in Section 228. Further the proposed legislation adds two criteria that should be considered when the Commission considers the conversion of an Automotive Service Station.</i></p> <p><i>The two additional criteria are:</i></p> <ul style="list-style-type: none"> <li><i>The importance of the street on which the service station fronts to walking, cycling, and public transit, and the impact of automobile access and egress to the service station and of the proposed new uses and structures on the safety and comfort of pedestrians, cyclists, and transit riders.</i></li> <li><i>The compatibility of the existing service station and of the proposed new use or structure with the General Plan and area plan urban design policies and the street frontage standards of this Code.</i></li> </ul> <p><i>The proposed changes are consistent with the City's s Transit First Policy and Better Streets Plan.</i></p>	x	x	x	x	x	x	x	x	x





163	<p>Section 163 requires property owners to provide an onsite transportation brokerage service and transportation management plan when they construct a new building or there is a conversion of an existing building in the C-3, Eastern Neighborhood and South of Market Mixed Use Districts.</p> <p><i>The proposed legislation would change this section to include C-2 Districts and all Mixed Use Districts; this change is consistent with City's transit first policy and recognizes the dense, transit rich nature of the districts that would be added to this section.</i></p>							x	x		
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**Bike Parking**

155.1	<p>Currently, the ZA enforces Bike Parking regulations. There is a \$50/day fine imposed on violations if they have not been abated within 30 days, and fines are deposited with the Department of Parking and Traffic for expenditure by and for the Department's Bicycle Program.</p> <p><i>Under the proposed legislation, violations would be handled through the regular Planning Department enforcement procedures and fees for violating this section of the Code would be the same as any other Code violation and fees would still be collected for the MTA's Bicycle Program. The current provision separates out bicycle parking from the rest of the Code provisions without any clear reason. Bike parking violations should be treated like any other Code violation. To that end, the Department believes the money generated from enforcement should go to the Planning Department to cover costs associated with that enforcement, and not to the MTA's Bicycle Program.</i></p>	x	x	x	x	x	x	x	x	x	x
155.4	<p>Bicycle parking is required when you construct a new commercial building or when a commercial building is enlarged and has a construction cost of at least \$1,000,000.00.</p> <p><i>The proposed legislation would require bicycle parking when a building undergoes a major change of use: any use involving half or more of the building's square footage, or 10,000 or more square feet or any increase in the amount of off-street automobile parking. This change helps to advance the City's goal of having 20% of trips by bike by 2012.</i></p>	x	x	x	x	x	x	x	x	x	x
155.4	<p>Bicycle Parking is required for new retail buildings, but not new hotels.</p> <p><i>The proposed legislation would require bike parking for new hotels under the same rules that apply to Retail Buildings. This change helps to advance the City's goal of having 20% of trips by bike by 2012.</i></p>	x	x	x	x	x	x	x	x	x	x

**Limited Corner Commercial Uses (LCCUs) and Limited Commercial Uses (LCUs):**

231	<p>Section 231(b)(3) allows Limited Corner Commercial uses with a maximum of 1,200 sq. ft. in floor area in RTO, RTO-M, RM-3, or RM-4 Districts on or below the ground floor; and on a corner lot with no part of the use extending more than 50 feet in depth from said corner.</p> <p><i>The proposed legislation would increase the 50' limit to 100' and the use size from 1,200 sq. ft. to 2,500 sq. ft, consistent with the typical lot size in an R District.</i></p> <p><i>The existing controls were developed as part of 8 year long community planning processes that had particular ideas about what should be permitted in an RTO district. The intent of the corner store in these districts was to allow for neighborhood serving uses, with a very limited capacity and impact on the residential context. Accordingly the Department feels that leaving the controls as currently drafted makes the most sense. The Department generally recommends that ideas specific to the community planning efforts be continued through the initial 5-year post-plan adoption period. The Planning Code provides an avenue for re-evaluating these controls after 5 years. It should be noted that while the LCC use concept was originated with the community planning efforts, these controls currently apply outside of the plan areas in the RM-3 and RM-4 districts.</i></p>			x	x						
231	<p>Code Section 317 requires mandatory DR to convert one dwelling unit to another use.</p> <p><i>The proposed legislation would amend Section 231 to require Conditional Use Authorization in order to convert a dwelling unit into a Limited Corner Commercial Use. The Department doesn't see the benefit to this change. Converting a dwelling unit already requires either a mandatory DR or a Conditional Use hearing; the proposed change appears duplicative without any clear public benefit.</i></p>			x	x						
186	<p>The Code does not currently allow lapsed LCUs to be reactivated once that use has been abandoned.</p> <p><i>The proposed legislation would allow lapsed LCUs to be reinstated with Conditional Use Authorization so long as the space is located on or below the ground floor and was in commercial or industrial use prior to January 1, 1960; the subject space has not been converted to a dwelling unit; and the proposed commercial use meets all other requirements in the Code. This change will help provide greater convenience for residents by placing more goods and services closer to where they live, which is a hallmark and benefit of living in a dense urban environment. The Department recommends removing the prohibition on reinstating LCUs that have been converted to residential units. Often, these spaces are not very well suited for residential units since they were originally designed as commercial spaces. Allowing ones that have been converted to residential units would allow the Commission to determine whether or not the conversion is appropriate on a case by case basis, rather than making a blanket prohibition.</i></p>	x	x	x							



**Non Conforming Uses**

182	<p>Nonconforming uses in Neighborhood Commercial Districts can be changed to another use that is conditionally permitted in that district without Conditional Use authorization except where major work on the structure is involved.</p> <p><i>The proposed legislation would require Conditional Use authorization if a nonconforming use sought to change to a use that would otherwise require a Conditional Use authorization in that zoning district. This change creates more consistency in how uses are permitted in Neighborhood Commercial Districts. This change can add more process when a property owner is attempting to eliminate a nonconforming use.</i></p>					x	x				
182	<p>A nonconforming use in an R District may be converted to a dwelling unit without regard to the requirements of this Code with respect to dwelling unit density under Article 2, dimensions, areas and open space under Article 1.2, or off-street parking under Article 1.5.</p> <p><i>The proposed legislation adds group housing to this section in addition to dwelling units, and allows the ZA greater flexibility on what provisions of the Code can be waived when replacing a nonconforming use with housing per Code Section 307(h). This provision helps meet the City's current and future demand for affordable housing, special population housing, and housing in general. It also encourages the reuse of existing building stock.</i></p>	x	x	x	x						
184	<p>Per Section 184, permanent off-street parking lots in the C-3-O, C-3-R and C-3-G Districts are allowed to operate in perpetuity as non-conforming uses.</p> <p><i>The proposed legislation would remove this provision, which would require off-street parking lots in the C-3-O, C-3-R and C-3-G Districts to cease operation within 5 years of the adoption of the proposed legislation. After the 5 year window, these parking lots could still apply for a 2-year temporary Conditional Use authorization and would have to come back to the commission every two years to have it renewed as a temporary use. This proposed change is consistent with the goals of the Downtown Plan but may ignore compromises that were embedded in the adoption process of the Downtown Plan. The Department believes two additional steps are needed: first, that more research into the history of the Downtown Plan should be done and second, additional outreach should be provided to the affected business owners prior to instituting this change. Please note, that while there was concern expressed by some members of the public that the proposed change would require surface parking to go out of business immediately after the adoption of this ordinance. From the Department's</i></p> <p><i>(a) Any nonconforming commercial or industrial use of land where no enclosed building is involved in such use, <del>except for permanent off-street parking lots in the C-3-O, C-3-R, C-3-G Districts existing on the effective date of Ordinance 414-85, provided that such lots are screened in the manner required by Section 156(e)</del> except for permanent off-street parking lots in the C-3-O, C-3-R, or C-3-G Districts, which shall be eliminated no later than five years and 90 days from the effective date of Ordinance No. [INSERT];</i></p> <p><i>In addition to the modification listed above, the Department recommends modifying the Section 184 of the Code so that off-street parking lots in C-3 Districts require renewal by Conditional Authorization every 5 years instead of every 2 years as proposed in the Ordinance.</i></p>									x	

204.2 & 204.3	<p>Accessory Uses in RC Districts are governed under Section 204.2.</p> <p><i>Under the proposed legislation, Accessory uses in RC District would be covered under Section 204.3, which currently govern accessory uses in C, M and PDR Districts. This change recognizes the mixed use nature of the R-C Districts.</i></p>				x						
204.3	<p>Section 204.3, which currently covers accessory uses in C, M and PDR Districts sets specific limitations on accessory uses, such as engine horsepower. It also limits accessory uses to ¼ of the floor area in C-2 Districts and prohibits accessory uses that employ more than 10 people.</p> <p><i>The proposed legislation would change the specific restriction, such as horse power, to performance based restrictions (i.e. no noise, vibration or unhealthy emissions beyond the premises). It would also increase to 1/3 of the total square footage that an accessory use could occupy in C-2 Districts and RC Districts (added to this section under this legislation) and remove any limit on the number of employees and accessory use could have. It also removes antennas as a permitted accessory use. This change makes more practical sense. The horsepower limits currently established in the Code can be violated by standard vacuums or coffee grinders. Tying accessory uses to performance based standards allows for greater flexibility.</i></p>			x	x	x	x	x	x	x	x

**Streetscape Improvements**

138	<p>Code Section 138 establishes requirements for improvements to the public right-of-way associated with development projects based on the City's Better Streets Plan. Typically, these requirements apply to new developments, or additions of a certain size. There are no explicit provisions that require existing encroachments into the public right-of-way to be removed or modified in order to meet the new Better Street Standards.</p> <p><i>The proposed legislation would create a new subsection that would require projects that involve new construction, additions over 20% of the floor area, changes in use of more than ½ the building's floor area, the addition off-street loading, or the remove off street parking or loading, to remove or reduce the number of encroachments into the public right-of-way. This may include narrowing or reducing the number of driveways, removing encroachments that impede pedestrian travel or remove basements that extend under the public right-of-way. This proposed change would enhance the efforts to implement the City's Better Streets Plan.</i></p> <p><i>The Department is concerned that this added provision is too broad. For instance, even if one parking space is added or removed a property owner could potentially be required to remedy their existing encroachments. Further tying this provision to a change of use could add a significant burden on property owners that are only seeking to rent out vacant space. The Department feels that the triggers should be narrowed and only include changes where a new building is being constructed, or where there is a significant addition; or by identifying a clearer nexus between the types of work being done on the building and the type of improvements that would be required.</i></p> <p><i>The Department would also like to strike out a provision in Section 138(c)(i) that requires streetscape and pedestrian elements in conformance with the Better Streets Plan when there is a permit to alter greater than 50% of the existing square footage of a building. This provisions, like the one proposed in this legislation which ties the removal of encroachments to a change of use greater than 50%, is proving difficult to enforce because changes of use are often over the counter permits, and determining what use was there prior to the proposed change is problematic.</i></p>	x	x	x	x	x	x	x	x	x	x
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Signs, Awnings and Canopies

<p>136.1 Section 136.1 regulates awnings, canopies and marquees for Limited Commercial Uses, NC Districts, Eastern Neighborhood Mixed Use Districts and SOMA Mixed Use Districts. Awnings are currently permitted for Limited Conforming Uses, but may not project more than 4' from the face of the building. <i>Section 136 would regulate awnings, canopies and marquees in all zoning districts. Only Limited Commercial Uses would be permitted to have awnings in Residential and Residential Enclave Districts. Canopies and marquees would not be permitted in Residential or Residential Enclave Districts. This provision helps to simplify the Code by making awning controls consistent throughout the City.</i></p>	x	x	x	x	x	x	x	x	x	x
<p>136.1 Section 136.1 states that awnings can not be less than eight feet above the finished grade and no portion of any awning shall be higher than the windowsill level of the lowest story exclusive of the ground story and mezzanine, provided that no such awning shall in any case exceed a height of 16 feet or the roofline of the building to which it is attached, whichever is lower. <i>The existing regulations would still apply; in addition awnings would not be able to extend above the bottom of projecting upper-story window bays, or cover and belt cornice or horizontal molding. And where piers or columns define individual store front bays an awning may not cover such piers or columns. The goal here is to make awning controls more inline with the Kearny Mason Market Street awning controls. This provision helps to simplify the Code by making awning controls consistent throughout the City.</i></p>	x	x	x	x	x	x	x	x	x	x
<p>604 The Code currently allows nonconforming signs to exist until the end of the sign's normal life. <i>The proposed legislation adds language to this section of the Code that states: Signs would be brought into conformance when the operation ceases, moves to another location, when a new building is constructed or at the end of the sign's natural life. In addition, signs would also be required to be removed within 90 days of the business going out of business. The addition of this provision would provide the Planning Department greater ability to remove signs that are nonconforming.</i></p>	x	x	x	x	x	x	x	x	x	x
<p>606 606(c) Signs for Limited Conforming Uses are currently regulated by the sign requirements in Residential Districts. <i>New regulations would be inserted into the Code that specifically cover signs for LCUs. These regulations are similar to controls for signs in NC-1 Zoning Districts with some slight variation.</i></p>	x	x	x							
<p>607 Section 607(b) Roof signs are permitted in all C, M, and PDR Districts so long as they conform to a list of specific criteria. <i>Roof signs would be prohibited in all C Districts; this would include the C-3 Downtown Districts and the C-2 Districts, which are generally located along the northeast waterfront and Stonestown Mall.</i></p>							x	x	x	
<p>607 Signs are currently allowed to be up to 100' in C-3 Districts, and 40' in all other C and M Districts. <i>Signs in all C and M Districts would be limited to 40' in height. This would include the C-3 Downtown Districts and the C-2 Districts, which are generally located along the Northeast Waterfront and Stonestown Mall. M Districts include the piers along the Northeast Waterfront and south of the Bay Bridge, as well as parcels located in Mission Bay, Eastern Neighborhoods and the Bayview/Hunters Point area. The Department doesn't find that the 100' height limit is problematic in the C-3 District given the scale of the District. It recommends either keeping the height at 100' or reducing it to no less than 60'.</i></p>										x

606 & 607	<p>Signs in RC Districts are regulated under Section 606, which also regulates all signs in Residential Districts.</p> <p><i>Signs in RC Districts, which include some of San Francisco's densest neighborhoods such as the Tenderloin and areas along Van Ness Avenue, would now be regulated by the controls in Section 607.1, which currently regulates signs in NC Districts. This proposed change is intended to make controls in various mixed use districts consistent.</i></p>				x					
607	<p>Signs for Gas Stations can project 10 above the roof line.</p> <p><i>Gas stations signs could not project above the roof line.</i></p>	x	x	x	x	x	x	x	x	x
608.6	<p>The Embarcadero is not included in the list of Scenic Street Special Sign District. Scenic Street Special Sign District Controls, general advertising signs and signs exceeding 200 square feet in area are prohibited on any portion of a property that is within 200 feet of any street included on this list. New General Advertising signs are banned in the City, but existing general advertising signs can be moved to other areas of the City, including the Embarcadero, with approval from the Planning Commission and Board of Supervisors.</p> <p><i>The Embarcadero would be included on this list. Signs would be restricted to 200 sq. ft. and general advertising signs would be prohibited. While the Department thinks it is appropriate to add the Embarcadero to the Scenic Street Special Sign District list, it is concerned about impacts this would have on the ability of large events along the Embarcadero, such as the America's Cup, to install temporary signs during the event that don't meet the requirements of the Scenic Street Special Sign District controls.</i></p>						x	x	x	
602.25, 602.26 and 602.9	<p>Section 602.25 and Section 602.26 contain provisions for Historic Movie Theater Signs and Marquees respectively. Section 188(e) contains provisions that allow Historic Movie Theater Signs and marquees to be preserved and enhanced. Section 602.9 contains provisions for Vintage Signs.</p> <p><i>The proposed ordinance deletes sections 602.25 and 602.26 and consolidates those controls under Section 602.9, the recently revised Vintage Sign controls. While the Department supports the consolidation, the proposed legislation should be amended to reflect the recent change to Section 602.9, keeping a clear distinction between Vintage Signs and Historic Movie Theater Signs and Marquees. Also, the process for preserving and enhancing Historic Movie Theater Signs and Marquees is different than establishing a Vintage Sign and this distinction should be made clear in this section by adding a subsection titled "Application for Historic Movie Theater Signs and Marquees" that details the current process for designating Historic Movie Theater Signs and Marquees.</i></p> <p><i>The Department would like the prohibition on logos stricken from the proposed text for Section 602.9(e)(5)(B)(ii). Often signs and marquees are restored with the help of businesses or corporations and in return a small logo of that business is placed on the marquee or sign. As written the controls require that new lettering be in character with the lettering on the movie theater signboard and staff has what is appropriate on these signs. The Department believes that these controls are sufficient enough to stop any egregious logos from appearing on historic movie theater sign boards.</i></p>	x	x	x	x	x	x	x	x	x



240

In both the Waterfront Special Use Districts 2 and 3, any use, whether principal or accessory, not screened from view from adjacent streets and other public areas, with certain exceptions such as temporary uses, limited accessory off-street parking areas, or off-street parking areas under the jurisdiction of the Port of San Francisco, is permitted only upon approval by the Planning Commission as with Conditional Use authorization under

Section 303 of this Code. The proposed legislation is not changing Waterfront SUD 1. *This provision would be deleted in both Waterfront SUDs 2 and 3. In Waterfront SUD 2, this section will be replaced with language that would require any new development under the Port's jurisdiction of at least one-half an acre be subject to the Waterfront Design Review Process, as outlined under Section 240(c). This same language is already included in the Waterfront SUD 3. The intent of striking out this provision is to subject Waterfront SUDs 2 and 3 to the City's street frontage requirements. The Waterfront Design Review Process is undertaken by the Waterfront Design Advisory Committee, which is staffed by a mayoral appointee and by staff from the Planning Department and the Port. The Department is recommending a series of changes as requested by the Port, which are detailed at the end of the Executive Summary.*

*The Port requests that Section 240.3(h)(2), which is proposed for removal be maintained in the Code as reaffirmation of the Ports obligations under the Burton Act. This Section reiterates that existing Port parking lots are not subject to Conditional Use requirements. From the Department's perspective, the Code already has a provision that exempts legally existing uses from having to go through the Conditional Use process; therefore the removal of the line does not make any substantial changes to the Code. However, keeping it in the Code would also not have any substantial impact. Since the Port believes that this section further affirms their obligations under the Burton Act, the Department recommends not removing it from the Planning Code.*

x



**Van Ness Special Use District**

243	<p>Floor Area Ratio limits apply to all housing in the Van Ness Special Use District.</p> <p><i>The proposed legislation would exempt affordable housing projects, as defined by Section 401, from the FAR limits, which would encourage developers to build more affordable housing. In other areas of the City where affordable housing is exempt from FAR, there is a unit mix requirement. This legislation does not establish one in this district.</i></p>				x						
607.26 & 243	<p>Van Ness Special Use District includes a Special Sign District that allows for directly illuminated signs that are larger and taller than what would be permitted in the RC-4 Zoning District.</p> <p><i>The proposed legislation would remove the specific sign provisions for the Van Ness Special Use District. This area would now be controlled by the provisions in Section 606, which allow for smaller signs that are not directly illuminated. It would also reduce the permitted height of projecting signs from 24' to 14'. Businesses would also be required to turn off illumination when the business is closed. This area has had and will continue to have an increase in residential units. The purpose of the proposed change is to recognize that transition by making the sign controls along Van Ness more compatible with residential uses.</i></p>				x						
151 & 243	<p>The Van Ness Special Use District requires residential parking at a ratio of 1 parking space to 1 dwelling unit; RC-4 Districts require residential parking at a ratio of 1 parking space to every 4 dwelling units.</p> <p><i>This provision would be removed from the Van Ness Special Use District. The parking requirement would revert to the parking controls for the zoning district, which for this area of Van Ness is RC-4. RC-4 parking requirements are currently required at a ratio of 1 parking space to every 4 dwelling units; this would not change under the proposed legislation.</i></p>				x						

**Powers Of The ZA**

307	<p>The Code currently allows the ZA to waive certain Code requirements under certain circumstances such as parking, exposure requirements and open space requirements.</p> <p><i>The proposed legislation would expand the ZA's authority by allowing him to waive Dwelling Unit Exposure requirements for Article 11 buildings, consistent with the ZA's current authority to waive Dwelling Unit Exposure requirements for Article 10 buildings. For Article 10 and 11 buildings it would also permit the ZA to allow off-site publicly accessible open space to be credited toward the residential open space requirements. The proposed legislation would also permit the ZA to waive or modify exposure requirements, rear yard requirements and open space requirements when converting a non-conforming use to a residential use, with certain restrictions and criteria.</i></p>	x	x	x	x	x	x	x	x	x	x
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**Transfer of Development Rights (TDRs):**

182	<p>Among other restrictions, TDRs are permitted when the Transfer lot and the Development lot are located in the same C-3 District.</p> <p><i>The proposed legislation would allow TDRs to be transferred to and from any C-3 District. The original restriction, which only allowed TDRs within the same C-3 District, was done to ensure that development wasn't concentrated in any one C-3 District. Since the program was enacted, a large percentage of TDRs have been transferred within the same C-3 Districts. Now that the program has been in place for 25 years and many districts in downtown have been built out, it's necessary to liberalize the controls in order to equalize the supply and demand ratio and keep the program alive.</i></p>										x
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# **EXHIBIT B**

(a) **Purpose.** The purpose of this section is to establish requirements for the improvement of the public right-of-way associated with development projects, such that the public right-of-way may be safe, accessible, convenient and attractive to pedestrian use and travel by all modes of transportation consistent with the San Francisco General Plan, achieve best practices in ecological stormwater management, and provide space for public life and social interaction, in accordance with the City's "Better Streets Policy" (Administrative Code Section [98.1](#)).

(b) **Better Streets Plan.**

(1) The Better Streets Plan, as defined in Administrative Code Section [98.1\(e\)](#), shall govern the design, location, and dimensions of all pedestrian and streetscape items in the public right-of-way, including but not limited to those items shown in [Table 1](#). Development projects that propose or are required through this section to make pedestrian and streetscape improvements to the public right-of-way shall conform with the principles and guidelines for those elements as set forth in the Better Streets Plan to the maximum extent feasible.

(2) Proposed improvements also shall be subject to approval by other city bodies with permitting jurisdiction over such streetscape improvements.

**Table 1: Pedestrian and Streetscape Elements per the Better Streets Plan**

#	<i>PHYSICAL ELEMENT</i>	<i>BETTER STREETS PLAN SECTION</i>
1	Curb ramps*	5.1
2	Marked crosswalks*	5.1
3	Pedestrian-priority signal devices and timings	5.1
4	High-visibility crosswalks	5.1
5	Special crosswalk treatments	5.1
6	Restrictions on vehicle turning movements at crosswalks	5.1



7	Removal or reduction of permanent crosswalk closures	5.1
8	Mid-block crosswalks	5.1
9	Raised crosswalks	5.1
10	Curb radius guidelines	5.2
11	Corner curb extensions or bulb-outs*	5.3
12	Extended bulb-outs	5.3
13	Mid-block bulb-outs	5.3
14	Center or side medians	5.4
15	Pedestrian refuge islands	5.4
16	Transit bulb-outs	5.5
17	Transit boarding islands	5.5
18	Flexible use of the parking lane	5.6
19	Parking lane planters	5.6
20	Chicanes	5.7
21	Traffic calming circles	5.7
22	Modern roundabouts	5.7
23	Sidewalk or median pocket parks	5.8
24	Reuse of 'pork chops' and excess right-of-way	5.8
25	Multi-way boulevard treatments	5.8
26	Shared public ways	5.8
27	Pedestrian-only streets	5.8

28	Public stairs	5.8
29	Street trees*	6.1
30	Tree basin furnishings*	6.1
31	Sidewalk planters*	6.1
32	Above-ground landscaping	6.1
33	Stormwater management tools*	6.2
34	Street and pedestrian lighting*	6.3
35	Special paving*	6.4
36	Site furnishings*	6.5
Standard streetscape elements marked with a *. (Requirement varies by street type: see the Better Streets Plan)		

(c) **Required streetscape and pedestrian improvements.** Development projects shall include streetscape and pedestrian improvements on all publicly accessible rights-of-way directly fronting the property as follows:

(1) **Street trees.**

(i) **Application.** In any District, street trees shall be required under the following conditions: construction of a new building; relocation of a building; the addition of gross floor area equal to 20 percent or more of the gross floor area of an existing building; the addition of a new dwelling unit, a garage, or additional parking; or paving or repaving more than 200 square feet of the front setback.

(ii) **Standards.**

(A) **All districts.** In any district, street trees shall:

(aa) Comply with Public Works Code [Article 16](#) and any other applicable ordinances;

(bb) Be suitable for the site;

(cc) Be a minimum of one tree of 24-inch box size for each 20 feet of frontage of the property along each street or alley, with any remaining fraction of 10 feet or more of frontage requiring an additional tree. Such trees shall be located ~~either within a setback area on the lot or~~ within the public right-of-way along such lot, and shall comply with all applicable codes and standards.

(dd) Provide a below-grade environment with nutrient-rich soils, free from overly-compacted soils, and generally conducive to tree root development;

(ee) Be watered, maintained and replaced if necessary by the property owner, in accordance with Sec. [174](#) and [Article 16](#) of the Public Works Code and compliant with applicable water use requirements of [Chapter 63](#) of the Administrative Code.

**(B) DTR, RC, C, NC and Mixed-Use Districts, and Planned Unit Developments.** In DTR, RC, C, NC and Mixed-Use Districts, and Planned Unit Developments, in addition to the requirements of subsections (aa) - (ee) above, all street trees shall:

(aa) Have a minimum 2 inch caliper, measured at breast height;

(bb) Branch a minimum of 80 inches above sidewalk grade;

(cc) Be planted in a sidewalk opening at least 16 square feet, and have a minimum soil depth of 3 feet 6 inches;

(dd) Include street tree basins edged with decorative treatment, such as pavers or cobbles. Edging features may be counted toward the minimum sidewalk opening per (cc) if they are permeable surfaces per Section [102.33](#).

**(C) Continuous, soil-filled trench.** Street trees shall be planted in a continuous soil-filled trench parallel to the curb, such that the basin for each tree is connected, if ~~all the following conditions are present: (1) the subject lot is in one of the Districts specified in Subsection [138.1](#)(e)(1)(ii)(B); (2) (1) the project is on a lot that (a) is greater than 1/2-acre in total area, (b) contains 250 feet of total lot frontage on one or more publicly-accessible rights-of-way, or (c) the frontage encompasses the entire block face between the nearest two intersections with any other publicly-accessible rights-of-way,; and (3)(2) the project includes (a) new construction; or (b) addition of 20% or more of gross floor area to an existing building; or (c) alteration to greater than 50% of the existing square footage of a building.~~

(aa) The trench may be covered by allowable permeable surfaces as defined in Section [102.33](#), except at required tree basins, where the soil must remain uncovered.

~~(bb) The Zoning Administrator may modify or waive the continuous trench requirement where a continuous trench is not possible due to the location of existing utilities, driveways, sub-sidewalk basements, or other pre-existing surface or sub-surface features.~~

(iii) **Approvals, and waivers, and modifications.**

(A) Trees installed in the public right-of-way shall be subject to Department of Public Works approval. Procedures and other requirements for the installation, maintenance and protection of trees in the public right-of-way shall be as set forth in [Article 16](#) of the Public Works Code.

(B) **Determination of infeasibility or undesirability.** Required street trees may be found to be infeasible or undesirable under the following circumstances:

~~(aa) (B)~~ **Technical infeasibility.** In any case in which the ~~The~~ Department of Public Works ~~may determine that cannot grant approval for installation of a one or more trees in the public right-of-way cannot be planted or cannot meet all the requirements of sub-sections (ii)(A) – (C) on the basis of inadequate sidewalk width, interference with utilities or other reasons regarding the public welfare., and where installation of such tree on the lot itself is impractical., the tree planting requirements of this Section 138.1(c)(1) may be modified or waived by the Zoning Administrator as described herein:~~

(bb) **Incompatibility with existing policy.** The Zoning Administrator may determine that the planting of street trees conflicts with policies in the General Plan such as the Downtown Plan Policy favoring unobstructed pedestrian passage or the Commerce and Industry Element policies to facilitate industry.

(C) **Waiver or modification.** In any case in which a street tree is determined to be infeasible or undesirable under sub-sections (aa) or (bb), the Zoning Administrator may waive or modify the street tree requirement as follows:

(aa) For each required tree that the Zoning Administrator waives, the permittee shall pay an "in-lieu" street tree fee pursuant to Section [428](#).

(bb) ~~When a pre-existing site constraint prevents the installation of a street tree, as As an alternative to payment of any portion of the in-lieu fee, the Zoning Administrator may modify the requirements of this section to allow the installation of alternative landscaping, including: sidewalk landscaping that is compliant with applicable water use requirements of Chapter 63 of the Administrative Code, to satisfy the requirements of Section 138.1(c)(1), subject to permit approval from the Department of Public Works in accordance with Public Works Code Section 810B, planter boxes, tubs, or similar above-ground landscaping, street trees that do not meet all of the requirements of sub-sections (ii)(A) – (C), or street trees planted in a required front setback area on the subject property.~~

~~(cc) — In C-3, industrial, and South of Market Mixed Use Districts, the Zoning Administrator may allow the installation of planter boxes or tubs or similar landscaping in place of trees when that is determined to be more desirable in order to make the landscaping compatible with the character of the surrounding area, or may waive the requirement in C-3, industrial, and mixed use districts, districts where landscaping is considered to be inappropriate because it conflicts with policies of the Downtown Plan, a component of the General Plan, such as the Downtown Plan Policy favoring unobstructed pedestrian passage or the Commerce and Industry Element policies to facilitate industry.~~

(D) **Credit for Existing Street Trees.** Where there is an existing, established street tree fronting the subject property, as determined by the Department of Public Works, the street tree requirement shall be waived and no in-lieu fee shall be applied for that particular tree.

(2) **Other streetscape and pedestrian elements for large projects.**

(i) **Application.**

(A) In any district, streetscape and pedestrian elements in conformance with the Better Streets Plan shall be required, if all the following conditions are present: (1) the project is on a lot that (a) is greater than ½-acre in total area, (b) contains 250 feet of total lot frontage on one or more publicly-accessible rights-of-way, or (c) the frontage encompasses the entire block face between the nearest two intersections with any other publicly-accessible rights-of-way, and (2) the project includes (a) new construction; or (b) addition of 20% or more of gross floor area to an existing building; ~~or (c) alteration to greater than 50% of the existing square footage of a building.~~

(B) Project sponsors that meet the thresholds of this Subsection shall submit a streetscape plan to the Planning Department showing the location, design, and dimensions of all existing and proposed streetscape elements in the public right-of-way directly adjacent to the fronting property, including street trees, sidewalk landscaping, street lighting, site furnishings, utilities, driveways, and curb lines, and the relation of such elements to proposed new construction and site work on the subject property.

(ii) **Standards.** Notwithstanding the requirements of Section [138.1\(c\)\(2\)\(i\)](#), the Department shall consider, but need not require, the streetscape and pedestrian elements listed below when analyzing a streetscape plan:

(A) **Standard streetscape elements.** All standard streetscape elements for the appropriate street type per [Table 1](#) and the Better Streets Plan, including benches, bicycle racks, curb ramps, corner curb extensions, stormwater facilities, lighting, sidewalk landscaping, special sidewalk paving, and other site furnishings, excepting crosswalks and pedestrian signals.

(aa) Streetscape elements shall be selected from a City-approved palette of materials and furnishings, where applicable, and shall be subject to approval by all applicable City agencies.

(bb) Streetscape elements shall be consistent with the overall character and materials of the district, and shall have a logical transition or termination to the sidewalk and/or roadway adjacent to the fronting property.

(B) **Sidewalk widening.** The Planning Department in consultation with other agencies shall evaluate whether sufficient roadway space is available for sidewalk widening for the entirety or a portion of the fronting public right-of-way in order to meet or exceed the recommended sidewalk widths for the appropriate street type per [Table 2](#) and the Better Streets

Plan and/or to provide additional space for pedestrian and streetscape amenities. If it is found that sidewalk widening is feasible and desirable, the Planning Department shall require the owner or developer to install such sidewalk widening as a condition of approval, including all associated utility re-location, drainage, and street and sidewalk paving.

(C) **Minimum sidewalk width.** New publicly-accessible rights-of-way proposed as part of development projects shall meet or exceed the recommended sidewalk widths for the appropriate street type per [Table 2](#). Where a consistent front building setback of 3 feet or greater extending for at least an entire block face is provided, the recommended sidewalk width may be reduced by up to 2 feet.

**Table 2. Recommended Sidewalk Widths by Street Type**

	<i>Street Type (per Better Streets Plan)</i>	<i>Recommended Sidewalk Width (Minimum required for new streets)</i>
Commercial	Downtown commercial	See Downtown Streetscape Plan
-	Commercial throughway	15'
-	Neighborhood commercial	15'
Residential	Downtown residential	15'
-	Residential throughway	15'
-	Neighborhood residential	12'
Industrial/Mixed-Use	Industrial	10'
-	Mixed-use	15'
Special	Parkway	17'
-	Park edge (multi-use path)	25'
-	Multi-way boulevard	15'
-	Ceremonial	varies
Small	Alley	9'

-	Shared public way	n/a
-	Paseo	varies

(iii) **Review and approvals.**

(A) The streetscape plan required by this section shall be submitted to the Planning Department no later than 60 days prior to any Department or Planning Commission approval action, and shall be considered for approval at the time of other project approval actions. The Planning Department may require any or all standard streetscape elements for the appropriate street type per [Table 1](#) and the Better Streets Plan, if it finds that these improvements are necessary to meet the goals and objectives of the General Plan of the City and County of San Francisco. In making its determination about required streetscape and pedestrian elements, the Planning Department shall consult with other City agencies tasked with the design, permitting, use, and maintenance of the public right-of-way.

(B) Final approval by the affected agencies and construction of such streetscape improvements shall be completed prior to the issuance of the first Certificate of Occupancy or temporary Certificate of Occupancy for the project, unless otherwise extended by the Zoning Administrator. Should conditions, policies, or determinations by other City agencies require a change to the streetscape plan after approval of the streetscape plan but prior to commencement of construction of the streetscape improvements, the Planning Department shall have the authority to require revision to such streetscape plan. In such case, the Zoning Administrator shall extend the timeframe for completion of such improvements by an appropriate duration as necessary.

(C) **Waiver.** Any City agency tasked with the design, permitting, use, and maintenance of the public right-of-way, may waive any or all Department required improvements of the streetscape plan as described in this Subsection under that agency's jurisdiction if said agency determines that such improvement or improvements is inappropriate, interferes with utilities to an extent that makes installation financially infeasible, or would negatively affect the public welfare. Any such waiver shall be from the Director or General Manager of the affected agency, shall be in writing to the applicant and the Department, and shall specify the basis for the waiver. Waivers, if any, shall be obtained prior to commencement of construction of the streetscape improvements unless extenuating circumstances arise during the construction of said improvements. If such a waiver is granted, the Department reserves the right to impose alternative requirements that are the same as or similar to the elements in the adopted streetscape plan after consultation with the affected agency. This Subsection shall not apply to the waiver of the street tree requirement set forth in Section [138.1\(c\)\(1\)](#).

(d) **Neighborhood Streetscape Plans.** In addition to the requirements listed in Subsection [138.1\(c\)](#), the Planning Department in coordination with other city agencies, and after a public hearing, may adopt streetscape plans for particular streets, neighborhoods, and districts, containing standards and guidelines to supplement the Better Streets Plan. Development projects in areas listed in this subsection that propose or are required through this section to make

pedestrian and streetscape improvements to the public right-of-way shall conform with the standards and guidelines in the applicable neighborhood streetscape plan in addition to those found in the Better Streets Plan.

(1) **Downtown Streetscape Plan.**

(ii) In any C-3 District sidewalk paving as set forth in the Downtown Streetscape Plan shall be installed by the applicant under the following conditions:

(A) Any new construction; or

(B) The addition of floor area equal to 20 percent or more of an existing building;

~~or~~

~~(C) Alteration to greater than 50% of the existing square footage of a building.~~

(iii) In accordance with the provisions of Section [309](#) of the Planning Code governing C-3 Districts, when a permit is granted for any project abutting a public sidewalk in a C-3 District, the Planning Commission may impose additional requirements that the applicant install sidewalk improvements such as benches, bicycle racks, lighting, special paving, seating, landscaping, and sidewalk widening in accordance with the guidelines of the Downtown Streetscape Plan if it finds that these improvements are necessary to meet the goals and objectives of the General Plan of the City and County of San Francisco. In making this determination, the Planning Commission shall consider the level of street as defined in the Downtown Streetscape Plan.

(iv) If a sidewalk widening or a pedestrian street improvement is used to meet the open space requirement, it shall conform to the guidelines of Section [138](#).

(v) The Planning Commission shall determine whether the streetscape improvements required by this Section may be on the same site as the building for which the permit is being sought, or within 900 feet, provided that all streetscape improvements are located entirely within the C-3 District.

(2) **Rincon Hill Streetscape Plan.**

(i) In the Rincon Hill Downtown Residential Mixed Use (RH-DTR) and Folsom and Main Residential/Commercial Special Use Districts, the boundaries of which are shown in Section Map No. 1 of the [Zoning Map](#), for all frontages abutting a public sidewalk, the project sponsor is required to install sidewalk widening, street trees, lighting, decorative paving, seating and landscaping in accordance with the Streetscape Plan of the Rincon Hill Area Plan, developed by the Planning Department and approved by the Board of Supervisors for: (A) any new construction; or (B) the addition of floor area equal to 20 percent or more of an existing building; ~~or (C) alteration to greater than 50% of the existing square footage of a building.~~



(ii) Prior to approval by the Board of Supervisors of a Streetscape Plan for Rincon Hill, the Planning Commission, through the procedures of Section [309.1](#), shall require an applicant to install sidewalk widening, street trees, lighting, decorative paving, seating, and landscaping in keeping with the intent of the Rincon Hill Area Plan of the General Plan and in accordance with this section of the Planning Code.

(e) **Additional provisions.**

(1) **Maintenance.** Unless otherwise determined, fronting property owners shall maintain all streetscape improvements required by this section, including street trees, landscaping, bicycle racks, benches, special paving, and other site furnishings at no public expense per the requirements of Public Works Code Section [706](#) (sidewalks and site furnishings) and [805](#) (street trees), except for standard street lighting from a City-approved palette of street lights and any improvements within the roadway. Conditions intended to assure continued maintenance of the improvements for the actual lifetime of the building giving rise to the streetscape improvement requirement may be imposed as a condition of approval by the Planning Department.

(2) For any streetscape and/or pedestrian improvements installed pursuant to this section, the abutting property owner or owners shall hold harmless the City and County of San Francisco, its officers, agents, and employees, from any damage or injury caused by reason of the design, construction or maintenance of the improvements, and shall require the owner or owners or subsequent owner or owners of the respective property to be solely liable for any damage or loss occasioned by any act. This requirement shall be deemed satisfied if City permits for the improvements include indemnification and hold harmless provisions.

(3) Notwithstanding the provisions of this Section, an applicant shall apply for and obtain all required permits and approvals for changes to the legislated sidewalk widths and street improvements.

(f) Removal and modification of private encroachments on public rights-of-way.

(1) **Applicability.** *This section shall apply to developments which:*

*(A) construct new buildings;*

*(B) include building alterations which increase the gross square footage of a structure by 20 percent or more;*

*(D) add off-street parking or loading;*

*(E) remove off-street parking or loading.*

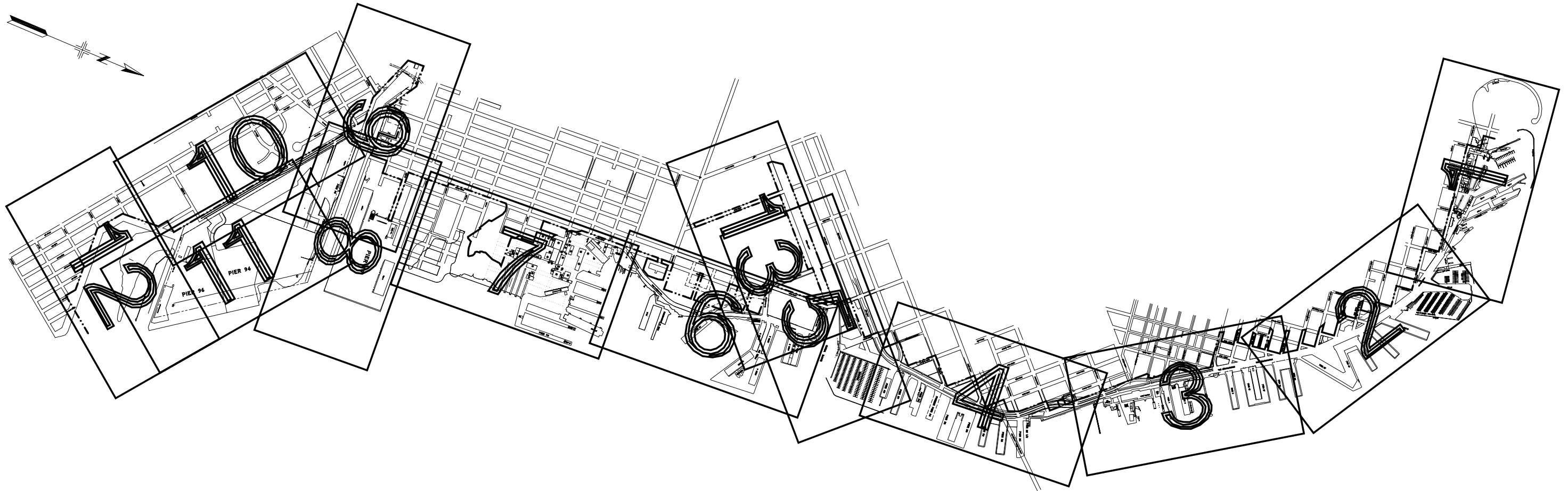
(2) **Requirements.** *As a condition of approval for the applicable developments in subsection (b), the Planning Department may require the project sponsor to:*

(A) reduce the number or width of driveway entrances to a lot, to comply with the streetscape requirements of this Code and the protected street frontages of Section 155(r);

(B) remove encroachments onto or over sidewalks and streets that reduce the pedestrian path of travel, or reduce the sidewalk area available for streetscape amenities such as landscaping, street trees and outdoor seating;

(C) remove or reduce in size basements which extend under public rights-of-way.

(3) **Standards.** In instances where such encroachments are removed, the Planning Department shall require that the replacement curbs, sidewalks, street trees, and landscaping shall meet the standards of the Better Streets Plan and of any applicable neighborhood streetscape plans.



SAN FRANCISCO PORT SECURITY ASSESSMENT MAP  
INDEX MAP - NOT TO SCALE

# Exhibit D

## Letters



SMALL BUSINESS COMMISSION  
OFFICE OF SMALL BUSINESS



CITY AND COUNTY OF SAN FRANCISCO  
EDWIN M. LEE, MAYOR

October 13, 2011

Ms. Angela Calvillo, Clerk of the Board  
Board of Supervisors  
City Hall room 244  
1 Carlton B. Goodlett Place  
San Francisco, CA 94102-4694

**Re: Board of Supervisors File No. 110548 [Planning Code - Zoning - Uses, Signs, Building Features, Floor Area Ratio, Parking, and Compliance in Specified Use Districts.]**

Small Business Commission Recommendation: **Approval of selected sections. No comment on remaining parts of the ordinance.**

Dear Ms. Calvillo:

On October 3, 2011, the Small Business Commission voted 5-1 to recommend that the Board of Supervisors approve selected parts of BOS File No. 110767.

The Commission supports the following selected parts of File No. 110548 that the Commission believes are within the direct scope of our purview.

- **Accessory uses in Commercial, Residential-Commercial, and Industrial Districts**  
(Amendments to Section 204.3)
- **Sign, Awning, Canopy, and Marquee controls**  
(Amendments to Sections 136, 136.1, 136.2, 136.3, 262, 602.9, 602.24, 602.25, 602.26, 606, 607, 607.1, 608.6, 608.8, 608.10, 790.24, 790.26, 790.58, 890.21, 890.24, and 890.58)
- **Limited Commercial Uses in Residential Districts**  
(Amendments to Sections 186, 209.9, and 231)

The Commission makes no comment on remaining sections of the proposed ordinance.

Sincerely,

A handwritten signature in black ink that reads 'Regina Dick-Endrizzi'.

Regina Dick-Endrizzi  
Director, Office of Small Business

cc. Supervisor David Chiu  
Jason Elliott, Mayor's Office  
Aaron Starr, San Francisco Planning Department



October 17, 2011

Christina Olague, President  
San Francisco Planning Commission  
San Francisco Planning Department  
1650 Mission Street  
San Francisco, CA 94107

RE: Planning Code Text Changes, Case File 2011.0532T [Board File No. 11-0548]

Dear President Olague:

We thank you and your staff, Aaron Starr and AnMarie Rodgers, for meeting with us to help understand the Planning Code amendments proposed by Supervisor Chiu. We understand the proposed changes as a comprehensive strategy to expand and improve the quality of public spaces, promote architectural and urban design practices that improve the quality of development and its relation to the public realm, and promote alternative transportation and other practices that respond to San Francisco's high standards for sustainability. These are important public objectives, and align with many of the Port of San Francisco's efforts to improve the San Francisco waterfront.

While we understand the intent of the proposal, we have some concerns about how some of the proposed amendments that apply to Port property are reviewed in the context of the Port Commission's duties and responsibilities under the San Francisco Charter and Burton Act, the state legislation which promulgated the transfer of former State tidelands to the City and County of San Francisco. This is a topic with which many in the public may not be familiar, and thus we appreciate the opportunity to provide a summary regarding the Burton Act.

#### **Port Overview**

Most of the Port's property is public trust land and is subject to use limitations in the Burton Act (California Statutes of 1968, Chapter 1333, as amended). Under the Burton Act, the Port is the trustee of these Public Trust lands and is responsible for managing and developing them to promote navigation, fisheries, water borne commerce, uses which enhance natural resources or attract people to use and enjoy San Francisco Bay.

The Port of San Francisco Waterfront Land Use Plan, and accompanying Waterfront Design & Access Element (Waterfront Plan) set forth comprehensive land use and urban design goals, policies and criteria for all property under its jurisdiction. Prior to its approval by the Port Commission in 1997 and in the months that followed, the Port and Planning Department staff worked to develop conforming amendments to establish consistency between the Waterfront Plan and the San Francisco General Plan, Planning Code and Zoning Map. These included the creation and amendment of two special use

Christina Olague  
Page Two  
October 17, 2011

districts, Waterfront Special Use Districts No. 1 and No. 3, described in Planning Code Sections 240, 240.1 and 240.3. While the Planning Department and Port staff found that their respective plans provided consistent direction on the appropriate land use and development of Port properties, Section 240 recognizes that in the event of a conflict between the Burton Act and the Planning Code, the Burton Act state legislative requirements would prevail.

Section 240 also includes procedures for creating a Waterfront Design Advisory Committee (WDAC) made up of appointees by the Mayor's Office, Planning Department and Port to carry out a waterfront design review process of Port development projects, to ensure they meet the applicable provisions of the Waterfront Plan. The WDAC has reviewed all the major development projects that have occurred along the waterfront over the past 10 years, including the historic rehabilitation of the Ferry Building and Downtown Ferry Terminal, Pier 1, Piers 1-1/2,3,5, and most recently the Exploratorium. The WDAC also has provided City design direction for the new waterfront public open spaces, large and small, including Pier 43 Promenade, Brannan Street Wharf, Rincon Park, and Heron's Head Park. We are especially grateful to have Commissioner Kathrin Moore as a member of the WDAC, because one of the key objectives of the Waterfront Plan and the design review process is to guide new projects that connect the city with the waterfront. The WDAC has been further enlightened by the integration of its review process with that of BCDC's Design Review Board. Together the collective expertise of these two bodies have brought together the perspectives of a vital urban center and neighborhoods, a variety of port maritime and public access experiences, and the environmental resource of San Francisco Bay.

Another aspect of the Burton Act and the San Francisco Charter that has great bearing on the Port Commission's duties is the fiduciary responsibility to manage and improve properties on a self-sustaining basis. Neither the State nor City have ongoing general fund or financial responsibility to maintain and improve the waterfront. The Port is free to apply for and has secured grants and other funding, and in 2008 was grateful to earn the support of San Francisco voters to fund new waterfront open space projects. But, the Port's core financial base to support its operating and capital improvement budgets and projects derives from lease revenues for use of Port facilities. Under the Burton Act, these funds must be maintained in a separate account, the Harbor Fund, for exclusive use to improve the waterfront. The lease proceeds enable the Port to issue revenue bonds to fund maritime, historic preservation, environmental, and public access improvement projects along the waterfront. Presently, the Port's 10-year Capital Plan includes \$2.1 billion in project needs, which emphasizes the need to protect and leverage its financial resources and opportunities.

### **Planning Code Concerns**

The proposed Planning Code amendments are numerous and we appreciate the effort of such a comprehensive overhaul. We have focused on provisions that affect use and development of properties under the Port's jurisdiction. In general, we support the initiatives and find that many align with existing Port policies. Our concerns narrow down to the following issues, and we would appreciate further guidance from your staff to address them:

- 1) There are a number of changes in parking regulations proposed, including for C-2 zoned sites. Our understanding is that the amendments currently proposed would change parking lots from a permitted use to a non-permitted use, and parking garages would be conditional uses. Existing C-2 parking lots, which include Port "seawall lot" parking north of Broadway, would have a legal non-conforming use status for five years, after which time they would no longer be allowed. We have further concerns that perhaps even short-term temporary alternate use (e.g. the use of Broadway/Embarcadero parking lot for weekend Farmer's Market prior to development of the Ferry Building) could be determined a change in use that precluded return to parking lot use, under the proposed legislation.

We understand the intent of the provisions, to phase out surface parking lots and promote sustainable, attractive infill development with alternative transportation and public realm improvements. In fact, they align with the Waterfront Plan, which promote development of commercial and residential uses, and accompanying public improvements that create a more appropriate urban character to frame the west side of The Embarcadero. However, five years is too short a timeframe to effect such transformations. The proposed parking lot restrictions also present a significant financial threat for the Port; parking on seawall lots north of Broadway alone generates about \$ 4.2 million annually for the Harbor Fund. This revenue stream is essential not only to fund Port capital projects, but to support issuance of Port revenue bonds. Revenue bonds are an important public financing tool that enables the Port to leverage outside investment in public trust and maritime public projects such as the proposed James R. Herman Cruise Terminal project, and development of the Pier 90-94 Backlands in the Bayview Hunters Point/Southern Waterfront. Thus, while surface parking lots are an interim use of these seawall lots, they are very important to the financial stability of the Port and its responsibilities under the Burton Act. Accordingly, the Port does not support the proposed controls for these parking lots.

- 2) The proposed Planning Code amendments require a conditional use for driveways, garage entries, vehicular access or loading access along the east side of The Embarcadero. We understand the intent of this proposal but it raises questions about implementation. Further, we believe there are more effective ways of addressing this concern. As a general matter, it is unlikely that there would be a proposal for new vehicular access unless it was part of a larger project. Given its history as an industrial complex, there are numerous existing curb cuts and access points to the piers and wharves, many of which no longer are used and are gradually being phased out without any regulation. The concerns around vehicle and pedestrian conflicts are more common issues in new development projects, such as was the case for the Exploratorium project. That project review enlightened the Port, development partner and the public of the need for more concerted focus on the design and interface of new projects on the Embarcadero. We believe the existing waterfront design review process per Section 240 is the appropriate venue for evaluating the impacts and public realm concerns of vehicle access as part of an overall project review, rather than creating a separate conditional use requirement for this one element.



The proposed amendments include rezoning three Port seawall lots fronting along The Embarcadero between Bay and Powell Streets from Waterfront Special Use District No. (WSUD) 3 to WSUD 2, along with Planning Code amendments that add new language regarding the waterfront design review process into WSUD 2. These changes do not have any substantive effect other than to introduce the waterfront design process into a special use district where it currently does not apply. WSUD 3 provisions have provided clear guidance for design review of Port development projects on seawall lots north of China Basin, and we do not see a need to treat the three northern seawall lots differently from those to the south. We believe the proposed change unnecessarily complicates the understanding of which Port properties are subject to the waterfront design review process. Thus, we do not support these proposed Zoning Map and Planning Code amendments.

- 3) As reflected in the Port overview discussion above, the Burton Act imposes a number of responsibilities and obligations that require the Port Commission and staff to balance multiple and sometimes competing public objectives. While Port projects to date have and are intended to follow Planning Department General Plan and Planning Code policies, some may conflict with public trust needs. In such instances, the Burton Act requirements would take precedence. We would request the guidance from staff as to how the Burton Act requirements described in Section 240 can be better understood as the context for applying Planning Code regulations for Port properties.

We appreciate the efforts of staff to educate us on this legislative proposal. Given the technical detail and breadth, we are aware that there are people who are confused about what is proposed or have questions that have not been addressed yet. We applaud the Planning staff's decision to provide an informational briefing and hope there is time afforded for public to gain a better understanding of this comprehensive set of amendments.

Thank you for your help and attention. We look forward to working together further to address these issues.

Sincerely,



Diane Oshima  
Asst. Deputy Director, Waterfront Planning

cc: Members Planning Commissioners  
President David Chiu, San Francisco Board of Supervisors  
John Rahaim  
Aaron Starr  
AnMarie Rodgers  
Monique Moyer

## MEMORANDUM

November 10, 2011

**TO:** MEMBERS, PORT COMMISSION  
Hon. Kimberly Brandon, President  
Hon. Ann Lazarus, Vice President  
Hon. Francis X. Crowley  
Hon. Doreen Woo Ho  
Hon. Leslie Katz

**FROM:** Monique A. Moyer  
Executive Director

**SUBJECT:** Informational presentation and staff direction to respond to proposed legislation to amend the San Francisco Planning Code and Zoning Map sponsored by Board of Supervisors President David Chiu

**DIRECTOR'S RECOMMENDATION:** Receive public comments and staff direction

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### Overview

On May 3, 2011, Board of Supervisors President David Chiu introduced a proposed ordinance to amend the San Francisco Planning Code and San Francisco Zoning Map, which was forwarded to the San Francisco Planning Department for its review and analysis. The proposed amendments are contained in Board File No. 11-0548, and Planning Department Case Number 2011.0532T.

The proposed amendments are extensive, affecting Planning Code provisions pertaining to parking, awning, signs, open space requirements, and changes in allowances or controls for specified types of land uses. The geographic area of these proposed amendments also is broad, generally affecting areas east of Van Ness Avenue and I-280, between Fisherman's Wharf and the Eastern Neighborhoods area in Potrero Hill, including Port of San Francisco property.

Port staff has met with Planning Department staff and Supervisor Chiu's office to gain an understanding of the proposal and its implications for property under the Port Commission's jurisdiction. This staff report focuses on those issues as outlined in a letter from the Port to the Planning Commission, Port staff proposals to address those issues, and next steps in the legislative process.

**THIS PRINT COVERS CALENDAR ITEM NO. 9B**

The Planning Commission held a public hearing on the proposal on October 20, 2011, and has set another public hearing for December 15, 2011, at which time it has asked the Planning Department staff to provide preliminary recommendations. Port staff has conducted preliminary outreach to Port stakeholders, but seeks Port Commission direction and broader public input at the November 15, 2011 Port Commission meeting regarding revisions proposed by Port staff to resolve the concerns. With the Port Commission's concurrence, Port staff would work with the Planning Department to include the Port's revisions in the preliminary recommendations for the December 15, 2011 Planning Commission meeting. If new issues or substantive changes emerge, Port staff will report back to the Port Commission for further direction.

### **Proposed Planning Code Amendments**

The proposed Planning Code amendments were authored by Tom Radulovich of Livable City and sponsored by President Chiu. They present a thoughtful, comprehensive approach focused on the following general objectives: 1) actively promote a diverse mix and character of land uses that also support more and better public spaces; 2) establish architectural and urban design standards that improve the quality of development and its relation to the public realm; and 3) promote alternative transportation and other practices to address San Francisco's high standards for sustainability. The scope of the changes is very broad, with over 200 separate amendments proposed throughout the Planning Code. Attachment A is the Planning Department staff report which presents the full review of the proposed amendments. Planning Department staff made a presentation at an informational briefing to the Planning Commission and received comments at a public hearing on October 20, 2011.

Port staff recognizes and supports the underlying objectives of the legislation and most of the proposed provisions. They align well with those of the Port of San Francisco Waterfront Land Use Plan (Waterfront Plan) and the Port's ongoing design and permit review standards and procedures. However, some of the proposed amendments would or could conflict with the needs and obligations of the Port in the context of the Port Commission's duties and responsibilities under the San Francisco Charter and Burton Act.

When the Port Commission initially approved the Waterfront Plan in 1997, the Port and Planning Department staff worked to develop conforming amendments to the San Francisco Planning Code, as well as the City's General Plan and Zoning Map, to establish consistency with the Waterfront Plan. Those Planning Code amendments, approved in 1998, included provisions still in place today (primarily addressed in Planning Code Sections 240, 240.1 and 240.3). They recognize that, in the event of a conflict between the Burton Act and the Planning Code, the Burton Act state legislative requirements would prevail. Those provisions currently are expressed directly for Port properties north of China Basin Channel which, at that time, was where most new development and use changes were expected. In 1998, the planning and zoning controls in effect south of China Basin did not appear to present conflicts with the Burton Act.

Given the breadth of the amendments now proposed, Port staff believes the Planning Code should be revised to provide more explicit acknowledgment of the applicability of the Burton Act to all property under the Port's jurisdiction. In addition, Port staff has flagged

certain aspects of the legislation which present immediate conflicts, or where we question the viability of some of the proposed controls. Port staff attended the October 20, 2011 Planning Commission public meeting and submitted a letter outlining these issues, which included a summary of the Port Commission's Burton Act responsibilities. The Port's letter is provided in Attachment B.

Since the October 20, 2011 Planning Commission meeting, Port staff has been working with Supervisor Chiu, Planning Department staff and Mr. Radulovich to resolve the Port's concerns. The issues and proposed solutions are presented below for Port Commission and public review and comment. If supported by the Port Commission, Port staff would work with the Planning Department staff to prepare revisions to the Planning Code amendments.

**Parking Controls** - Proposed changes in parking regulations would affect many areas, including the Port's C-2 (Commercial Business) zoned "seawall lot" parking lots located north of Broadway. The proposed amendments would change surface parking from a "permitted" use to a "non-permitted" use at these lots, and parking garages would be conditional uses requiring Planning Commission approval. If the amendments are approved, C-2 parking lots would be reclassified to a legal non-conforming use status for five years, after which time the use would no longer be allowed. A five-year sunset deadline presents significant problems that would conflict with the Port's Burton Act obligations by creating a major constraint on the Port Commission's fiduciary and land management responsibilities. Furthermore, the proposed amendments call into question whether short-term temporary or shared uses of parking lots, which the Port has allowed in the past, would preclude a return to parking lot use after the temporary use, before the five year period expired. An example of temporary, short-term uses at parking lots is the weekend farmers market that took place on Seawall Lots 323 and 324 at Broadway and Embarcadero, prior to the Ferry Building rehabilitation project.

The intent to phase out surface parking lots and promote infill development that improves the urban environment and public spaces is consistent with Waterfront Plan objectives. However, converting the Port's parking lots to new development requires a careful public process that is not consistent with the proposed five year deadline. Terminating parking lot use before a new economic use has been approved would present a significant financial threat for the Port. Parking on seawall lots north of Broadway alone generates about \$4.2 million annually for the Port Harbor Fund. Port staff has communicated to Supervisor Chiu and the Planning Commission that this revenue stream is essential to funding Port capital projects, as well as supporting the issuance of Port revenue bonds for waterfront improvements.

In response to these concerns, the Planning Department and Mr. Radulovich have suggested amendments to allow Port parking lots to operate in perpetuity until they can be converted to higher and better uses consistent with the Waterfront Plan, and to allow surface parking on other C-2 lots as a conditional use rather than prohibiting the use. Port staff supports this change and seeks input from the Port Commission regarding its support of these revisions.

**Embarcadero Curb Cuts** - The proposed Planning Code amendments require conditional use approval for driveways, garage entries, vehicular access or loading access along the east side of The Embarcadero. The intent of this proposal is to protect and support the pedestrian and public access value of the Embarcadero Promenade by limiting vehicle access points which can create conflicts. Port staff concurs with this objective, which is supported by the Waterfront Plan, particularly the policies and criteria of the Waterfront Design & Access Element. In fact, the number of curb cuts has been reduced over the last 10 years as part of new projects and improvements, even though The Embarcadero is the only means of access to the piers and bulkhead buildings. However, Port staff does not support the manner in which this issue is proposed to be regulated. As proposed, if a curb cut must be relocated, even if relocation does not increase the number of curb cuts overall, Planning Commission approval of a conditional use would be required. Port staff believes this would unfairly impact Port business tenants.

Instead, Port staff believes that design review of major Port projects conducted by the Waterfront Design Advisory Committee provides an appropriate forum for reviewing the effects of new curb cuts on The Embarcadero. As a general matter, it is unlikely that there would be a proposal for new vehicular access unless it was part of a larger project. The concerns around vehicle and pedestrian conflicts are more common issues in new development projects, such as was the case for the Exploratorium project. Port staff has discussed with Mr. Radulovich the benefits of modifying the waterfront design review process so that review of major projects includes the project's relationship with adjacent sidewalks and public spaces along The Embarcadero. This would enable recommendations for minimizing or avoiding pedestrian/vehicle conflicts, while responding to project access needs. Port staff believes this approach would be more effective than requiring conditional use approval for new curb cuts.

**Waterfront Design Review Changes** – As referenced above, a city waterfront design review process is currently in place, as described in Sections 240, 240.1 and 240.3 of the Planning Code. The process is conducted by the Waterfront Design Advisory Committee (WDAC), and currently is required for non-maritime development projects on Port property between Fisherman's Wharf and China Basin. The design review criteria are differentiated between piers and waterfront structures on the east side of The Embarcadero (Waterfront Special Use District 1, described in Section 240.1), and Port seawall lots on the west side of The Embarcadero (Waterfront Special Use District 3, described in Section 240.3). The design review process by the WDAC has served the Port and City well and, as needed, has been integrated with review by BCDC's Design Review Board. This has provided a very effective public forum for implementing appropriate project design. The process considers functional and economic project needs in the context of addressing architectural, historic preservation and public access requirements, as well as the project's broader contributions towards connecting the city with the waterfront. In recognition of the benefits of this process, the Port has presented a broad array of projects to the WDAC for design review, even when not required under the Planning Code. These include maritime and public open space proposals north and south of China Basin Channel, most recently the Pier 27 Cruise Terminal and Northeast Wharf Project, and Blue Greenway open space projects located south of China Basin.

The review of the proposed Planning Code amendments presents an opportunity to also modify the waterfront design review process to apply it Port-wide, for review of major development projects on Port lands from Fisherman's Wharf to India Basin. Given that the City's planning and economic development strategies now focus on changes in Mission Bay and southeast San Francisco, as well as the Port's current efforts to develop Seawall Lot 337, rehabilitate Pier 70, and create Blue Greenway open spaces while protecting Port industrial maritime industries, such projects would benefit from the waterfront design review process. Port staff intends to work with the Planning Department on Planning Code revisions to make this change. And, per the curb cut discussion above, the scope of WDAC's review would include the project's relationship, as applicable, with the major waterfront streets that span the Port waterfront: Terry Francois Boulevard, Illinois Street, and Cargo Way, in addition to The Embarcadero.

The WDAC is a five member body and currently consists of one member each of the senior staff with urban planning or design experience from the Port and Planning Department, and one appointee each made by the Port, the Planning Department, and the Mayor's Office. The appointees must be qualified professionals with experience in architectural, historic, landscape or urban design. Port staff believes it would be helpful to allow the Planning Department and Port the option to appoint a design professional instead of having a senior staff member serve on the WDAC. This would provide flexibility by allowing the Port or Planning Department to appoint a qualified professional to serve instead of a senior staff member during periods when workload or other demands may constrain the ability of staff to serve on the WDAC.

**Rezoning of Port Seawall Lots** - The proposed amendments include rezoning three Port seawall lots fronting along The Embarcadero between Bay and Powell Streets (Seawall Lots 311, 313 and 314) from Waterfront Special Use District No. (WSUD) 3 to WSUD 2, and Planning Code amendments that add language regarding the waterfront design review process into WSUD 2. These changes do not have any substantive effect other than to switch provisions currently in WSUD 3 to WSUD 2, where they currently do not apply. Port staff does not see a need or basis for this, which would unnecessarily complicate the understanding of how the waterfront design review process relates to Port properties. Thus, staff does not support these proposed rezoning and amendments, and has requested that they be deleted from the legislation.

**Recognition of the Burton Act** - The Burton Act imposes a number of responsibilities and obligations that require the Port Commission and staff to balance multiple and sometimes competing public objectives. As discussed above, while Port projects to date have and are intended to follow Planning Department's General Plan policies and Planning Code requirements, some of those may conflict with public trust needs. In such instances, the Burton Act requirements would take precedence. As part of the revisions to modify and expand the waterfront design review process to apply Port-wide, Port staff also will work with the Planning Department and President Chiu to develop revisions that formally recognize the Port Commission's Burton Act responsibilities for development and use of all Port properties.

## Next Steps

At the conclusion of its public hearing on October 20, 2011, the Planning Commission continued the proposed Planning Code legislation to another public hearing on December 15, 2011. The Planning Commission requested its staff to provide preliminary recommendations for public review and comment on that date. To date, Port staff has conducted preliminary outreach to Port stakeholders, but seeks broader public input at the November 15<sup>th</sup> Port Commission meeting on these proposals. Port staff seeks Port Commission input and support of the staff analysis presented above, including the proposed revisions to the legislation. With Port Commission support, Port staff will work with the Planning Department to have these revisions included in their preliminary recommendation for the December 15<sup>th</sup> public hearing.

The Planning Commission indicated that it may be prepared to take action on the Planning Code legislation, including any revisions, in January 2012. Should the process reveal new issues or substantive changes, Port staff would report back to the Port Commission for further direction. The Planning Commission's conclusions are advisory and would be forwarded to the Board of Supervisors, at which time the legislation would undergo further public review and comment by Board committee prior to action by the full Board.

Prepared by: Diane Oshima  
Assistant Deputy Director  
Waterfront Planning

Attachment A:  
Planning Dept staff summary of Planning Code amendments

Attachment B:  
Port comment letter to San Francisco Planning Commission, October 17, 2011



# SAN FRANCISCO PLANNING DEPARTMENT

## Certificate of Determination Exemption from Environmental Review

*Case No.:* 2011.0551E  
*Project Title:* Ordinance Nos. 110547 and 110548: Zoning – Uses, Signs, Building Features, Floor Area Ratio, Parking, and Compliance in Specified Use Districts  
*Location:* Citywide  
*Project Sponsor:* Supervisor David Chiu, District 3, San Francisco Board of Supervisors  
*Staff Contact:* Jeanie Poling – (415) 575-9072  
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### PROJECT DESCRIPTION:

The project is two Board of Supervisors (BOS)-proposed ordinances. BOS #110547 would amend the Zoning Map by (1) adding blocks and lots to the Washington-Broadway Special Use District (SUD) 1; (2) adding blocks to the Waterfront SUD 2; (3) deleting blocks and adding lots to the Waterfront SUD 3; (4) making the boundaries of the Special District for Sign Illumination on Broadway co-extensive with the Broadway Neighborhood Commercial District; (5) deleting the Van Ness Special District for Sign Illumination; and (6) adding The Embarcadero from Taylor Street to Second Street to the Special District for Scenic Streets. BOS #110548 would amend the San Francisco Planning Code by repealing Sections 136.2, 136.3, 158, 187, 249.15, 263.2, 263.3, 602.25, 602.26, 607.3, and 607.4 and amending various other sections. [Continued on following page.]

### EXEMPT STATUS:

General Rule Exclusion (State CEQA Guidelines, Section 15061(b)(3)).

### REMARKS:

See next page.

### DETERMINATION:

I do hereby certify that the above determination has been made pursuant to State and Local requirements.

  
\_\_\_\_\_  
Bill Wycko  
Environmental Review Officer

  
\_\_\_\_\_  
Date

cc: Aaron Starr, Neighborhood Planner  
Supervisor David Chiu, District 3

Distribution List  
Historic Preservation Distribution List  
Virna Byrd, M.D.F.



**PROJECT DESCRIPTION (continued):**

The proposed project would: (1) increase the amount of principally permitted parking spaces for dwellings and modify floor-area controls in RC-4 (Residential-Commercial Combined, High Density) and C-3 (Downtown Commercial) Districts; (2) make off-street parking requirements in the Van Ness Special Use and RC-3 (Residential-Commercial Combined, Medium Density) Districts consistent with those of RC-4 Districts; (3) eliminate minimum parking requirements for the Chinatown Mixed Use Districts and North Beach Neighborhood Commercial Districts; (4) allow exceptions from required parking requirements and expand bicycle parking requirements throughout the City under specified circumstances; (5) amend the restrictions on off-street parking rates in C-3 Districts and extend them to additional zoning districts; (6) revise sign, awning, canopy and marquee controls in specified zoning districts; (7) increase the permitted use size for limited corner commercial uses in RTO (Residential, Transit Oriented Neighborhood) and RM (Residential, Mixed) Districts, and allow reactivation of lapsed limited commercial uses in Residential Districts; (8) revise the boundaries of and modify parking and screening requirements in the Washington-Broadway and Waterfront SUDs; (9) modify controls for uses and accessory uses in Commercial and Residential-Commercial Districts; (10) permit certain exceptions from exposure and open space requirements for designated and contributory historic buildings throughout the City; and (11) modify conformity requirements in various use districts.

The legislation involves approximately 225 changes to the Planning Code, the bulk of which are clerical changes that would simplify the Planning Code by removing obsolete sections, consolidating controls for a single use or feature into a single code section, and harmonizing similar definitions and controls across use districts. Other clerical changes are proposed to address errors in the Planning Code, such as incorrect cross references to other Code sections. The proposed non-clerical changes are discussed below.

**Density, Floor Area Ratio, and Open Space in C-3 Districts and the Van Ness SUD.** The proposed project would remove the conditional use requirement for higher residential density in the C-3 Districts; exempt affordable housing from gross floor area ratio limits in the C-3 Districts and the Van Ness SUD; permit transferred development rights from any eligible site in a C-3 District and from the South of Market Extended Preservation District to be applied to any site in a C-3 District; count space dedicated to parking that exceeds principally permitted amounts, or parking located above ground, to floor area ratio (FAR) calculations in C-3 Districts (currently, parking up to 150 percent of what is principally permitted is exempt from FAR calculations); exempt bicycle parking from FAR calculations; and extend public open space requirements in C-3 Districts to projects that are primarily retail.

**Parking and Automotive Uses.** The proposed project would increase the number of principally permitted parking spaces from one for every four units to one for every two units in C-3 Districts, and from three for every eight units to one for every two units in RC Districts; decrease the minimum number parking spaces required in RC-3 Districts and the Van Ness SUD from one space per unit to one space for every four units; eliminate minimum parking requirements for the Chinatown Mixed Use Districts and North Beach Neighborhood Commercial Districts; permit exceptions from parking requirements where providing required parking would remove a transit stop, compromise a building's earthquake safety or create a geologic hazard; amend the pricing requirements for commuter parking to permit a discounted daily rate for use outside commute hours, and to extend these requirements to commuter parking in

**Ordinance Nos. 110547 and 110548: Zoning –  
Uses, Signs, Building Features, Floor Area Ratio,**

Residential-Commercial and South of Market Mixed Use Districts and the Washington-Broadway SUD; expand bicycle parking requirements to include all uses; extend transportation brokerage requirements (that specify means to reduce commute travel by single-occupant vehicles) to all non-residential projects over 100,000 square feet in Commercial and Mixed Use Districts; consolidate various automotive use definitions in Commercial (C), Industrial (M), and Production, Distribution and Repair (PDR) Districts with those for Mixed-Use Districts; remove exceptions permitting non-accessory parking above the ground floor, and permitting exceptions from parking screening requirements, in C-3 Districts; consolidate the conditional use findings for non-accessory parking in C-3 Districts in a single section; and allow automobile service stations on transit-priority and major pedestrian streets to be converted to another use without conditional use authorization, and amend the conditional use criteria for conversion to include consideration of transportation impacts of the existing and proposed use.

**Sign, Awning, Canopy, and Marquee Controls.** The proposed project would permit awnings, canopies, and marquees in PDR Districts; consolidate awning, canopy, and marquee controls for all use districts into a single section; permit awnings to be made of cloth, glass, and metal, but not of plastic; conform signage controls in Residential Districts with those of Neighborhood Commercial Districts, and to prohibit general advertising signs in the few RC and NC Districts where they are currently permitted; remove the special sign districts permitting blinking, flashing, and rotating signs from the Van Ness Corridor and from the portion of Broadway in the Chinatown Community Business District; prohibit roof signs, other than historic signs, in Commercial Districts, to prohibit temporary general advertising signs around Union Square, and to limit business signs to 40 feet in height in C-3 districts; permit window signs and small projecting signs, decrease the permitted size of wall signs, and limit sign illumination to business hours for limited commercial uses in Residential Districts; add The Embarcadero to the list of scenic streets where certain sign requirements apply, and to exempt historic signs from the sign size limits for scenic streets; consolidate procedures for designating, altering, and reconstructing historic signs, and exempt historic signs from height limits on signs; modify the definitions of window signs and business signs; and remove certain provisions from the Market Street and Upper Market Sign Districts which duplicate or conflict with sign controls for the underlying use districts.

**Limited Commercial Uses in Residential Districts.** The proposed project would increase the maximum size of new limited corner commercial uses permitted in RTO, RM-3 and RM-4 districts from 1250 to 2500 square feet, and permit them to extend more than 50 feet from a street corner; require conditional use authorization to convert all or part of a dwelling to a limited corner commercial use; permit limited commercial uses to be reestablished in spaces that were in a commercial use before 1960, that have not been converted to a dwelling, and that conform to current code requirements, with conditional use authorization; and define commercial uses conditionally permitted in historic buildings in Residential Districts as those permitted in an NC-1 district rather than an RC-1 district.

**Washington-Broadway and Waterfront SUDs.** The proposed project would consolidate the two Washington-Broadway SUDs into a single district, limited to the C-2-zoned areas between Washington and Broadway Streets; permit exceptions to reduce parking requirements in Waterfront SUD #3; remove parking screening requirements for the Waterfront SUDs, so that the citywide screening requirements of Section 143 apply; and delete height limit exceptions for buildings on piers in 84-foot height districts, as such height limits no longer exist on the historic piers.

**Conformity, Changes of Use, and Other Building Requirements.** The proposed project would expand the exception from residential density limits and minimum parking requirements when converting non-conforming uses in existing buildings to residential uses in all districts where residential uses are principally permitted; permit exceptions from dwelling unit exposure and residential open space requirements when converting historic buildings to residential use; remove the exception for parking lots in C-3 districts from the conformity requirements for uses not in an enclosed building; prohibit construction of basement spaces under public streets and alleys; permit the Planning Department to require, as a condition of approval, that non-conforming encroachments onto public rights-of-way be removed or brought into conformity with current standards when projects are newly constructed or undergo major additions or major changes of use; extend rooftop screening requirements to Chinatown Mixed Use Districts; and permit dwellings to face onto alleys as narrow as 20 feet, rather than 25 feet.

#### REMARKS:

Many of the proposed changes to the Planning Code and Zoning Map would not result in physical environmental impacts, such as clerical changes that simplify or correct the Planning Code. The following is an analysis of the proposed project by resource topic.

Aesthetics: For non-conforming uses in residential districts, the proposed project would limit the size of signs and sign illumination outside of business hours; and would discourage inactive street-fronting uses like storage or garage doors on prominent corner lots. These proposed changes would not result in an adverse aesthetic effect on residential areas with non-conforming commercial uses. Furthermore, the proposed more restrictive signage controls, such as a citywide prohibition of new blinking signs, removal of exemptions for general advertising signs in commercial districts, and prohibition of roof signs in Neighborhood Commercial Districts also would not result in adverse aesthetic effects on the visual character and quality of the City. The proposed project would not affect a scenic resource or vista, nor would it create new sources of substantial light or glare, or cast shadows. Thus, there would be no significant adverse impacts related to visual character resulting from the proposed project.

Population and Housing: The proposed project would exempt affordable housing from certain floor area ratio limits, which may result in the creation of more affordable housing units and the inclusion of affordable units in market rate residential projects rather than off site. Also, the proposed project would allow buildings that have non-conforming uses (i.e., older storefronts) to be converted to residential uses by waiving certain open space and exposure requirements. Citywide, there are currently approximately 2,000 non-conforming limited commercial use buildings in residential districts. The proposed project would allow some of these units to convert to residential use. This incremental growth in residential infill units could be met by the city's existing infrastructure and is consistent with city and regional housing goals.

Historical Resources: The proposed project would encourage the preservation and reuse of existing buildings by facilitating the conversion of non-conforming uses to residential uses. It would also limit the size of signage in historic districts, with exemptions for historic signs. These changes would not result in adverse impacts on historic districts.

Transportation and Circulation: The proposed project would not generate new travel demand or reduce roadway capacity, nor result in adverse effects on the overall transit capacity. The proposed project would reduce parking requirements in dense and transit-rich neighborhoods and encourage walking, cycling, and public transit, and make efficient use of scarce land.

The proposed legislation would include changes to parking controls in C-3 (Downtown) districts. More parking would be permitted, but with a lower threshold for conditional use authorization required in more cases. Other proposed parking-related changes include the reduction of off-street parking requirements in Chinatown, North Beach, and lower Broadway areas; the reduction of residential parking requirements in the Van Ness corridor; the removal of parking requirements in the North of Market Residential SUD; the allowance of administrative exceptions from minimum parking requirements in the Fisherman's Wharf area (Waterfront SUD #2); and facilitation of the conversion of automobile service stations located on important transit and pedestrian streets to other compatible uses. The proposed project would not create transit-oriented districts in the Sunset District or elsewhere in the city. San Francisco does not consider parking supply as part of the permanent physical environment. Parking deficits are considered to be social effects, rather than impacts on the physical environment as defined by CEQA. Under CEQA, a project's social impacts need not be treated as significant impacts on the environment.

Greenhouse Gas Emissions/Energy Resources: The proposed project would encourage the preservation and reuse of existing buildings, rather than their demolition and new construction; this may foster sustainability by conserving the energy and materials embodied in these buildings. In addition, by discouraging parking, the proposed project would encourage walking, cycling, and the use of public transit, thereby resulting in fewer greenhouse gas emissions citywide.

Neighborhood Concerns: A "Notification of Project Receiving Environmental Review" was mailed on July 1, 2011, to community organizations and interested parties requesting comments concerning the potential environmental effects of this project. One commenter requested more information on how the proposed legislation would affect parking, traffic, and businesses along the Van Ness corridor; and another commenter wanted to know how the proposed legislation would affect the Sunset District, and specifically whether it would create transit-oriented districts. These topics are addressed in the remarks above.

Conclusion: CEQA State Guidelines Section 15061(b)(3) provides an exemption from environmental review where it can be seen with certainty that the proposed project would not have a significant impact on the environment. As discussed above, the project would not result in significant environmental effects. Thus, the proposed project is appropriately exempt from environmental review under the General Rule Exclusion (CEQA Guidelines Section 15061(b)(3)).