



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change

HEARING DATE: APRIL 12, 2012

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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

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Recommendation: **Recommend Approval with Modifications Of "Phase Two" Including the Topics of Automotive Uses, Limited Corner Commercial Uses (LCCUs), Accessory Uses, Non-Conforming Uses, Washington Broadway and Waterfront SUDs and the Van Ness Avenue SUD**

PLANNING CODE AMENDMENT

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

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

- Phase One includes Clerical and Minor Modifications, Transfer of Development Rights (TDRS), Limited Commercial Uses, Bike Parking, and Signs. On these topics, the Planning Commission recommended approval with modifications in Resolution Number 18553 on March 1, 2012.

- Phase Two includes changes to Automotive Uses, Limited Corner Commercial Uses (LCCUs), Accessory Uses, Non-Conforming Uses, Washington Broadway and Waterfront SUDs and the Van Ness Avenue SUD. Proposed for hearing on April 12, 2012. This memorandum addresses the topics in Phase Two.
- Phase Three includes changes to Parking, Open Space for Commercial Uses, Gross Floor Area and Floor Area Ratio, Streetscape Improvements, Transportation Management, and Powers of the Zoning Administrator. Proposed for hearing on April 19, 2012.

Summary of Proposed Changes (Phase Two):

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. The Way It Is Now:

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

The Way It Would Be:

The proposed legislation would prohibit public parking lots in C-2, C-M and C-3-S Districts. While temporary parking lots are currently permitted in all of the Downtown (C-3) Districts, these temporary lots would not be permitted in C-2 and C-M Districts unless the Code was changed to include these districts in the temporary parking lot controls.

Basis for Recommendation:

The Department recommends modifying the proposed controls for parking lots in Section 223(l) - "parking lots" - for the C-2 District from "prohibited" as proposed in the draft Ordinance to allow parking lot uses via "Conditional Use Authorization".

2. The Way It Is Now:

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

The Way It Would Be:

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

Basis for Recommendation:

C-3-S District encompasses Yerba Buena Gardens and includes the Convention Center, hotels, museums and cultural facilities, housing, retail, and offices. C-M Districts provide a limited supply of land for certain heavy commercial uses not permitted in other commercial districts. Both Districts have very specific purposes; requiring this use 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 its primary function.

3. The Way It Is Now:

Storage garage for commercial passenger vehicles and light delivery trucks requires Conditional Use Authorization in Downtown General Commercial (C-3-G) District and are principally permitted in C-3-S and C-M Districts

The Way It Would Be:

This garage storage use would be prohibited in C-3-G District and require Conditional Use Authorization in C-3-S and C-M Districts.

Basis for Recommendation:

This change is consistent with the definitions and intent of these districts. C-3-S and C-3-G Districts are located within the downtown and support such uses as regional shopping destinations, high density residential, arts institutions, museums, Yerba Buena Gardens, and hotels. C-M Districts tend to be located between C-3 Districts and South of Market Mixed Use Districts. There are very few C-M Districts still in existence.

4. The Way It Is Now:

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

The Way It Would Be:

This type of use would not be permitted in either the C-M or C-3-S Districts.

Basis for Recommendation:

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

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

5. The Way It Is Now:

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

The Way It Would Be:

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

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

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

Basis for Recommendation:

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

Limited Corner Commercial Uses (LCCUs¹): These changes would generally allow more flexibility with commercial uses in residential districts. While, the Department generally supports these efforts, LCCUs were developed as part of multiyear planning efforts and should not be amended without more thorough examination.

1. The Way It Is Now:

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

The Way It Would Be:

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

Basis for Recommendation:

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

2. The Way It Is Now:

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

The Way It Would Be:

The proposed legislation would amend Section 231 to require Conditional Use authorization in order to convert a dwelling unit into a LCCU.

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

Basis for Recommendation:

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

Accessory Uses: The proposed amendments would regulate accessory uses² by performance standards instead of numerical limits that may no longer be appropriate. Other changes would be nonsubstantive in nature.

1. The Way It Is Now:

Planning Code Section 204.2 governs Accessory Uses in Residential Districts. Currently, RC (Residential, Commercial) Districts are included under this section.

The Way It Would Be:

Under the proposed legislation, accessory uses in RC District would be governed under Section 204.3, which currently govern accessory uses in C, M and PDR Districts.

Basis for Recommendation:

This change recognizes the mixed use nature of the RC Districts by grouping them with other mixed use districts.

2. The Way It Is Now:

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

The Way It Would Be:

The proposed legislation would change the specific restriction, such as horse power, to performance based restrictions (i.e, no noise, vibration or unhealthful emissions beyond the premises). It would also increase to 1/3 of the total square footage that an accessory use could occupy in C-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.

Basis for Recommendation:

This change replaces arbitrary numerical limits with performance standards to limit disturbances to neighbors. The horsepower limits currently established in the Code can be violated by standard vacuums or coffee grinders. Limiting the number of employees as well as the allowable floor area adds an additional layer of restrictions that isn't necessary if the size restriction already ensures that the use is accessory to the main use.

Non-Conforming Uses: The proposed amendments would create a strong disincentive for retaining nonconforming parking in the C-3 District. While these changes appear to be generally consistent with contemporary planning, the Port of San Francisco has expressed concerns about the multitude of demands on Port property.

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

1. The Way It Is Now:

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

The Way It Would Be:

The proposed legislation would require Conditional Use authorization if a nonconforming use sought to change to a use that would otherwise require a Conditional Use authorization in that zoning district.

Basis for Recommendation:

This change creates more consistency in how uses are permitted in Neighborhood Commercial Districts.

2. The Way It Is Now:

Per Section 182(e), a non-conforming use in an R District that is subject to termination³ per Section 185 may be converted to a dwelling unit without regard to the requirements of the Planning Code with respect to dwelling unit density under Article 2, dimensions, areas and open space under Article 1.2, or off-street parking under Article 1.5.

The Way It Would Be:

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

The ordinance maintains the exceptions to required off-street parking; however, it defers to the Zoning Administrator to review exceptions dimensions, areas and open space under Section 307⁴.

Basis for Recommendation:

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

3. The Way It Is Now:

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

The Way It Would Be:

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

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

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

Basis for Recommendation:

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:

(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.

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. **The Way It Is Now:**

There are two Washington-Broadway SUDs. The only difference is that Washington Broadway Special Use District 2 principally permits wholesale uses.

The Way It Would Be:

The two Washington-Broadway SUDs would be combined into one.

Basis for Recommendation:

This provision helps simplify the Code and provides greater consistency in the Washington-Broadway SUD. However, 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.

3. **The Way It Is Now:**

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

The Way It Would Be:

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

Basis for Recommendation:

The proposed changes are consistent with the way the Code treats other high density, mixed use districts.

4. The Way It Is Now:

Surface parking lots open to the public are permitted with Conditional Use Authorization in the Washington-Broadway SUD.

The Way It Would Be:

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

Basis for Recommendation:

Port property is under multiple demands from the State Lands Trust, the General Plan and the Waterfront Land Use Plan. The Department recommends removing this provision in the proposed ordinance at the request of the Port.

5. The Way It Is Now:

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

The Way It Would Be:

Parking for any principle or conditional use may be waived by the ZA per Code Section 161 in all three Waterfront Special Use Districts.

Basis for Recommendation:

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

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. The Way It Is Now:

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

The Way It Would Be:

The proposed legislation would exempt affordable housing projects, as defined by Section 401, from the FAR limits,

Basis for Recommendation:

Exempting affordable housing from FAR limits helps to make it more financially feasible to develop affordable housing, and it also encourages developers to build affordable housing on site. 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 and the department recommends requires a unit mix similar to the ones already in place in the Planning Code.

2. The Way It Is Now:

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 Way It Would Be:

The proposed legislation would remove the specific sign provisions for the Van Ness Special Use District from the Planning Code and the Zoning Map. 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.

Basis for Recommendation:

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.

3. The Way It Is Now:

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.

The Way It Would Be:

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.

Basis for Recommendation:

The City's Transit first policy prioritizes transit over automobile use and Van Ness is a major transit corridor. Requiring 1 to 1 parking along Van Ness is inconsistent with the City's General Plan and the mixed use high density character of Van Ness Avenue.

The Department recommends adding a grandfathering clause to the legislation that allows projects that have already been approved by the Planning Commission but not yet vested to be exempt from this provision.

REQUIRED COMMISSION ACTION

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

BASIS FOR RECOMMENDATION

1. San Francisco's Planning Code has provided for reduced parking requirements in dense and transit-rich neighborhoods since the 1960s, as a way of reducing traffic congestion, encouraging walking, cycling, and public transit, and making efficient use of scarce land;
2. In 1973, the San Francisco City Planning Commission and Board of Supervisors adopted the "Transit First Policy," giving top priority to public transit investments as the centerpiece of the city's transportation policy and adopting street capacity and parking policies to discourage increases in automobile traffic;
3. Off-street parking facilities increase building costs, which in turn are transferred to costs of housing and doing business. As a land use, off-street parking facilities compete with and displace land uses that provide greater social and economic benefit to the city;

4. A basic assumption of the Transportation Element is that a desirable living environment and a prosperous business environment cannot be maintained if traffic levels continue to increase in any significant way. A balance must be restored to the city's transportation system, and various methods must be used to control and reshape the impact of automobiles on the city. This includes limiting the city's parking capacity, especially long-term parking in commercial areas;
5. On October 26, 2010 the Board of Supervisors adopted the goal of having 20% of all trips be by bike by the year 2020;
6. The City of San Francisco's Housing Element seeks to remove unnecessary constraints to the construction and rehabilitation of housing;
7. Existing buildings contribute to the unique character of San Francisco. Reusing buildings, rather than demolishing and rebuilding them, can preserve the built character of neighborhoods, as well as foster sustainability by conserving the energy and materials embodied in these buildings.
8. Small commercial uses, although often nonconforming, tend to provide convenience goods and services on a retail basis to meet the frequent and recurring needs of neighborhood residents within a short distance of their homes;
9. Small businesses that combine office, production, retail, and even residential uses are increasingly common in San Francisco, but frequently do not fit into traditional zoning categories. Creating more flexibility in zoning around accessory uses will help add to the vibrancy of the City's neighborhoods and to the City's diverse economic base;
10. Over the years, the Planning Code has been amended and expanded. While many of these changes have been necessary to address emerging issues and changing policy in the City, the current Planning Code can be overly complex and redundant;

RECOMMENDATION

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

The proposed Modifications include:

Auto Uses

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

LCCUs

3. Do not amend Section 231 to allow LCCUs to have 2,500 sq. ft. or allow them within 100' of a corner. This proposed change should be reviewed when the Market and Octavia Plan undergoes its scheduled 5 year review.

4. Do not add proposed Section 231(k), which requires Conditional Use authorization when converting a dwelling unit to establish a Limited Corner Commercial Use. Dwelling unit conversions are already controlled by Section 317.

Nonconforming Uses

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

Any nonconforming commercial or industrial use of land where no enclosed building is involved in such use, ~~except for permanent off street parking lots in the C-3-O, C-3-R, C-3-G Districts existing on the effective date of Ordinance 114-85, provided that such lots are screened in the manner required by Section 156(e)~~ shall be eliminated no later than five years and 90 days from the effective date of Ordinance No. [INSERT];

Also, 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.

Washington Broadway SUD

7. Remove the provision in the proposed combined Washington-Broadway Special Use District that allows Wholesale Establishments as of right.
8. Remove the provision in the proposed Ordinance that would change surface parking lots from a conditional use to "not permitted."

Van Ness Avenue SUD

9. Require a unit mix requirement similar to existing unit mix requirements in the Planning Code where projects are exempt from FAR limits.
10. Add a grandfather clause to the proposed legislation that would exempt projects that have already been approved by the Planning Commission, but not yet vested, from the new parking requirements on Van Ness Avenue.

ENVIRONMENTAL REVIEW

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

PUBLIC COMMENT

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

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

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

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

RECOMMENDATION: Recommendation of Approval with Modification
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Attachments:

Exhibit A: Draft Planning Commission Resolution



SAN FRANCISCO PLANNING DEPARTMENT

Draft Planning Commission Resolution

HEARING DATE: APRIL 12, 2012

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Initiated by: Supervisor Chiu / Introduced May 3, 2011

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Recommendation: **Recommend Approval with Modifications Of "Phase Two" Including the Topics of Automotive Uses, Limited Corner Commercial Uses (LCCUs), Accessory Uses, Non-Conforming Uses, Washington Broadway and Waterfront SUDs and the Van Ness Avenue SUD**

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

PREAMBLE

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

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

Whereas on March 1, 2012, the Planning Commission considered a portion of the proposed Ordinance, herein referred to as "Phase One", covering the subject areas of Clerical and Minor Modifications, Transfer of Development Rights (TDRS), Limited Commercial Uses, Bike Parking, and Signs; and

Whereas on February 8, 2012, the legislative sponsor, Board President David Chiu, sent the Commission a memorandum requesting that the Commission not consider certain topics from the proposed Ordinance as it is his intend to remove the following topics from the proposed Ordinance: The C-3 parking and FAR changes, changes to Planning Code Section 155(g) having to do with the long term parking rate structure, and proposed changes to Port Property and the expansion of the Waterfront Advisory Committee.

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

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

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

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

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

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

Whereas, the 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:

Auto Uses

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

LCCUs

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

Nonconforming Uses

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

unit, and remove the provision that allows a non-conforming use to be converted to group housing as of right.

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

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

Washington Broadway SUD

7. Remove the provision in the proposed combined Washington-Broadway Special Use District that allows Wholesale Establishments as of right.
8. Remove the provision in the proposed Ordinance that would change surface parking lots from a conditional use to "not permitted."

Van Ness Avenue SUD

9. Require a unit mix requirement similar to existing unit mix requirements in the Planning Code where projects are exempt from FAR limits.
10. Add a grandfather clause to the proposed legislation that would exempt projects that have already been approved by the Planning Commission, but not yet vested, from the new parking requirements on Van Ness Avenue.

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.

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

II. TRANSPORTATION ELEMENT

OBJECTIVE 1

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

Policy 1.2

Ensure the safety and comfort of pedestrians throughout the city.

Policy 1.3

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

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

OBJECTIVE 7

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

Policy 7.1

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

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

III. VAN NESS AREA PLAN

Policy 9.7

Require residential parking at a ratio of one parking space per dwelling unit.

The Commission acknowledges this policy and notes that it is in opposition to other policies in the General Plan that seek to reduce parking. The Commission hereby decides that removing the requirement of 1 to 1 parking along Van Ness Avenue is on-balance consistent with the City's General Plan and the mixed use high density character of Van Ness Avenue. This provision of the General Plan is out of date and is in contrast to the recent steps that the City has been taking to require less parking for all uses. Further, the

City's Transit first policy prioritizes transit over automobile use and Van Ness is a major transit corridor. For this reason, the Commission recommends to adopt the portion of the proposed Ordinance that would remove the Van Ness Special Use District exception from the broader parking requirement for RC-4 districts, which are currently required at a ratio of 1 parking space to every 4 dwelling units. The Commission recommends adding a grandfathering clause to the legislation that allows projects that have already been approved by the Planning Commission but not yet vested to be exempt from this provision.

IV. MARKET & OCTAVIA AREA PLAN

In order to track implementation, the Planning Department will monitor vital indicators.

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

IV. NORTHEAST WATERFRONT AREA PLAN

Policy 8.2

Limit additional parking facilities in the northeastern waterfront and minimize the impact of this parking. Discourage long-term parking for work trips which could be accommodated by transit. Restrict additional parking to: (a) short-term (less than four hour) parking facilities to meet needs of additional business, retail, restaurant, marina, and entertainment activities; (b) long-term parking facilities for maritime activities, hotel and residential uses. To the extent possible, locate parking away from areas of intense pedestrian activity. Encourage shared parking at adjacent or nearby facilities.

POLICY 8.6

REMOVE OR RELOCATE INLAND THOSE EXISTING PARKING FACILITIES ON OR NEAR THE WATER'S EDGE OR WITHIN AREAS OF INTENSE PEDESTRIAN ACTIVITY.

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

COMMERCE AND INDUSTRY ELEMENT

Policy 6.1

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

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

URBAN DESIGN ELEMENT

OBJECTIVE 4

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

Policy 4.14

Remove and obscure distracting and cluttering elements.

The proposed legislation would 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 April 12, 2012.

Draft Resolution No.
Hearing Date: April 12, 2012

CASE NO. 2011.0532T
Parking, Awning, Signs, Exposure, Open Space, & LCUs

Linda Avery
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: April 12, 2012