

BOARD of SUPERVISORS



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MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

FROM: *JS* Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

DATE: May 12, 2017

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 170514

Ordinance amending the Planning Code, Section 249.35A, to allow a grocery store that may be defined as a formula retail use and adding criteria for approval; and making environmental findings and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

No Comment

Recommendation Attached

Chairperson, Small Business Commission

c: Menaka Mahajan, Small Business Commission

1 [Planning Code - Fulton Street Grocery Store Special Use District]

2
3 **Ordinance amending the Planning Code, Section 249.35A, to allow a grocery store that**
4 **may be defined as a formula retail use and adding criteria for approval; making**
5 **environmental findings and findings of consistency with the General Plan, and the**
6 **eight priority policies of Planning Code, Section 101.1.**

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

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

15 Section 1. Findings.

16 (a) The Planning Department has determined that the actions contemplated in this
17 ordinance comply with the California Environmental Quality Act (California Public Resources
18 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
19 Supervisors in File No. _____ and is incorporated herein by reference.

20 (b) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
21 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth
22 in Planning Commission Resolution No. 18990 and the Board incorporates such reasons
23 herein by reference. A copy of Planning Commission Resolution No. 18990 is on file with the
24 Board of Supervisors in File No. _____.

25 (c) On September 26, 2013, the Planning Commission, in Resolution No. 18990,
adopted findings that the actions contemplated in this ordinance are consistent, on balance,

1 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
2 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
3 the Board of Supervisors in File No. _____, and is incorporated herein by reference.
4

5 Section 2. The Planning Code is hereby amended by revising Section 249.35A to read
6 as follows:

7 **SEC. 249.35A. FULTON STREET GROCERY STORE SPECIAL USE DISTRICT.**

8 (a) **Purpose.** In order to provide for the consideration of a neighborhood-serving
9 grocery store of moderate size in a location accessible to the Hayes Valley and Western
10 Addition neighborhoods, there shall be a Fulton Street Grocery Store Special Use District,
11 consisting of Lots 001, 015 and 028 of Assessor's Block 0794 as designated on Sectional
12 Map 2SU of the Zoning Map. This Special Use District would enable the consideration of a
13 project containing a grocery store in a district that does not permit such uses and of a building
14 height not permitted by the established height limitations in the surrounding NCT district.

15 (b) **Definition.** "Grocery Store" shall mean a retail use that provides fresh produce
16 and other unprepared perishable food products (such as dairy, fish, grains), in addition to
17 other general groceries, personal items, household goods and similar goods.

18 (c) **Application.** This special use district shall apply only to projects that meet all of the
19 following standards:

- 20 (1) Project is mixed-use, with both commercial and residential uses;
- 21 (2) Commercial uses include a grocery store larger than 15,000 square feet of
22 gross occupied floor area; and
- 23 (3) Residential uses achieve a density of not less than 1 unit per 600 square
24 feet of lot area.
25

1 (d) **Controls.** The following controls apply to projects meeting the criteria of subsection
2 (c) and to any subsequent alterations or changes of use in a building approved under this
3 Section 249.35A.

4 (1) The controls of the Hayes-Gough NCT apply in their entirety, except as
5 specified in this Section.

6 (2) A grocery store may be permitted as a formula retail use, as defined in Section
7 703.3(b), through Conditional Use Authorization pursuant to Section 303. All other formula retail uses
8 shall be prohibited.

9 ~~(2) Any commercial uses in addition to the grocery store may not exceed 3,000 square~~
10 ~~feet of occupied floor area per use.~~

11 (3) Accessory off-street parking shall not be permitted for any commercial use
12 except the grocery store.

13 (4) All subsequent changes of use shall require Conditional Use authorization
14 from the Planning Commission. The only non-residential uses which that may be permitted in
15 the space initially approved for a grocery store shall include Trade Shop (Planning Code
16 Section 790.124), Other Institutions, Large (Planning Code Section 790.50), Other Institutions,
17 Small (Planning Code Section 790.51), and Public Use (Planning Code Section 790.80),
18 except that Other Retail Sales and Services (Planning Code Section 790.102) may be
19 permitted provided that no individual tenant occupies more than 3,000 square feet of gross
20 floor area.

21 (5) The Planning Commission shall consider the affordability of the grocery store or
22 specialty grocery and shall make a determination that the groceries are affordable to all households in
23 the Area, which shall be deemed to include the area located within a 0.35 mile radius of the grocery
24 store. In addition to the standard criteria for Conditional Use authorization, as outlined in Section
25 303, a project sponsor proposing either a grocery store or a specialty grocery shall also present

1 information about the affordability of food for the Commission's consideration. The Commission shall
2 consider whether the project sponsor can demonstrate that the proposed grocery store will accept
3 payment assistance and provide affordable groceries to residents in the Area, as set forth below.

4 (A) Acceptance of Payment Assistance. The project sponsor shall describe the
5 proposed grocery store's commitment to accept payment from individuals through assistance programs
6 including but not limited to the United States Department of Agriculture's (USDA) Supplemental
7 Nutritional Assistance Program (SNAP); Women, Infants, and Children (WIC), and Electronic Benefits
8 Transfer (EBT), or other similar assistance programs.

9 (B) Food Affordability Projection. The project sponsor shall prepare a
10 projection of food affordability at the proposed location and submit it for review by the Planning
11 Commission. The projection shall consist of current retail pricing for a sampling of everyday grocery
12 items that represent all categories within the market basket of foods maintained by the USDA's Center
13 for Nutrition Policy and Promotion for their Official USDA Food Plans.

14 (6) Signs shall be subject to the requirements of Article 6 of this Code, except
15 that allowable business signs for the grocery store shall be limited to the following:

16 (A) Window Signs. The total area of all window signs, as set forth in
17 Section 602.1(b), shall not exceed 10% of the area of the window on or in which the signs are
18 located. Such signs may be nonilluminated.

19 (B) Wall Signs. The area of all wall signs shall not exceed 40 square feet
20 on the Fulton Street frontage occupied by the use, and 40 square feet on the Laguna Street
21 frontage occupied by the use. The height of any wall sign shall not exceed 24 feet, or the
22 height of the wall to which it is attached, or the height of the lowest of any residential
23 windowsill on the wall to which the sign is attached, whichever is lower. Such signs may be
24 nonilluminated or indirectly illuminated.

1 (C) Projecting Signs. The number of projecting signs shall not exceed
2 one per business. The area of such sign, as set forth in Section 602.1(a), shall not exceed 24
3 square feet. The height of such sign shall not exceed 24 feet, or the height of the wall to which
4 it is attached, or the height of the lowest of any residential windowsill on the wall to which the
5 sign is attached, whichever is lower. No part of the sign shall project more than 75 percent of
6 the horizontal distance from the street property line to the curbline, or six feet six inches,
7 whichever is less. Such signs may be nonilluminated or indirectly illuminated.

8 (D) Signs on Awnings and Marquees. Sign copy may be located on
9 permitted awnings or marquees in lieu of wall signs. The area of such sign copy as set forth in
10 Section 602.1(c) shall not exceed 40 square feet on the Fulton Street frontage occupied by
11 the use, and 40 square feet on the Laguna Street frontage occupied by the use. Such sign
12 copy may be nonilluminated or indirectly illuminated.

13 (E) Freestanding Signs and Sign Towers. Freestanding signs or sign
14 towers per lot shall not be permitted.

15 (e) **Effectiveness of Controls in this Ordinance.** The controls of this Section
16 249.35A shall apply only to a grocery store that the Planning Commission approves pursuant
17 to the requirements of this Section 249.35A within five years of the effective date of the Ordinance
18 contained in Board of Supervisors File No. _____ between May 4, 2008 and January 1, 2019.

19
20 Section 3. Effective Date. This ordinance shall become effective 30 days after
21 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
22 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
23 of Supervisors overrides the Mayor's veto of the ordinance.

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

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

10 By:


11 KATE HERRMANN STACY
12 Deputy City Attorney

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