



SAN FRANCISCO PLANNING DEPARTMENT

October 17, 2019

Ms. Angela Calvillo, Clerk
Honorable Supervisor Brown
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

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San Francisco,
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Information:
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**Re: Transmittal of Planning Department Case Number 2019-014960PCA:
Fulton Street Grocery Store Special Use District
Board File No. 190839
Planning Commission Recommendation: Approval with Modification**

Dear Ms. Calvillo and Supervisor Brown,

On October 17, 2019, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Supervisor Brown that would amend Planning Code Section 249.35A. At the hearing the Planning Commission recommended approval with modifications. The Commission's proposed modifications were as follows:

1. Remove the periodic reporting requirement.
2. Remove sunset clause.
3. Clerical amendments:
 - a. Amend Lot references.
 - b. Correct Board File No. reference.

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

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron D. Starr".

Aaron D. Starr
Manager of Legislative Affairs

Transmittal Materials

**CASE NO. 2019-014960PCA
Fulton Street Grocery Store Special Use District**

cc:

Victoria Wong, Deputy City Attorney
Shakirah Simley, Aide to Supervisor Brown
Erica Major, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 20546

HEARING DATE OCTOBER 17, 2019

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Project Name: **Fulton Street Grocery Store Special Use District**
Case Number: **2019-014960PCA [Board File No. 190839]**
Initiated by: **Supervisor Brown/ Introduced July 30, 2019**
Staff Contact: **Veronica Flores, Legislative Affairs**
Veronica.Flores@sfgov.org, 415-575-9173
Reviewed by: **Aaron D Starr, Manager of Legislative Affairs**
aaron.starr@sfgov.org, 415-558-6362

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO ALLOW A GROCERY STORE USE THAT IS A FORMULA RETAIL USE IN THE FULTON STREET GROCERY STORE SPECIAL USE DISTRICT ("DISTRICT"), ON FULTON STREET BETWEEN LAGUNA AND OCTAVIA STREETS, SUBJECT TO CONDITIONAL USE AUTHORIZATION, AND ADDING CRITERIA FOR SUCH AUTHORIZATION; CLARIFY THE DEFINITION OF A GROCERY STORE USE WITHIN THE DISTRICT; ELIMINATE SQUARE FOOTAGE REQUIREMENTS FOR COMMERCIAL USES IN THE DISTRICT OTHER THAN A GROCERY STORE AND FOR SUBSEQUENT USES IN A LOCATION PREVIOUSLY APPROVED FOR A GROCERY STORE; EXTEND THE TIME PERIOD FOR EFFECTIVENESS OF CONTROLS FOR THE DISTRICT TO FIVE YEARS FROM THE EFFECTIVE DATE OF THE ORDINANCE; AND MAKING ENVIRONMENTAL FINDINGS, FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1, AND FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302

WHEREAS, on July 30, 2019 Supervisor Brown introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 190839, which would amend the Planning Code to allow a grocery store use that is a formula retail use in the Fulton Street Grocery Store Special Use District ("District"), on Fulton Street between Laguna and Octavia Streets, subject to conditional use authorization, and adding criteria for such authorization; clarify the definition of a grocery store use within the District; eliminate square footage requirements for commercial uses in the District other than a grocery store and for subsequent uses in a location previously approved for a grocery store; extend the time period for effectiveness of controls for the District to five years from the effective date of the Ordinance; and

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on October 17, 2019; and

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

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

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

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

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance. The Commission's proposed modifications are as follows:

1. Remove the periodic reporting requirement.
2. Remove sunset clause.
3. Clerical amendments:
 - a. Amend Lot references.
 - b. Correct Board File No. reference.

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. Commission finds the proposed Ordinance will provide the neighborhood with access for affordable food because Formula Retail Grocery Stores are more affordable because of their ability to purchase items in bulk and pass these savings onto the consumer.
2. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

MARKET OCTAVIA AREA PLAN

OBJECTIVE 1.1

CREATE A LAND USE PLAN THAT EMBRACES THE MARKET AND OCTAVIA NEIGHBORHOOD'S POTENTIAL AS A MIXED-USE URBAN NEIGHBORHOOD.

Policy 1.1.2

Concentrate more intense uses and activities in those areas best served by transit and most accessible on foot.

The proposed Ordinance would allow a wider range of Grocery Stores to locate in the SUD in an area that is well served by public transportation. The amendment will allow formula retail grocery stores that meet the

affordability requirements to locate in a dense urban neighborhood with few options for full-service Grocery Stores.

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 1

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

Policy 1.1

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

The proposed Ordinance will facilitate the establishment of a Formula Retail Grocery Store at the border of the Western Addition and Hayes Valley neighborhoods. This will allow low-income households to have access to affordable foods.

OBJECTIVE 2

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

Policy 2.1

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

The proposed Ordinance would allow more flexibility in the types of grocery stores allowed in the SUD and help ensure that grocery stores provide a wide range of goods that are affordable to all economic levels of the community.

OBJECTIVE 6

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

Policy 6.1

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

The proposed Ordinance would allow a Formula Retail Grocery Store within a transit-accessible neighborhood. This will provide easier access to affordable foods.

Policy 6.4

Encourage the location of neighborhood shopping areas throughout the city so that essential retail goods and personal services are accessible to all residents.

The proposed Ordinance would help attract a wider range of Grocery Stores and ensure that the Grocery Store provides a variety of products that are affordable for all residents in the vicinity of the SUD. Given that the median income levels in the area are well below the City's average, providing affordable healthy food options are crucial to ensuring food security for all residents.

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

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

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

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

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

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

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

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

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

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

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

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

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

7. That the landmarks and historic buildings be preserved;

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

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

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

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

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on October 17, 2019.



Jonas P. Ionin
Commission Secretary

AYES: Fung, Johnson, Melgar, Moore, Richards

NOES: None

ABSENT: None

ADOPTED: October 17, 2019



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: OCTOBER 17, 2019
90-DAY DEADLINE: NOVEMBER 3, 2019

Project Name: **Fulton Street Grocery Store Special Use District**
Case Number: **2019-014960PCA** [Board File No. 190839]
Initiated by: Supervisor Brown / Introduced July 30, 2019
Staff Contact: Veronica Flores, Legislative Affairs
 Veronica.Flores@sfgov.org, 415-575-9173
Reviewed by: Aaron Starr, Manager of Legislative Affairs
 aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Approval with Modifications**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to allow a grocery store use that is a Formula Retail use in the Fulton Street Grocery Store Special Use District (“District”), on Fulton Street between Laguna and Octavia Streets, subject to conditional use authorization, and adding criteria for such authorization; clarify the definition of a grocery store use within the District; eliminate square footage requirements for commercial uses in the District other than a grocery store and for subsequent uses in a location previously approved for a grocery store; extend the time period for effectiveness of controls for the District to five years from the effective date of the Ordinance.

	THE WAY IT IS NOW:	THE WAY IT WOULD BE:
1.	Formula Retail Grocery Stores are not permitted within the Fulton Street Grocery Store Special Use District (SUD).	Formula Retail Grocery Stores would be conditionally permitted within the Fulton Street Grocery Store SUD.
2.	The SUD permits a building height not permitted by the established height limitations in the surrounding Neighborhood Commercial Transit (NCT) Zoning District.	The SUD would remove this height exception.
3.	The SUD does not allow any individual tenant to occupy more than 3,000 square feet of Gross Floor Area.	The maximum of 3,000 square feet per individual tenant would be eliminated.
4.	Project sponsors proposing a Grocery Store in the SUD are required to comply with the	In addition to the standard criterion for Conditional Use Authorization, project sponsors

	standard criterion for Conditional Use Authorization.	would also be required to present information of food affordability to the Commission. This information shall be submitted with the entitlement application. A subsequent report would need to be submitted to the Commission every five years, upon a change of ownership of the Grocery Store site, or upon the operation of a new Grocery Store at the site, whichever is earliest.
5.	The SUD sunsetted on January 1, 2019.	The SUD would sunset within 5 years of the effective date of the Ordinance in Board File No. 190839.

BACKGROUND

The Fulton Street Grocery Store Special Use District (SUD) was originally established to permit Grocery Stores that are not otherwise permitted in the Hayes-Gough Neighborhood Commercial Transit (NCT) Zoning District. The planning code amendment would allow a Formula Retail Grocery Store in the SUD through the Conditional Use Authorization process. The Hayes-Gough NCT is one of only three districts that completely prohibit Formula Retail. Restrictions on Formula Retail were created to encourage locally owned and independent retailers; however, an unintended consequence of these restrictions are retail stores with higher price points. Non-Formula Retail Grocery Stores are generally perceived to be more expensive and more focused on specialty goods as opposed to their chain store counterparts. Chain stores can leverage large bulk purchasing to lower costs which can then be passed on to the end consumer.

ISSUES AND CONSIDERATIONS

Food Access

While the project is within the Hayes-Gough NCT, it is also located in a unique location on the border of the Western Addition and Hayes Valley neighborhoods (see Figure A) where median income levels are well below the City as a whole. According to the 2017 American Community Survey, the median income for the site’s zip code (94102) is \$24,041, and over one-third of the households lived below the poverty line in the prior 12 months. Because of this challenging economic landscape, food affordability takes on a higher priority than it would otherwise.



Figure A: Fulton Street Grocery Special Use District boundaries

Food Affordability

To that end, the proposed Ordinance would remove the restrictions on Formula Retail for Grocery Stores within the SUD and create criteria by which the Commission would evaluate a Conditional Use application. In addition to the standard criteria for a Conditional Use, a project sponsor proposing either a grocery store or a specialty grocery would need to provide information for the Commission to determine the store's affordability. The two criteria for that determination are 1) acceptance of payment assistance through Supplemental Nutrition Assistance Program (SNAP), the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), or other comparable programs; and 2) an analysis of the sponsor's food affordability projection that consists of current retail pricing for everyday grocery items.

Criterion one would require that the Formula Retail grocery store accepts payments through assistance programs. Government authorized supplemental nutritional programs provide crucial assistance to vulnerable populations. The SNAP and WIC programs review resource and income limits when determining program eligibility. These programs allow qualifying households to purchase food for the household such as fruits and vegetables; meat, poultry, and fish; dairy products; and breads and cereals. The Department is supportive of including this requirement in the proposed ordinance as it will facilitate the first grocery store in the district that would accept SNAP and WIC benefits.

The second criterion requires the project sponsor to prepare a food affordability projection that the Commission would review to determine the stores level of affordability. The proposed ordinance requires that such a projection consist of retail pricing of "everyday grocery items" for a basket of foods as maintained by the United States Department of Agriculture's (USDA's) Center for Nutrition Policy and Promotion for their official USDA Food Plans. The USDA food plans provide representative healthful market baskets at three different cost levels. The plans provide for balanced nutrition needs at each cost level (thrifty, low-cost, moderate, and liberal). The proposed ordinance does not provide any standards for pricing of the basket nor does it establish a specific cost plan that should be provided. Rather, the Ordinance requires the Project Sponsor to provide this information. Interpreting this information is left to the Commission's general discretion of "necessary or desirable" as authorized under Planning Code Section 303.

General Plan Compliance

The proposed Ordinance will allow a Formula Retail Grocery Store within the Fulton Street Grocery SUD, aligning with the Market and Octavia Area Plan and the Commerce and Industry Element of the General Plan. The proposed Ordinance would allow more flexibility in the types of Grocery Stores allowed in the SUD and help ensure that Grocery Stores provide a wide range of goods that are affordable to all economic levels of the community. The proposed Ordinance will facilitate the establishment of a Formula Retail Grocery Store at the border of the Western Addition and Hayes Valley neighborhoods. This will allow low-income households to have access to affordable foods.

Racial and Social Equity Analysis

Understanding the benefits, burdens and opportunities to advance racial and social equity that proposed Planning Code and Zoning Map amendments provide is part of the Department's Racial and Social Equity Initiative. This is also consistent with the Mayor's Citywide Strategic Initiatives for equity and accountability and with the forthcoming Office of Racial Equity, which will require all Departments to conduct this analysis.

The proposed Ordinance responds to the need for access to affordable foods by requiring Formula Retail Grocery Stores within the Fulton Street Grocery SUD to accept payment assistance and also requiring Project Sponsors to provide food affordability projections. By accepting SNAP and WIC programs, the Formula Retail Grocery Store ensures that low-income community members have access to the fresh produce. The Ordinance extends this further by requiring food affordability projections that represent all categories within the market basket of foods maintained by the USDA's Center for Nutrition Policy and Promotion as part of their USDA Food Plans. The Ordinance allows access to basic necessities for low-income households.

Implementation

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

RECOMMENDATION

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

1. Remove the periodic reporting requirement.
2. Remove sunset clause.
3. Clerical amendments:
 - a. Amend Lot references.
 - b. Correct Board File No. reference.

BASIS FOR RECOMMENDATION

The Department supports the proposed Ordinance because it would allow more affordable grocery option in an underserved area of the city. A Formula Retail Grocery Store is more affordable because of their ability to purchase items in bulk and pass these savings onto the consumer. This is important to best meet the needs of the varying income levels in the vicinity of the SUD. Additionally, the City and the neighborhood could be certain that the Grocery Store will continue to accept SNAP and WIC as a condition of approval. The Department supports the overall Ordinance, additional policy recommendations will further enhance the benefits of the proposed amendments.

Recommendation 1: Remove periodic reporting clause. Staff recommends amending Section 249.35A(d)(5) by removing the periodic reporting requirement because there are too many economic variables and it is unknown what would be considered "affordable" in the future. One concern is if one of the future reports determines that the existing tenant is not actually "affordable" per this criterion. As written, the tenant would no longer be compliant with the SUD requirements and may eventually need to cease operation if they are unable to adjust their business plan accordingly. This risks losing a much-needed grocery store in this neighborhood, and further risks a large retail space standing vacant at the property. Rather, staff recommends that any new subsequent grocery store provide such food affordability information to the Commission at the time of their application review.

Recommendation 2: Remove sunset clause. Section 249.35A(e) outlines a sunset clause for this SUD. This discounts the efforts to provide a much-needed amenity in this neighborhood. If there is a successful Formula Retail tenant within the SUD, they would become legal non-complying once this SUD sunsets. This poses two major concerns if the successful grocery store tenant were to vacate the property within the SUD: 1) only grocery stores with fewer worldwide locations would be permitted since it would be considered a less intensive use than the successful grocery store, and 2) the former grocery store may remain vacant if no other tenant or use operates at the property. These potential scenarios go against the intent of this Ordinance in order to provide an affordable grocery store to this neighborhood. Therefore, the Department recommends removing such sunset clause from the SUD.

Recommendation 3: Clerical Amendments.

Recommendation 3(a): Amend Lot references. Section 249.35A(a) describes the boundaries of the Fulton Street Grocery Store SUD consisting of Lots 001, 015, and 028 of Assessor's Block 0794. Lots 015 and 028 have been since merged and subdivided to Lots 058-198. While the Lots have changes, the SUD boundaries remain the same and the Ordinance should capture these changes accordingly.

Recommendation 3(b): Correct Board File No. reference. Section 249(e) references Board File No. 180939. This should be corrected to 190839 instead.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

ENVIRONMENTAL REVIEW

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

PUBLIC COMMENT

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

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 190839

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EXHIBIT A

SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution HEARING DATE OCTOBER 17, 2019

Project Name: **Fulton Street Grocery Store Special Use District**
Case Number: **2019-014960PCA [Board File No. 190839]**
Initiated by: **Supervisor Brown/ Introduced July 30, 2019**
Staff Contact: **Veronica Flores, Legislative Affairs
Veronica.Flores@sfgov.org, 415-575-9173**
Reviewed by: **Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362**

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WHEREAS, on July 30, 2019 Supervisor Brown introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 190839, which would amend the Planning Code to allow a grocery store use that is a formula retail use in the Fulton Street Grocery Store Special Use District (“District”), on Fulton Street between Laguna and Octavia Streets, subject to conditional use authorization, and adding criteria for such authorization; clarify the definition of a grocery store use within the District; eliminate square footage requirements for commercial uses in the District other than a grocery store and for subsequent uses in a location previously approved for a grocery store; extend the time period for effectiveness of controls for the District to five years from the effective date of the Ordinance; and

WHEREAS, The Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on October 17, 2019; and

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

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

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

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

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance. The Commission's proposed modifications are as follows:

1. Remove the periodic reporting requirement.
2. Remove sunset clause.
3. Clerical amendments:
 - a. Amend Lot references.
 - b. Correct Board File No. reference.

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. Commission finds the proposed Ordinance will provide the neighborhood with access for affordable food because Formula Retail Grocery Stores are more affordable because of their ability to purchase items in bulk and pass these savings onto the consumer.
2. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

MARKET OCTAVIA AREA PLAN

OBJECTIVE 1.1

CREATE A LAND USE PLAN THAT EMBRACES THE MARKET AND OCTAVIA NEIGHBORHOOD'S POTENTIAL AS A MIXED-USE URBAN NEIGHBORHOOD.

Policy 1.1.2

Concentrate more intense uses and activities in those areas best served by transit and most accessible on foot.

The proposed Ordinance would allow a wider range of Grocery Stores to locate in the SUD in an area that is well served by public transportation. The amendment will allow formula retail grocery stores that meet

the affordability requirements to locate in a dense urban neighborhood with few options for full-service Grocery Stores.

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 1

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

Policy 1.1

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

The proposed Ordinance will facilitate the establishment of a Formula Retail Grocery Store at the border of the Western Addition and Hayes Valley neighborhoods. This will allow low-income households to have access to affordable foods.

OBJECTIVE 2

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

Policy 2.1

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

The proposed Ordinance would allow more flexibility in the types of grocery stores allowed in the SUD and help ensure that grocery stores provide a wide range of goods that are affordable to all economic levels of the community.

OBJECTIVE 6

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

Policy 6.1

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

The proposed Ordinance would allow a Formula Retail Grocery Store within a transit-accessible neighborhood. This will provide easier access to affordable foods.

Policy 6.4

Encourage the location of neighborhood shopping areas throughout the city so that essential retail goods and personal services are accessible to all residents.

The proposed Ordinance would help attract a wider range of Grocery Stores and ensure that the Grocery Store provides a variety of products that are affordable for all residents in the vicinity of the SUD. Given that the median income levels in the area are well below the City's average, providing affordable healthy food options are crucial to ensuring food security for all residents.

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

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

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

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

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

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

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

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

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

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

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

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

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

7. That the landmarks and historic buildings be preserved;

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

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

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

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

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on October 17, 2019.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: October 17, 2019

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

2

3 **Ordinance amending the Planning Code to allow a grocery store use that is a formula**
 4 **retail use in the Fulton Street Grocery Store Special Use District (“District”), on Fulton**
 5 **Street between Laguna and Octavia Streets, subject to conditional use authorization,**
 6 **and adding criteria for such authorization; clarify the definition of a grocery store use**
 7 **within the District; eliminate square footage requirements for commercial uses in the**
 8 **District other than a grocery store and for subsequent uses in a location previously**
 9 **approved for a grocery store; extend the time period for effectiveness of controls for**
 10 **the District to five years from the effective date of the Ordinance; and making**
 11 **environmental findings, findings of consistency with the General Plan, and the eight**
 12 **priority policies of Planning Code, Section 101.1, and findings of public necessity,**
 13 **convenience, and welfare under Planning Code, Section 302.**

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

18

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

20

21 Section 1. Environmental and Land Use Findings.

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

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

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

8 (c) Pursuant to Planning Code Section 302, the Board finds that this Planning Code
9 amendment will serve the public necessity, convenience, and welfare for the reasons set forth
10 in Planning Commission Resolution No. _____ and the Board incorporates such reasons
11 herein by reference. A copy of Planning Commission Resolution No. _____ is on file with
12 the Clerk of the Board of Supervisors in File No. _____.
13

14 Section 2. Article 2 of the Planning Code is hereby amended by revising Section
15 249.35A, to read as follows:

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

17 (a) **Purpose.** In order to provide for the consideration of a neighborhood-serving
18 grocery store of moderate size in a location accessible to the Hayes Valley and Western
19 Addition neighborhoods, there shall be a Fulton Street Grocery Store Special Use District,
20 consisting of Lots 001, 015, and 028 of Assessor's Block 0794, between Laguna and Octavia
21 Streets, as designated on Sectional Map 2SU of the Zoning Map. This Special Use District
22 would enable the consideration of a project containing a grocery store in a district that does
23 not permit such uses ~~and of a building height not permitted by the established height limitations in~~
24 ~~the surrounding NCT district.~~ This Special Use District would conditionally permit a grocery store
25 that is a formula retail use, in order to allow consideration of a grocery store that is affordable to the

1 neighborhood. A non-formula retail grocery store may be less affordable, and this one-time lift of the
2 ban on formula retail is intended to support an affordable grocery store that is committed to serving
3 and hiring from the neighborhood. According to the U.S. Census Bureau's 2017 American Community
4 Survey, the median household income in the surrounding neighborhood is \$24,041, and over one-third
5 of residents in the neighborhood live below the poverty line.

6 (b) **Definition.** "Grocery Store" shall mean a retail use that provides fresh produce and
7 other unprepared perishable food products (such as dairy, fish, grains), in addition to other
8 general groceries, personal items, household goods, and similar goods. The term "Grocery
9 Store" includes General Grocery and Specialty Grocery uses.

10 (c) **Application.** This ~~s~~Special ~~#~~Use ~~#~~District shall apply only to projects that meet all
11 of the following standards:

- 12 (1) The pProject is mixed-use, with both commercial and residential uses;
- 13 (2) Commercial uses include a ~~g~~Grocery ~~s~~Store larger than 15,000 square feet
14 of gross occupied floor area; and
- 15 (3) Residential uses achieve a density of not less than 1 unit per 600 square
16 feet of lot area.

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

- 20 (1) The controls of the Hayes-Gough NCT apply in their entirety, except as
21 specified in this Section.
- 22 (2) Any commercial uses in addition to the grocery store may not exceed 3,000 square
23 feet of occupied floor area per use. All formula retail uses are prohibited, except for a Grocery Store,
24 which may be permitted as a formula retail use, as defined in Section 303.1, through Conditional Use
25 Authorization pursuant to Section 303.1. Pursuant to the Planning Code, any such formula retail

1 Grocery Store shall be subject to all provisions of Section 303.1, including but not limited to subsection
2 (j) of Section 303.1.

3 (3) Accessory off-street parking shall not be permitted for any commercial use
4 except the ~~g~~Grocery sStore.

5 (4) All subsequent changes of use shall require Conditional Use authorization
6 from the Planning Commission. The only Non-Residential Uses that may be permitted in the
7 space initially approved for a ~~g~~Grocery sStore shall include Trade Shop, and Institutional Uses,
8 excluding Medical Cannabis Dispensaries, Hospitals, and Philanthropic Administrative
9 Services, except that General Retail Sales and Services, Pharmacy, or General or Specialty
10 Grocery uses may be permitted ~~provided that no individual tenant occupies more than 3,000 square~~
11 ~~feet of Gross Floor Area.~~

12 (5) In addition to the standard criteria for Conditional Use authorization, as set forth in
13 Sections 303 and, if applicable, 303.1, a project sponsor proposing a Grocery Store shall also present
14 information about the affordability of food for the Commission's consideration. The Commission shall
15 consider such information, as well as whether the project sponsor can demonstrate that the proposed
16 Grocery Store will accept payment assistance, as set forth below.

17 (A) Acceptance of Payment Assistance. The project sponsor shall describe the
18 proposed Grocery Store's commitment to accept payment from individuals through assistance
19 programs including but not limited to the United States Department of Agriculture's (USDA)
20 Supplemental Nutritional Assistance Program (SNAP), the Special Supplemental Nutrition Program for
21 Women, Infants, and Children (WIC), and other similar public assistance programs.

22 (B) Food Affordability Projection. The project sponsor shall prepare a
23 projection of food affordability at the proposed location and submit it for review by the Planning
24 Commission. The projection shall consist of current retail pricing for a sampling of everyday grocery
25

1 items that represent all categories within the market basket of foods maintained by the USDA's Center
2 for Nutrition Policy and Promotion for their Official USDA Food Plans.

3 (C) **Periodic Reporting Requirement.** In addition to the other requirements of
4 this subsection (d)(5), a project sponsor shall submit for review by the Commission the information
5 required in subsections (A) and (B) of this subsection (d)(5), updated to reflect current conditions,
6 within five years after the last submission of such information, upon a change of ownership of the
7 Grocery Store site, or upon the operation of a new Grocery Store at the site, whichever is earliest.

8 (56) Signs shall be subject to the requirements of Article 6 of this Code, except
9 that allowable business signs for the Grocery Store shall be limited to the following:

10 (A) **Window Signs.** The total area of all window signs, as set forth in
11 Section 602.1(b), shall not exceed 10% of the area of the window on or in which the signs are
12 located. Such signs may be non-illuminated.

13 (B) **Wall Signs.** The total area of all wall signs shall not exceed 40
14 square feet on the Fulton Street frontage occupied by the use, and 40 square feet on the
15 Laguna Street frontage occupied by the use. The height of any wall sign shall not exceed 24
16 feet, or the height of the wall to which it is attached, or the height of the lowest of any
17 residential windowsill on the wall to which the sign is attached, whichever is lower. Such signs
18 may be non-illuminated or indirectly illuminated.

19 (C) **Projecting Signs.** The number of projecting signs shall not exceed
20 one per business. The area of such sign, as set forth in Section 602.1(a), shall not exceed 24
21 square feet. The height of such sign shall not exceed 24 feet, or the height of the wall to which
22 it is attached, or the height of the lowest of any residential windowsill on the wall to which the
23 sign is attached, whichever is lower. No part of the sign shall project more than 75% percent of
24 the horizontal distance from the street property line to the curblin, or six feet six inches,
25 whichever is less. Such signs may be non-illuminated or indirectly illuminated.

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

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

(e) **Effectiveness of Controls in this ~~Ordinance~~ Special Use District.** The controls of this Section 249.35A shall apply only to a ~~g~~Grocery ~~s~~Sore that the Planning Commission approves pursuant to the requirements of this Section 249.35A ~~between May 4, 2008 and January 1, 2019~~ within 5 years of the effective date of the ordinance in Board File No. 180939, amending this Section.

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

Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

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1 additions, and Board amendment deletions in accordance with the "Note" that appears under
2 the official title of the ordinance.

3

4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By: _____
7 VICTORIA WONG
8 Deputy City Attorney

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