



SAN FRANCISCO PLANNING DEPARTMENT

February 25, 2011

Ms. Angela Calvillo, Clerk
Board of Supervisors
City and County of San Francisco
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San Francisco, CA 94102

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**Re: Transmittal of Planning Department Case Number 2010.0571T:
Urban Agriculture
Board File Number 10-1537
Planning Commission Recommendation: Approval with Modifications**

Dear Ms. Calvillo,

On February 17th, 2011 the San Francisco Planning Commission (hereinafter "Commission") conducted duly noticed public hearings at a regularly scheduled meeting to consider the proposed Ordinance.

The proposed Ordinance would amend the Planning Code by adding Section 102.35 to define Urban Agriculture, including Neighborhood Agriculture and Urban Industrial Agriculture, and amend Sections 204.1, 209.5, 227, 234.1, 234.2, and Articles 7 and 8 to regulate such uses in various zoning districts.

The proposed zoning changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2).

At the February 17th hearing, the Commission voted to recommend Approval with Modifications of the proposed Ordinance. The modifications are as follows:

1. Further clarify that sales of produce grown on site may occur at a dwelling by altering the following language under proposed Section 102.35(a) Neighborhood Agriculture:

Limited sales and donation of fresh food and/or horticultural products grown on-site may occur on otherwise vacant property, but may not occur within a dwelling unit.

To the following:

Limited sales and donation of fresh food and/or horticultural products grown on site may occur on site, whether vacant or improved, but not within a dwelling unit.

2. Modify the compost setback requirement found under proposed Section 102.35(a)(1) from three feet from property lines to three feet from structures.

3. **Modify the Planning Code Section added for Urban Agriculture from 102.34 to 102.35, as Planning Code Section 102.34 defines an unrelated existing use.**
4. **Clarify that the fencing requirement is optional and that should fencing be used that it need not be completely opaque.**
5. **Continue working to keep permit and change of use fees for urban agriculture minimal and to compare permit fee differences between short term and long term uses of land for Urban Agriculture.**
6. **Consider looking into adding language into the proposed Ordinance to allow value added sales.**
7. **Explore the use of soil testing to clarify concerns related to soil toxicity.**

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

Sincerely,

John Rahaim
Director of Planning

cc: Mayor Edwin Lee
Supervisor David Chiu

Attachments (one copy of the following):

Planning Commission Resolution No. 18276

Planning Commission Executive Summary for Case No. 2010.0571T



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 18276 Planning Code Text Change

HEARING DATE: FEBRUARY 17, 2011

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San Francisco,
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Project Name: Urban Agriculture
Case No.: **2010.0571T** (Board File No. 10-1537)
Initiated by: Mayor Gavin Newsom, Supervisor David Chiu
Introduced: December 14, 2010
Staff Contact: Diego R Sánchez – (415) 575-9082
diego.sanchez@sfgov.org
Reviewed by: AnMarie Rodgers – (415) 558-6395
anmarie.rodgers@sfgov.org
Recommendation: **Approval with Modifications**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD UPDATE CONTROLS RELATED TO URBAN AGRICULTURAL USES BY (1) ADDING SECTION 102.34 TO DEFINE URBAN AGRICULTURE, INCLUDING NEIGHBORHOOD AGRICULTURE AND URBAN INDUSTRIAL AGRICULTURE AND (2) AMENDING SECTIONS 204.1, 209.5, 227, 234.1, 234.2, AND ARTICLES 7 AND 8 TO REGULATE SUCH USES IN VARIOUS ZONING DISTRICTS AND 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 December 15, 2010, Mayor Gavin Newsom and Supervisor David Chiu introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 10-1537; and

WHEREAS, the proposed Ordinance would amend the Planning Code by adding Section 102.34 to define Urban Agriculture including neighborhood agriculture and urban industrial agriculture and amending Sections 204.1, 209.5, 227, 234.1, 234.2, and Articles 7 and 8 to regulate such uses in various zoning districts; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing to consider the proposed Ordinance on February 17, 2011; 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, 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 Planning 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 Planning Commission recommends the following modifications:

1. Further clarify that sales of produce grown on site may occur at a dwelling by altering the following language under proposed Section 102.35(a) Neighborhood Agriculture:

Limited sales and donation of fresh food and/or horticultural products grown on-site may occur on otherwise vacant property, but may not occur within a dwelling unit.

To the following:

Limited sales and donation of fresh food and/or horticultural products grown on site may occur on site, whether vacant or improved, but not within a dwelling unit.

2. Modify the compost setback requirement found under proposed Section 102.35(a)(1) from three feet from property lines to three feet from structures.
3. Modify the Planning Code Section added for Urban Agriculture from 102.34 to 102.35, as Planning Code Section 102.34 defines an unrelated existing use.
4. Clarify that the fencing requirement is optional and that should fencing be used that it need not be completely opaque.
5. Continue working to keep permit and change of use fees for urban agriculture minimal and to compare permit fee differences between short term and long term uses of land for Urban Agriculture.
6. Consider looking into adding language into the proposed Ordinance to allow value added sales.
7. Explore the use of soil testing to clarify concerns related to soil toxicity.

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. The proposed Ordinance is an outgrowth and expansion of Executive Directive 09-03 "Health and Sustainable Food for San Francisco," which directed all City Departments to carry out

implementing actions consistent with the goal of fostering local food production in San Francisco.

2. The production of food within San Francisco results in substantial net benefits, from the reduction in greenhouse gas emissions associated with the transport of food stuffs from different regions into San Francisco, to the continued expansion of the "local food" movement and associated businesses, to the provision of additional recreation, outdoor physical activity and access to fresh produce for San Franciscans.
3. The Planning Code has multiple use categories for urban agricultural activities, none of which are defined or consistent throughout all zoning districts.
4. There is a need to clearly define urban agricultural uses, establish performance standards and provide certainty for prospective entrepreneurs as this activity becomes increasingly important from an economic and ecological perspective and as this activity is incorporated into all zoning districts.
5. The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines?
6. The proposed Ordinance has been initiated by the Planning Commission and as required by Planning Code Section 302(b) serves the public necessity, convenience and general welfare as necessary for Ordinances to amend the Planning Code.
7. This Ordinance proposes to amend the zoning control tables in Article 7 and Article 8. As the potential adoption of this Ordinance is unknown relative to the adoption of other pending Ordinances, the Department wishes to highlight other pending Ordinances. The Department identified that at least four pending and recently adopted ordinances, which amend some of the same sections of the Planning Code and may not be reflected in this draft Ordinance. The Department intends that, if adopted, the Board action in all adopted ordinances be given effect so that the substance of each adopted ordinance is represented. To this end, the Department requests that the City Attorney's office and the publisher harmonize the provisions of each ordinance at the time of adoption

Board File/ Ordinance No.	Working Short Title
101464/ pending	Upper Market Extension
101309 and 110070/pending	Upper Fillmore NCD Restaurant Changes
100434/ 229-10	Castro NCD Restaurant Changes
Not Yet Assigned/pending	Planning Code Clean-Up 2010/Article 10 & 11 Update

8. The proposed Ordinance does not augment, alter or eliminate any existing regulations on controlled substances. Growing controlled substances for commercial use would continue to be reviewed under Planning Code controls for "greenhouse" uses and would continue to be 1) regulated via a Conditional Use authorization under Section 209.5(c) in residential districts; 2) either permitted or not permitted in commercial districts under Section 227(a); 3) not permitted

9. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 1

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

POLICY 1.1

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

POLICY 1.2

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

The proposed Ordinance, in part, will facilitate the growth of small businesses engaged in urban agricultural activity. These businesses have substantial net benefits to the City of San Francisco, both economically and ecologically. The proposed Ordinance will foster local production of food, a goal of Executive Directive 09-03, "Healthy and Sustainable Food for San Francisco." As part of an approval of any urban agricultural use, specific physical and operational standards must be met to ensure a lack of disruption to the surrounding area. Should these standards not be met or if the size of the use exceeds 1 acre Conditional Use authorization is required to assure the urban agricultural use is necessary or desirable and compatible with its proposed setting.

OBJECTIVE 2

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

POLICY 2.3

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

The proposed Ordinance will facilitate the growth of small businesses dedicated to the production and consumption of locally grown and seasonally consumed produce and processed goods. The growth of the local food sector in San Francisco creates a favorable social and cultural climate in the City that attracts firms and their employees.

OBJECTIVE 3

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

POLICY 3.1

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

POLICY 3.4

Assist newly emerging economic activities.

The proposed Ordinance facilitates the creation of small businesses engaged in urban agricultural activity. This is an emerging economic activity in San Francisco and the proposed Ordinance will formalize the status of much of the current urban agricultural activity currently underway. In addition, these firms involved in urban agriculture can provide employment opportunities for unskilled and semi-skilled workers throughout the calendar year because of the favorable growing climate in San Francisco.

OBJECTIVE 6

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

POLICY 6.1

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

POLICY 6.3

Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

POLICY 6.10

Promote neighborhood commercial revitalization, including community-based and other economic development efforts where feasible.

The proposed Ordinance will permit urban agriculture uses, either principally or with Conditional Use authorization, in neighborhood commercial districts, thereby promoting the mixed commercial-residential character of those areas. Those neighborhood commercial districts in need of revitalization will benefit from the proposed Ordinance as it allows a new use category to be established where before they were prohibited. The establishment of urban agricultural uses in the neighborhood commercial districts will help provide neighborhood serving goods in the form of fresh produce.

HOUSING ELEMENT

OBJECTIVE 11

IN INCREASING THE SUPPLY OF HOUSING, PURSUE PLACE MAKING AND NEIGHBORHOOD BUILDING PRINCIPLES AND PRACTICES TO MAINTAIN SAN

FRANCISCO'S DESIRABLE URBAN FABRIC AND ENHANCE LIVABILITY IN ALL NEIGHBORHOODS.

POLICY 11.3

Encourage appropriate neighborhood-serving commercial activities in residential areas, without causing affordable housing displacement.

Within residential districts the proposed Ordinance will allow urban agricultural activity that is desirable and appropriate, akin to the small pedestrian-oriented corner grocery stores and other convenience shops. Urban agricultural activity can meet frequent and recurring needs of residents without disrupting the residential character of the area. The proposed Ordinance establishes physical and operational standards that help to ensure that the urban agricultural activity in residential areas will be primarily pedestrian-oriented, that it serve the needs of the immediate residential neighborhood, that it not draw significant trade from outside the neighborhood, that it not be disruptive to the livability of the surrounding neighborhood and restrict the use of heavy machinery. If the physical and operational standards are not met, or if the proposed use is greater than 1 acre, the proposed Ordinance requires Conditional Use authorization to establish an urban agricultural use.

AIR QUALITY ELEMENT

OBJECTIVE 3

DECREASE THE AIR QUALITY IMPACTS OF DEVELOPMENT BY COORDINATION OF LAND USE AND TRANSPORTATION DECISIONS.

POLICY 3.2

Encourage mixed land use development near transit lines and provide retail and other types of service oriented uses within walking distance to minimize automobile dependent development.

POLICY 3.8

Promote the development of non-polluting industries and insist on compliance with established industrial emission control regulations by existing industries.

The proposed Ordinance will foster the local production of food which will, in many instances, allow residents of San Francisco to forgo an automobile trip to a grocery store and instead travel by bicycle or foot to an urban agricultural use permitted to sell produce. Given the physical and operational standards, the urban agricultural uses allowed will be non-polluting.

ENVIRONMENTAL PROTECTION ELEMENT

OBJECTIVE 1

ACHIEVE A PROPER BALANCE AMONG THE CONSERVATION, UTILIZATION, AND DEVELOPMENT OF SAN FRANCISCO'S NATURAL RESOURCES.

POLICY 1.3

Restore and replenish the supply of natural resources.

The proposed Ordinance facilitates activities that seek to cultivate land to increase vegetation, replenish wildlife and landscape man-made surroundings. It will permit projects that revitalize the urban environment both economically and ecologically.

RECREATION AND OPEN SPACE ELEMENT

OBJECTIVE 2

DEVELOP AND MAINTAIN A DIVERSIFIED AND BALANCED CITYWIDE SYSTEM OF HIGH QUALITY PUBLIC OPEN SPACE.

POLICY 2.12

Expand community garden opportunities throughout the City.

The proposed Ordinance will facilitate the establishment of community gardens throughout all zoning districts as it proposes to principally permit such use, when it meets the physical and operational standards, in all zoning districts.

10. The proposed Ordinance is consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

A. That 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 facilitate the creation of new neighborhood serving businesses that can be resident owned. With the creation of new, resident owned urban agriculture businesses, existing neighborhood serving retail will have another establishment from which to purchase products or additional patrons in the form of new the owners and employees of the urban agriculture businesses.

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

The proposed Ordinance is crafted so that any new Urban Agriculture uses will meet physical and operational standards designed to preserve neighborhood character, or seek Conditional Use authorization. The proposed Ordinance will facilitate the creation of new businesses and further the cultural and economic diversity of San Francisco's neighborhoods.

C. That City's supply of affordable housing will be preserved and enhanced:

The proposed Ordinance will have no effect upon the City's supply of affordable housing.

D. That commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

The proposed Ordinance will not impede MUNI transit service or overburden streets or neighborhood parking as the proposed Ordinance seeks to facilitate the creation of small businesses that do not typically generate traffic at disruptive levels.

- E. That a diverse economic base will 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 will be enhanced:

The proposed Ordinance will not displace industrial or service sector employment due to commercial office development as the proposed Ordinance seeks to facilitate the growth of urban agricultural uses.

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

The proposed Ordinance will have no effect on the City's efforts to prepare and protect against injury and loss of life in an earthquake.

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

No landmarks or historic buildings are expected to be negatively impacted from the proposed Ordinance as it seeks to facilitate the use of unimproved land or yards on improved lots and does not intend to facilitate alteration to existing structures.

- H. That parks and open space and their access to sunlight and vistas will be protected from development:

No parks or opens spaces are expected to be negatively impacted from the implementation of the proposed Ordinance as it seeks to facilitate the growth of urban agricultural activity.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on February 17, 2011.

Linda Avery
Commission Secretary

AYES: Commissioners Antonini, Borden, Fong, Miguel, Moore, Olague, and Sugaya

NAYS: None

ABSENT: None

ADOPTED: February 17, 2011

DRS: G:\DOCUMENTS\Text Amendment\Urban Ag\Commission Packet\Urban Ag Resolution.doc



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change

HEARING DATE: FEBRUARY 17, 2010

Project Name: Urban Agriculture
Case No.: **2010.0571T** (Board File No. 10-1537)
Initiated by: Mayor Gavin Newsom, Supervisor David Chiu
Introduced: December 14, 2010
Staff Contact: Diego R Sánchez – (415) 575-9082
diego.sanchez@sfgov.org
Reviewed by: AnMarie Rodgers – (415) 558-6395
anmarie.rodgers@sfgov.org
Recommendation: **Approval with Modifications**

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PLANNING CODE AMENDMENT

The proposed Ordinance was introduced by Mayor Gavin Newsom and Supervisor David Chiu as an outgrowth and expansion of Executive Directive 09-03 “Healthy and Sustainable Food for San Francisco,” which directed all city Departments to carry out implementing actions consistent with the goal of fostering local food production in San Francisco. The proposed Ordinance would facilitate the production and sale of produce grown at relatively small scales by consolidating the current variety of urban agricultural uses within the Planning Code, creating a new Urban Agriculture use category and easing the regulation of its production and sale throughout all zoning districts in San Francisco.

The Way It Is Now:

The Planning Code cites multiple use categories for urban agricultural activities and within the different zoning districts certain use categories are referenced and others are not. Below is a chart summarizing the regulation of urban agricultural activities by zoning district:

Zoning District	Use Category	Control
R Districts (e.g. RH, RM, RTO, RC)	Open Space for horticulture purposes, no retail or wholesale sales (PC §209.5(b))	P
	Greenhouse, Plant Nursery, other land or structure devoted to cultivation of plants, with or without retail or wholesale sales (PC §209.5(c))	C
Commercial, Industrial, PDR Districts (e.g. C, M, PDR)	Greenhouse or Plant Nursery (PC §227(a))	P (NP in C-3-O, C-3-R, C-3-G)
	Truck Gardening, Horticulture (PC §227(b))	P (NP in all C-3)

Public Use Districts (P)	Uses of public agencies and accessory nonpublic uses (PC §234.1)	P (accessory nonpublic uses P if within ¼ mile of an NC-1 or Individual Area NC such use is P)
	Open Space for horticulture purposes, no retail or wholesale sales (PC §234.2(a))	C
Neighborhood Commercial Districts (NC, NCT, Individual Named NC)	No Urban Agricultural Activities permitted	NP
Chinatown Mixed Use Districts (CCB, CVB, CRNC)	No Urban Agricultural Activities permitted	NP
South of Market Mixed Use Districts (RED, SPD, RSD, SLR, SLI, SSO)	Open Space for horticulture purposes, no retail or wholesale sales (PC §81X.68)	P
	Greenhouse, Plant Nursery (PC §81X.71)	NP (except P in SLI, SSO)
Downtown Residential Mixed Use Districts (RH-DTR, SB-DTR)	All urban agricultural activities principally permitted	
Eastern Neighborhoods Mixed Used Districts (MUG, MUR, MUO, UMU)	Non-Retail Greenhouse or Plant Nursery (PC §84X.87)	P
	Open Space for horticulture purposes (PC §84X.97)	P

As an accessory use, urban agricultural activities are regulated as follows:

Zoning District	Control
R Districts (e.g. RH, RM, RTO, RC)	Urban agricultural activity can be considered accessory to dwelling units and other uses within the R Districts if they adhere to limitations under Planning Code Section 204.1 and 204.2 including those on alterations to dwellings not residential in character, the addition of show windows or window displays, the conduct of a business office open to the public, and to uses occupying more than a particular fraction of a buildings floor area.
Commercial, Industrial, PDR Districts (e.g. C, M, PDR)	Planning Code Sections 204.3(a), (b) and (d) generally limit accessory uses to those uses employing machines of particular horsepower, employing particular numbers of persons or occupying more than a particular fraction of a buildings floor area.

Public Use Districts (<i>P</i>)	Accessory use controls for urban agricultural activity are the same as if the use were the principal use on the site (<i>PC §234.1</i>).
Neighborhood Commercial Districts (<i>NC, NCT, Individual Named NC</i>)	Urban agricultural activities can be considered accessory uses if they adhere to the limitations under Planning Code Sections 204.1, and 204.4.
Chinatown Mixed Use Districts (<i>CCB, CVB, CRNC</i>)	Urban agricultural activities can be considered accessory uses as if they adhere to the limitations under Planning Code Section 803.2(b)(1)(C) which primarily focus on activities occurring within buildings.
South of Market Mixed Use Districts (<i>RED, SPD, RSD, SLR, SLL, SSO</i>)	Urban agricultural activities can be considered accessory uses as if they adhere to the limitations under Planning Code Section 803.3(b)(1)(C) which primarily focus on activities occurring within buildings.
Downtown Residential Mixed Use Districts (<i>RH-DTR, SB-DTR</i>)	Urban agricultural activities can be considered accessory uses as if they adhere to the limitations under Planning Code Section 825(c)(1)(C) which primarily focus on activities occurring within buildings.
Eastern Neighborhoods Mixed Used Districts (<i>MUG, MUR, MUO, UMU</i>)	Urban agricultural activities can be considered accessory uses as if they adhere to the limitations under Planning Code Section 803.3(b)(1)(C) which primarily focus on activities occurring within buildings.

The Way It Would Be:

The proposed Ordinance will consolidate urban agricultural activities into a new use category, Urban Agriculture, with two sub use categories, Neighborhood Agriculture and Urban Industrial Agriculture. Neighborhood Agriculture is defined as an urban agricultural activity that is less than one acre in size, includes backyard gardens, community gardens, community supported agriculture, market gardens and private farms, allows limited sales and donation on the site of production. Importantly, to be classified as Neighborhood Agriculture the use must adhere to a set of physical and operational standards including the limitation on the use of mechanized farm equipment and on the hours of sale of produce. Urban Industrial Agriculture is defined as a use of land for the production of horticultural crops that occurs on a site greater than 1 acre or on lots smaller than 1 acre but that do not meet the physical and operational standards for the Neighborhood Agriculture use.

The proposed Ordinance will principally permit the Neighborhood Agriculture use in all zoning districts and require Conditional Use authorization for Urban Industrial Agriculture in Residential Districts, Neighborhood Commercial Districts, Chinatown Mixed Use Districts, South of Market Mixed Use Districts, Downtown Residential Mixed Use Districts and the Eastern Neighborhoods Mixed Use Districts. The proposed Ordinance will also exclude Urban Agricultural uses from the restrictions for accessory uses within the R and NC districts. The chart below summarizes the proposed controls by zoning district:

Zoning District	Use Category	Control
R Districts (e.g. RH, RM, RTO, RC)	Neighborhood Agriculture	P
	Urban Industrial Agriculture	C
Commercial, Industrial, PDR Districts (e.g. C, M, PDR)	Neighborhood Agriculture	P
	Urban Industrial Agriculture	P
Public Use Districts (P)	Neighborhood Agriculture	P (accessory nonpublic uses P if within ¼ mile of an NC-1 or Individual Area NC such use is P)
	Urban Industrial Agriculture	C
Neighborhood Commercial Districts (NC, NCT, Individual Named NC)	Neighborhood Agriculture	P
	Urban Industrial Agriculture	C
Chinatown Mixed Use Districts (CCB, CVB, CRNC)	Neighborhood Agriculture	P
	Urban Industrial Agriculture	C
South of Market Mixed Use Districts (RED, SPD, RSD, SLR, SLI, SSO)	Neighborhood Agriculture	P
	Urban Industrial Agriculture	C
Downtown Residential Mixed Use Districts (RH-DTR, SB-DTR)	Neighborhood Agriculture	P
	Urban Industrial Agriculture	C
Eastern Neighborhoods Mixed Used Districts (MUG, MUR, MUO, UMU)	Neighborhood Agriculture	P
	Urban Industrial Agriculture)	C

REQUIRED COMMISSION ACTION

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

RECOMMENDATION

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

Department recommends the following modifications:

1. Further clarify that sales of produce grown on site may occur at a dwelling by altering the following language under proposed Section 102.34(a) Neighborhood Agriculture:

Limited sales and donation of fresh food and/or horticultural products grown on-site may occur on otherwise vacant property, but may not occur within a dwelling unit.

To the following:

Limited sales and donation of fresh food and/or horticultural products grown on site may occur on site, whether vacant or improved, but not within a dwelling unit.

2. Modify the compost setback requirement found under proposed Section 102.34(a)(1) from three feet from property lines to three feet from structures.

BASIS FOR RECOMMENDATION

Urban Agriculture and local food production is seeing a dramatic upsurge in interest and is a key component of the City's sustainability program. Current Planning Code controls regarding food production and sustainability reflect attitudes and concerns of the early to mid 20th century, prioritizing a distinct separation of uses over a neighborhood with a variety of intermingled uses where residents can meet their daily needs within walking distance.

The current Planning Code definitions are vague or nonexistent. The proposed Ordinance will clarify the permitted intensity of agricultural/horticultural activity by consolidating the current array of such use categories, creating a new agricultural use category with two sub uses of differing intensity, applying these use categories across all zoning districts, and creating consistency throughout the Planning Code.

The proposed Ordinance would recognize and support various scales and intensities of local food production where appropriate. By establishing operational and physical standards for the *Neighborhood Agriculture* use the proposed Ordinance ensures that inhabited neighborhoods would be supported with, but not overwhelmed by, urban agricultural uses. The more intense or larger *Industrial Agricultural* use is principally permitted only in industrial districts and requires Conditional Use authorization, with its findings of necessity, desirability and compatibility, in all other districts. Taken together the proposed Ordinance strikes the appropriate balance of use intensity and neighborhood context, while allowing the Planning Commission discretion in reviewing future projects where practical. Further, the proposed Ordinance will facilitate the growth of smaller scale urban agriculture activities in San Francisco by principally permitting the lower intensity *Neighborhood Agriculture* use in all zoning districts. In this respect, the proposed Ordinance meets Executive Directive 09-03 by fostering the growth of local food production in San Francisco.

The suggested modifications seek to (1) clarify where limited sales and donations may occur, thus avoiding future confusion during implementation and (2) to capture the concerns of balancing good neighbor practices with providing a regulatory environment that fosters small business growth in the urban agricultural sector.

The Planning Department received multiple requests for additional modifications to the proposed Ordinance. Regarding the request to allow the sale of value added goods and to allow produce grown at multiple sites to be pooled and sold at one residential site, the Department is concerned that such modification would escalate commercial activity in residential districts to a level creating excessive disturbance and incompatibility with residential districts. The Department believes modifications to exempt urban agricultural uses from permit/change of use fees and of the fencing requirement set undesirable precedents. All applications subject to Planning Department review must pay fees in accordance to Article 3.5 of the Planning Code; the sole exemption is for a requestor of Discretionary Review whose income is insufficient to pay the Discretionary Review fee without affecting their ability to pay for the necessities of life and who can demonstrate this to the Planning Director. The proposed Ordinance does not require fencing of urban agriculture uses. Should fencing be installed, the Planning Department believes the fencing should meet the minimum Planning Code requirements set for all uses.

ENVIRONMENTAL REVIEW

The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

OTHER ISSUES

HARMONY WITH OTHER PENDING ORDINANCES

Please note that this Ordinance proposes to amend the zoning control tables in Article 7 and Article 8. As the potential adoption of this Ordinance is unknown relative to the adoption of other pending Ordinances, the Department wishes to highlight other pending Ordinances. The Department identified that at least four pending and recently adopted ordinances, which amend some of the same sections of the Planning Code and may not be reflected in this draft Ordinance. The Department intends that, if adopted, the Board action in all adopted ordinances be given effect so that the substance of each adopted ordinance is represented. To this end, the Department requests that the City Attorney's office and the publisher harmonize the provisions of each ordinance at the time of adoption.

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101309 and 110070/pending	Upper Fillmore NCD Restaurant Changes
100434/ 229-10	Castro NCD Restaurant Changes
Not Yet Assigned/pending	Planning Code Clean-Up 2010/Article 10 & 11 Update

CONTROLLED SUBSTANCES

The proposed Ordinance does not augment, alter or eliminate any existing regulations on controlled substances. Growing controlled substances for commercial use would continue to be reviewed under Planning Code controls for "greenhouse" uses and would continue to be 1) regulated via a Conditional Use authorization under Section 209.5(c) in residential districts; 2) either permitted or not permitted in commercial districts under Section 227(a); 3) not permitted in Neighborhood Commercial Districts or the Chinatown Mixed Use Districts; 4) permitted in the Downtown Residential Mixed Use Districts (RH-

DTR, SB-DTR) and 5) generally would be permitted in mixed use districts (SLI, SSO, MUG, MUR, MOU, UMU) except where this use is not permitted (RED, SPD, RSD, and SLR).

PUBLIC COMMENT

The Planning Department received over 30 letters, emails and telephone calls regarding the proposed Ordinance. Comments, questions and concerns were made regarding the following issues:

- The desire to sell produce harvested on a private residential dwelling without the necessity of securing permits
- The desire to sell agricultural goods pooled from various sites, residential or otherwise, on a residentially zoned site without the necessity of securing permits
- The desire to sell processed foods / value added goods, irrespective of the origin of the inputs to the processed foods / value added goods, at residential dwellings
- The need to further define and establish limits to the use and size of farm equipment within all zoning districts
- The relation of greenhouses and other gardening structures with the proposed Ordinance
- A desire to eliminate the costs of permit / change of use fees for urban agricultural uses in all zoning districts
- Requests to eliminate or liberalize the setback requirements for compost piles
- Requests to eliminate the fencing requirements for urban agricultural uses
- A concern that the proposed Ordinance would allow uses in residential districts that would adversely affect traffic and on-street parking.

In addition to the input described above, Staff from San Francisco Public Utilities Commission (SFPUC) expressed concern over potential increased water use that may occur during implementation of this proposed Ordinance. They advise that the Planning Commission, in certifying the Programmatic Environmental Impact Report for the SFPUC's \$4.5 billion Water System Improvement Program on October 30, 2008, limited the amount of water that may be drawn from SFPUC watersheds through 2018. The report was developed through extensive stakeholder feedback and required that increases in water use through 2018 be met through alternative means such as water conservation, recycled water, graywater, harvested rainwater, and groundwater. Edible plants are typically high water use plants and the expansion of urban agriculture will require that more alternative water sources be developed to meet the increased water system demand. Given local and state law limits on urban water use, the SFPUC recommends adding requirements for water efficient irrigation practices to reduce the water system and ratepayer impacts of increased water use resulting from the expansion of urban agriculture.

RECOMMENDATION: Approval with Modifications

Attachments:

Draft Planning Commission Resolution
Board of Supervisors File No. 10-1537
Public Letters of Support / Opposition

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