



# SAN FRANCISCO PLANNING DEPARTMENT

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March 9, 2011

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

**Re: Transmittal of Planning Case Number 2011.0046T**  
**BF No. 11-0010: Active, Commercial Use Required on Certain Portions of**  
**Fillmore Street**

**Recommendation: Approval with Modifications**

Dear Supervisor Mirkarimi and Ms. Calvillo,

On March 3, 2011, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearings at a regularly scheduled meeting to consider the proposed Ordinance under Board of Supervisors File Number 11-0010.

At the March 3<sup>rd</sup> Hearing, the Commission voted 7-0 to recommend approval with modifications of the proposed Ordinance which would require active ground floor commercial uses as specified by Planning Code Section 145.4 on Fillmore Street between Bush and McAllister Streets. At that hearing, the Commission requested that the proposal be amended to include the additional uses of § 790.93 Self-service Specialty Food and §790.70 Outdoor Activity Area as uses permitted by §145.4.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission. The attached resolution and exhibit provides more detail about the Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "AM-Rodgers", written over a horizontal line.

AnMarie Rodgers  
Manager of Legislative Affairs

Cc: City Attorneys Cheryl Adams and Judith Boyajian

Attachments (one copy of the following):

Planning Commission Resolution No. 18288  
Department Executive Summary

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

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**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Resolution No. 18288

HEARING DATE: MARCH 3, 2011

*Project Name:* Active, Commercial Use Required on  
Certain Portions of Fillmore Street  
*Case Number:* 2011.0046T [Board File No. 11-0010]  
*Initiated by:* Supervisor Mirkarimi  
*Introduced:* January 4, 2011  
*Staff Contact:* AnMarie Rodgers, Manager of Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395

*Recommendation:* Recommend Approval with Modification

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE WITH MODIFICATIONS THAT WILL AMEND THE PLANNING CODE ADD "FILLMORE STREET, IN THE NC-3 DISTRICT FROM BUSH STREET TO MCALLISTER STREET" TO PLANNING CODE SECTION 145.4, REQUIRED GROUND FLOOR COMMERCIAL USES.

### PREAMBLE

Whereas, on January 4, 2011, Supervisor Mirkarimi introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 11-0010 which would require active ground floor commercial uses on Fillmore Street between Bush and McAllister Streets; and

Whereas, on March 3, 2011, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

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

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

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

Whereas, the Commission has reviewed the proposed Ordinance; and

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**MOVED**, that the Commission hereby recommends that the Board of Supervisors recommends *approval of the proposed Ordinance with modifications* and adopts the Resolution to that effect.

- The requested modification is to amend to the proposal to include the additional uses of § 790.93 Self-service Specialty Food and §790.70 Outdoor Activity Area as uses permitted by 145.4.

## 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 seeks to limit uses on this segment of Fillmore Street to “active uses” as defined by Planning Code Section 145.5;
2. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

### I. COMMERCE & 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.

### II. URBAN DESIGN ELEMENT

#### POLICY 4.13

Improve pedestrian areas by providing human scale and interest.

3. The proposed replacement project is consistent with the eight General Plan priority policies set forth in Section 101.1 in that:
  - A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:  
*The proposed Ordinance will encourage neighborhood-serving retail uses by requiring active uses.*

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

*The proposed legislation will not burden existing neighborhood character and housing.*

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

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

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

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

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

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

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

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

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

*Landmarks and historic buildings would be unaffected by the proposed amendments as the Ordinance regulates use type and does not affect the building itself.*

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

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

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on March 3, 2011.

A handwritten signature in blue ink, appearing to read 'AM-Rodgers', with a horizontal line extending to the right.

AnMarie Rodgers  
for  
Linda Avery  
Commission Secretary

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

NAYS: none

ABSENT: none

ADOPTED: March 3, 2011



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text Change

HEARING DATE: MARCH 3, 2011

*Project Name:* Active, Commercial Use Required on  
Certain Portions of Fillmore Street  
*Case Number:* 2011.0046T [Board File No. 11-0010]  
*Initiated by:* Supervisor Mirkarimi  
*Introduced:* January 4, 2011  
*Staff Contact:* AnMarie Rodgers, Manager of Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395

*Recommendation:* **Recommend Approval with Modification**

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### PLANNING CODE AMENDMENT

The proposed Ordinance introduced by Supervisor Mirkarimi is a targeted piece of legislation [Board File No. 11-0010], which would require active ground floor commercial uses on Fillmore Street between Bush and McAllister Streets.

Specifically, this legislation would add "Fillmore Street, in the NC-3 District from Bush Street to McAllister Street" to Planning Code Section 145.4, Required Ground Floor Commercial Uses.

#### The Way It Is Now:

The stretch of Fillmore Street between Bush Street and McAllister Street is largely zoned NC-3<sup>1</sup>. Under legislation [BF 101053] recently approved by this Commission and currently pending at the Board, all districts with a "neighborhood commercial" zoning designation would be required to comply with Section 145.1 which requires "active" facades by regulating parking setbacks, parking and loading entrances, active uses, ground floor ceiling height, street-facing, ground level spaces, transparency and fenestration, and grates and grillwork. The NC-3 Zoning control table establishes permitted, non-permitted, and conditionally-permitted uses. This area of Fillmore Street is not currently required to provide "active uses" as defined by Section 145.4

#### The Way It Will Be:

The Proposed Ordinance would amend Planning Code Section 145.4 to include the specified section of Fillmore Street. Section 145.4 requires "active uses" including those uses listed in Table 145.4 (See Attachment A). This list excludes and therefore prohibits certain uses, including but not limited to uses oriented towards motor vehicle use, public utility installations, movie theaters, massage uses, residential uses, residential care uses, and certain services including

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<sup>1</sup> Block 0733 is the only block on Fillmore Street between Bush and McAllister that is not zoned NC-3. As this block is zoned RM-4, the proposed Ordinance would not apply to this block.

business, professional, administration, hospital, and medical services. Individual ground floor uses would be limited to no more than 75 contiguous linear feet for a depth of at least 25 feet into the building. Larger uses shall be wrapped with separate individual storefronts for a depth of at least 25 feet.



*Zoning Map of Area Proposed for New Controls.*

## 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 modification* as described below to the proposed Ordinance and adopt the attached Draft Resolution to that effect.

- The requested modification is to amend to the proposal to include the additional uses of § 790.93 Self-service Specialty Food and § 790.70 Outdoor Activity Area as uses permitted by 145.4.

## BASIS FOR RECOMMENDATION

This legislation would limit the uses permitted at this location in the same manner as the City currently regulates portions of the following streets: Folsom Street, Van Ness Avenue, South Van Ness Avenue, Market Street, Third Street, Fourth Street, Hayes Street, Octavia Boulevard, Church

Street, Twenty Second Street, Twenty Fourth Street, Sixteenth Street, Twenty-Second Street, Sixth Street, Ocean Avenue, Valencia Street, Mission Street, Ocean Avenue, and Geneva Avenue.

The Department recommends amending the table contained in Section 145.4 to permit the following additional uses: § 790.93 Self-service Specialty Food and §790.70 Outdoor Activity Area. Self-service Specialty Food is a relatively new restaurant type that should now be included with the other restaurant uses as an “active use”. Similarly, “outdoor activity areas” are by definition active uses that should be encouraged where §145.4 would apply.

## **ENVIRONMENTAL REVIEW**

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

## **PUBLIC COMMENT**

As of the date of this report, the Planning Department has received no correspondence from the public in support of or opposition to the proposal.

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

Exhibit A: Planning Code Table 145.4  
Exhibit B: Draft Planning Commission Resolution  
Exhibit C: Board of Supervisors File No. 11-0010



**Exhibit A: Planning Code Table 145.4**

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Reference for Neighborhood Commercial Districts	Reference for Mixed Use Districts	Use
790.4	890.4	Amusement Game Arcade
790.6	890.6	Animal Hospital
790.12	890.13	Automobile Sale or Rental (see qualification, above)
790.22	890.22	Bar
N/A	890.23	Business Goods and Equipment Sales and Repair Service
790.34	890.34	Eating and Drinking Use
790.38	890.37	Entertainment, Other
N/A	890.39	Gift Store-Tourist Oriented
790.50, 790.51	890.50	Institutions, Other (see qualification, above)
N/A	890.51	Jewelry Store
790.68	890.68	Neighborhood-Serving Business
N/A	890.69	Non-Auto Vehicle Sales or Rental (see qualification, above)
790.80	890.80	Public Use (see qualification, above)
790.91	890.90	Restaurant, Fast-Food (Small)
790.90	890.91	Restaurant, Fast-Food (Large)
790.92	890.92	Restaurant, Full-Service
790.102	890.102	Sales and Service, Other Retail
790.104	890.104	Sales and Services, Retail
790.110	890.110	Service, Financial
790.112	890.112	Service, Limited Financial
790.114	890.114	Service, Medical
790.116	890.116	Service, Personal
790.122	890.122	Take-Out Food
790.124	890.124	Trade Shop

790.140	890.140	Walk-Up Facility
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