



SAN FRANCISCO PLANNING DEPARTMENT

Certificate of Determination EXCLUSION/EXEMPTION FROM ENVIRONMENTAL REVIEW

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

Case No.: 2012.1087E
 Project Title: **Board File No. 120814** (Establishing the Fillmore Street Neighborhood Commercial District)
 Zoning: NC-1 (Neighborhood Commercial Cluster), NC-3 (Neighborhood Commercial, Moderate-Scale), RM-3 (Residential, Mixed Districts, Medium Density), RM-4 (Residential, Mixed Districts, High Density), and RH-3 (Residential, House Districts, Three-Family)
 Height-Bulk: 40-X, 50-X, 65-A, 130-B, 160-F
 Block/Lot/ Lot Size: Various
 Project Sponsor: Supervisor Olague, District 5, San Francisco Board of Supervisors
 Staff Contact: Heidi Kline – (415) 575-9043
 Heidi.Kline@sfgov.org

Reception:
415.558.6378

Fax:
415.558.6409

Planning Information:
415.558.6377

PROJECT DESCRIPTION:

The proposed project is an ordinance that would amend San Francisco Planning Code by adding Section 744.1, establishing the Fillmore Street Neighborhood Commercial District (Fillmore Street NCD) on parcels along Fillmore Street between Bush and Fulton streets. The ordinance would also amend Sections 151.1, 263.20, and 607.1(f), to make conforming and other technical changes. Zoning Map Sheets ZN02 and ZN07 would be changed to reflect the rezoning of parcels to the Fillmore Street NCD.

[Continued on following page.]

EXEMPT STATUS:

General Rule Exclusion (State CEQA Guidelines, Section 15061(b)(3))

REMARKS:

Please see next page.

DETERMINATION:

I do hereby certify that the above determination has been made pursuant to State and Local requirements.

Bill Wycko
Environmental Review Officer

Date

cc: Aaron Starr, San Francisco Planning Dept.
Supervisor Olague

Virna Byrd, M.D.F

PROJECT DESCRIPTION (CONTINUED):

Section 744.1, the Fillmore Street NCD, would allow generally the same permitted uses and development standards as the NC-2 which is the current zoning designation for parcels within the proposed new special use district. The primary change would be to include the provision allowing an additional 5-foot height increase under certain circumstances as specified in Planning Code 263.20. Section 263.20 provides a 5-foot height exception for active ground floor uses in Neighborhood Commercial Transit (NCT) Districts, the Upper Market Street, Inner Clement, and Outer Clement NCDs, and certain NC-1, NC-2 and NC-3 parcels. In addition, the 5-foot height exception has been proposed for Divisadero, Glen Park and Fisherman's Wharf areas. The 5-foot special height exception is applicable to properties that contain ground-floor commercial, other active, or residential uses, where the ground-floor commercial space or active use occupies at least 50 percent of the project's ground floor area, and where the project sponsor has conclusively demonstrated that the additional 5-foot increment would not add new shadow to any public open space. Furthermore, Planning Code Section 263.20 specifies that 1 additional foot of height, up to a total of 5 feet, is permitted above the designated height limit for each additional foot of ground floor clear ceiling height in excess of 10 feet from sidewalk grade, or in the case of residential units, for each foot the unit is raised above sidewalk grade.

The 5-foot exception provided by Planning Code Section 263.20 is not sufficient to add another story but provides an incentive for developers to create lively ground-floor commercial spaces along NCD corridors. Older buildings along commercial streets in the 30-X, 40-X, and 50-X height districts are generally three or four stories with each story having a minimum of 12-foot clear ceiling heights, with spaces that are directly accessed from the street. The older residential buildings in these districts often have ground-floor units that are elevated several feet above the sidewalk level and include stoops to provide direct access to individual units. Newer buildings along commercial streets in the 30-X, 40-X and 50-X height districts, however, tend to have three, four or five 10-foot stories, and the residential buildings often contain a single ground-floor entrance lobby providing access to multiple dwelling units. These buildings generally lack visual interest and human scale and don't contribute to public life on the street. The intention of the 5-foot height exception is to encourage developers to incorporate the design elements of the older types of buildings into new commercial and residential development projects to offer more attractive uses that will better activate the public realm.

Figure 1 identifies the parcels proposed for the 5-foot height increase as part of the new Fillmore Street NCD under proposed Board of Supervisors Ordinance No.120814.

REMARKS:

California Environmental Quality Act (CEQA) State Guidelines Section 15061(b)(3) establishes the general rule that CEQA applies only to projects that have the potential to cause a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Land Use. The proposed project would rezone parcels on Fillmore Street between Bush and Fulton streets currently zoned NC-3, and several zoned NC-1, RM-3, RM-4, and RH-3, to Fillmore Street NCD. Parcels within the new NCD that are also in the 40-X and 50-X height and bulk district could be

developed with projects up to 5 feet taller than other non-NCD properties in that height and bulk designation, as long as taller ground-floor retail space is included in the building design. All of the parcels are within the 40-X and 50-X height and bulk district, except for those between Turk and Post streets. The parcels on this three-block length of Fillmore Street are within the 65-A, 130-B, and 160-F height and bulk districts. The Planning Department staff considers the 65-A, 130-B, and 160-F height and bulk districts to be a sufficient height to accommodate a taller ground-floor retail use. Therefore, an additional 5 feet of height is not needed to achieve the ground-floor retail goal.

The existing land use in the area covered by this legislation is generally ground-floor commercial uses with residential use on the upper floors, as well as multi-unit residential buildings. Most parcels are developed with a range of one- to eighteen-story buildings, though the majority of buildings are two- to four-story in height. All parcels affected by this legislation that would be eligible for the additional 5-foot height are within an area where the existing buildings generally range from one- to four-story in height and with a commercial use on the ground floor with residential use on the upper floors.

Housing development is encouraged in new buildings above the ground floor in all NCDs. Future commercial growth is directed to the ground floor in order to promote more continuous and active retail frontage. The residential density would generally remain the same as the NC-3 district currently permits the same 1 unit per 600 square feet as the proposed Fillmore Street NCD would. The residentially-zoned parcels would retain their current density in instances where it permits a higher density than 1 per 600 square feet. Therefore, there would not be any decrease in potential housing as a result of this rezoning.

A project could have a significant effect on land use if it would physically divide an established community; conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect; or have a substantial adverse impact on the existing character of the vicinity.

The proposed project would allow for slightly taller buildings to be constructed on a limited two-block portion of the proposed Fillmore Street NCD. However, this height would be consistent with other existing buildings in this area. The permitted land uses in this NCD would be similar to the existing NC-3 designation for the properties. Therefore, this rezoning would not be considered to cause a substantial adverse impact on the existing character of the NCD. Furthermore, the proposed project would not physically disrupt or divide an established community, or conflict with any land use plan, policy, or regulation that has been adopted for the purpose of avoiding or mitigating an environmental effect. For these reasons, the proposed project would not result in a significant effect on land use.

Visual Quality and Urban Design. The proposed project would increase maximum permitted building heights along a six-block portion of the Fillmore Street NCD. These parcels are located on Fillmore Street between Bush and Post streets and between Turk and Fulton streets. The proposed height exception would be minor, up to 5 feet, and would occur within a highly developed urban environment. The 5-foot height exception is not so great as to allow another story to be added to an existing building. The parcels that are subject to the proposed height increase are mostly adjacent to residential districts, zoned RM-3 (Low-Density Mixed Residential) and RM-4 (Residential House, One-Family), and all which are designated 40-X and 50-X. The development of individual NCD parcels to a height 5 feet above existing height allowances could be noticeable to immediate neighbors; however, in the dense urban character of development within and surrounding the NCDs, this minor increase in height would have correspondingly minor visual impacts.

In reviewing visual quality and urban design under CEQA generally, consideration of the existing context is required, and evaluation must be based on the impact on the existing environment. That some people may not find a given development project attractive does not mean that it creates a significant aesthetic environmental impact; projects must be judged in the context of the existing conditions. For the proposed height exception, the context is urban right-of-way that is already developed. Given the context and the minor allowable increase of up to 5 feet and the incremental nature of such development along an NCD, the proposed height exception would be consistent with the existing, developed environment, and its visual effects would not be unusual and would not create adverse aesthetic impacts on the environment. Furthermore, it would not be likely to result in a substantial, demonstrable negative aesthetic effect, or obstruct or degrade scenic views or vistas now observed from public areas. Thus, the proposed project would result in less-than-significant impacts on visual quality and urban design.

In addition, the increased height allowed by the proposed legislation would not directly or indirectly contribute to the generation of any obtrusive light or glare. For all the above reasons, proposed legislation would not result in a significant adverse effect on public views or aesthetics.

Historic Resources. The proposed special height exception could result in increased building heights within a potential historical district or affect known historical resources. The allowable increase in height, however, would be minor (up to 5 feet) and in and of itself would not result in a material impairment to a historic district or historic building. Projects taking advantage of the height exception could involve the reuse and remodeling of existing historical buildings, but such a minor height increase could be accomplished maintaining the general scale, design, and materials of the historical resources, thereby maintaining their historic context. Any development proposal taking advantage of the height exception would be subject to further review for a determination of whether the project would result in potential impacts to the environment, including historic resources. The proposed legislation therefore would not result in a significant effect on historical resources.

Noise and Air Quality. The proposed special height exception of up to 5 feet would potentially result in an incremental increase in construction activities or greater intensity of use at future development project sites, in that such development projects that would occur regardless of the proposed legislation could be up to 5 feet taller. Thus, the resulting increase in operational or construction noise would be minimal, and noise and air quality impacts would be less than significant.

Shadow. Planning Code Section 263.20(b)(6) specifies that in order for a project to be eligible to take advantage of the additional 5 feet in total height it must be shown that the additional 5-foot increment would not add any new shadow to a public open space. For this reason, the proposed legislation would not result in a significant impact with regard to shadow.

Light and Air. The 5-foot special height exception could result in slightly taller development projects that could potentially change or reduce that amount of light and air available to adjacent buildings. Any such changes could be undesirable for those individuals affected. Given the minor increase in height that would be permitted, it is anticipated that any changes in light and air would also be minor and would not affect a substantial number of people. Thus, the potential impact of the proposed legislation on light and air would not be significant.

Wind. The proposed legislation would allow a minor 5-foot increase in height for future development projects. The parcels affected by this legislation which would be eligible for an additional five-foot

height increase are within the 40-foot and 50-foot height district; thus, the maximum resulting building height would be 45 feet or 55 feet, respectively. In general, buildings up to 55 feet in height do not result in wind speeds that would exceed the hazard criterion of 26 miles per hour for a single hour of the year as established in the Planning Code Section 148. For this reason, the proposed legislation would not result in a significant impact with regard to wind.

Cumulative Impacts. The proposed 5-foot height exception could potentially result in a minimal increase in construction activities and greater intensity of use at individual future development project sites, in that such development projects that would occur regardless of the proposed legislation could be up to 5 feet taller. This increase in activities and intensity of use would not be considered significant. Thus, cumulative impacts would be less than significant.

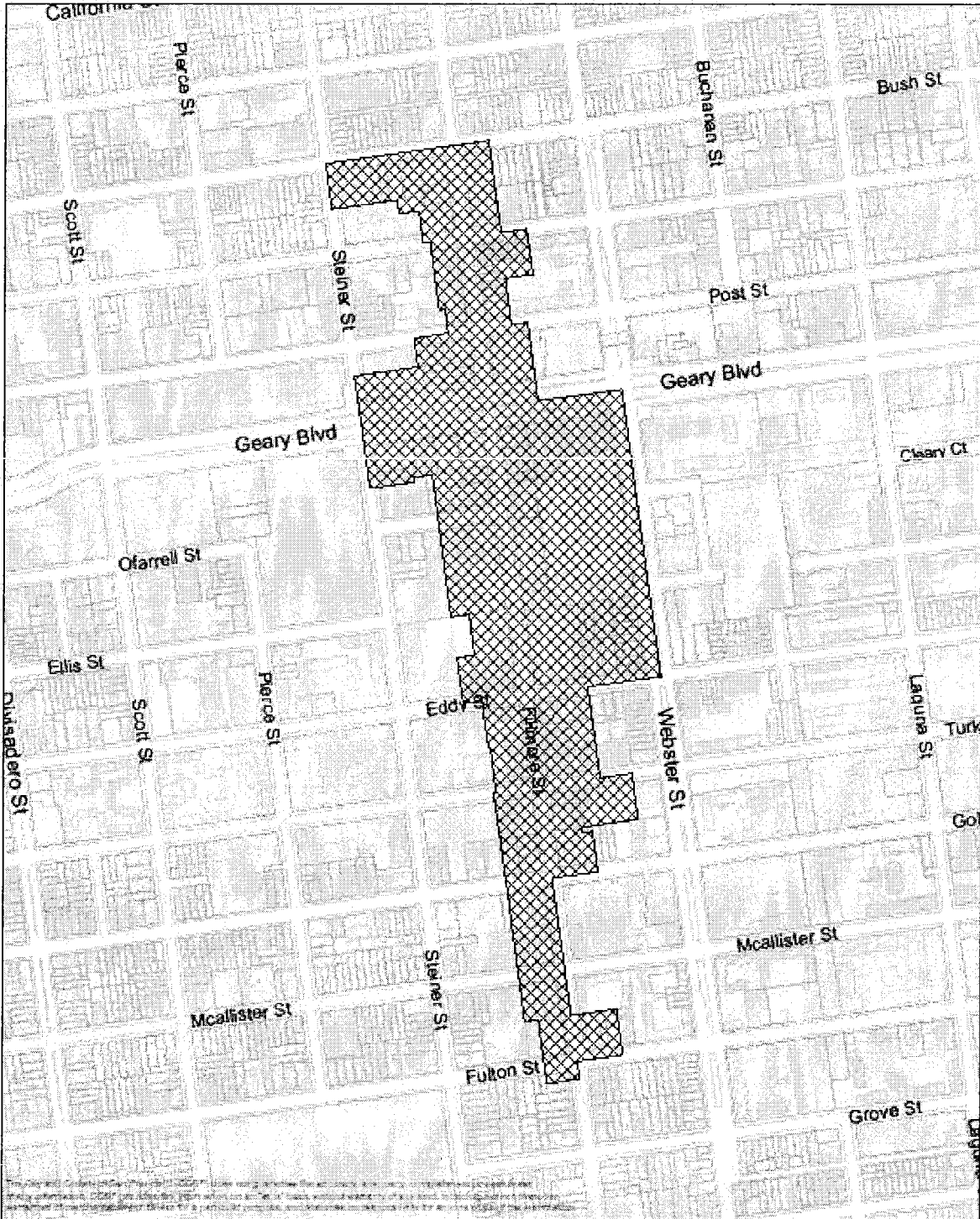
Neighborhood Concerns. A “Notification of Project Receiving Environmental Review” was mailed on October 3, 2012, to potentially interested neighborhood groups. No comments were received.

Conclusion. CEQA Guidelines Section 15061(b)(3) provides an exemption from environmental review where it can be seen with certainty that the proposed project would not have a significant impact on the environment. As noted above, there are no unusual circumstances surrounding the current proposal that would suggest a reasonable possibility of a significant effect. Since the proposed project would have no significant environmental effects, it is appropriately exempt from environmental review under the General Rule Exclusion (CEQA Guidelines Section 15061(b)(3)).

Attachment: Figure 1 - Map showing Parcels within the proposed Fillmore Street NCD

Figure 1 Map showing the Proposed Fillmore Street NCD

Fillmore NCD



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