

File No. 131085

Committee Item No. 3

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date January 13, 2014

Board of Supervisors Meeting Date _____

Cmte Board

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Completed by: Andrea Ausberry Date January 9, 2014

Completed by: _____ Date _____

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

1
2 **Ordinance amending Planning Code, Section 249.35A, to extend the effective date for**
3 **the Fulton Street Grocery Store Special Use District; provide controls for business**
4 **signs; and making environmental findings, and findings of consistency with the**
5 **General Plan, and the eight priority policies of Planning Code, Section 101.1.**

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

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

14 Section 1. Findings.

15 (a) The Planning Department has determined that the actions contemplated in this
16 ordinance comply with the California Environmental Quality Act (California Public Resources
17 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
18 Supervisors in File No. 131085 and is incorporated herein by reference.

19 (b) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
20 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth
21 in Planning Commission Resolution No. 18990 and the Board incorporates such reasons
22 herein by reference. A copy of Planning Commission Resolution No. 18990 is on file with the
23 Board of Supervisors in File No. 131085.

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

1 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
2 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
3 the Board of Supervisors in File No. 131085, and is incorporated herein by reference.

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

6 SEC. 249.35A. FULTON STREET GROCERY STORE SPECIAL USE DISTRICT

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

14 (b) **Definitions.** ~~(4)~~ "Grocery Store" shall mean a retail use ~~which~~ that provides fresh
15 produce and other unprepared perishable food products (such as dairy, fish, grains), in
16 addition to other general groceries, personal items, household goods and similar goods.

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

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

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

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

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

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

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

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

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

22 (B) Wall Signs. The area of all wall signs shall not exceed 40 square feet
23 on the Fulton Street frontage occupied by the use, and 40 square feet on the Laguna Street
24 frontage occupied by the use. The height of any wall sign shall not exceed 24 feet, or the
25 height of the wall to which it is attached, or the height of the lowest of any residential

1 windowsill on the wall to which the sign is attached, whichever is lower. Such signs may be
2 non-illuminated or indirectly illuminated.

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

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

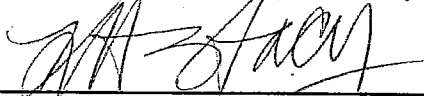
15 (E) Freestanding Signs and Sign Towers. Freestanding signs or sign
16 towers per lot shall not be permitted.

17 (e) Effectiveness of Controls in this Ordinance. The controls of this Section 249.35A shall
18 apply only are effective only if to a grocery store subject that the Planning Commission approves
19 pursuant to the requirements of this sSection 249.35A between May 4, 2008 and January 1, 2019. is
20 approved by the Planning Commission within five years of the effective date of this ordinancee

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

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

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

10 By: 
11 KATE HERRMANN STACY
12 Deputy City Attorney

13 *N:\landuse\kstacy\BOS\555 Fulton ordinance effective date extension.doc*



SAN FRANCISCO PLANNING DEPARTMENT

October 25, 2013

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 Department Case Number 2013.0063T:**
555 Fulton Street
T Case: Planning Code Amendment – Extension and Amendment of
“Fulton Street Grocery Store Special Use District”
Planning Commission Recommendation: Approval with Modifications

Dear Ms. Calvillo and Supervisor Breed:

On October 3, 2013, the Planning Commission conducted a duly noticed public hearing to consider proposed amendments to the Planning Code, in association with a proposed development located at 555 Fulton Street to demolish an existing office/industrial building and construct a new five-story, mixed-use building containing approximately 139 dwelling units, 30,400 square feet of ground floor commercial uses (a grocery store), and 148 off-street parking spaces.

The proposed Ordinance would do the following:

1. **Extension of Special Use District:** Proposal would extend the term of the Fulton Street Grocery Store Special Use District (“SUD”), Planning Code Section 249.35A, for an additional five years. The SUD was adopted in 2008 to specifically enable the development of a mixed-use project containing a grocery store located at 555 Fulton Street. The SUD expired after a five-year sunset period on April 3, 2013.
2. **Formula Retail Uses:** Proposal would amend the SUD to allow a formula retail grocery store use with Conditional Use Authorization. Formula retail uses are currently prohibited within the SUD. This amendment could expand the selection of grocery store tenants that could seek to operate at this location, in an area that is currently underserved by such a use
3. **Use Size Limitation:** Proposal would amend the SUD to allow commercial uses other than the grocery store that are larger than 3,000 occupied square feet with Conditional Use Authorization. Commercial uses exceeding 3,000 square feet, aside from the grocery store, are currently prohibited within the SUD. This amendment could broaden the types of additional commercial uses which may be

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

Reception:
415.558.6378

Fax:
415.558.6409

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415.558.6377

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allowed for the site in order to serve the convenience needs of the surrounding area.

4. Sign Restrictions. Proposal would amend the SUD to incorporate additional signage controls for the grocery store use which are more restrictive than the existing controls which would apply to the project site. These restrictions are intended to restrain the grocery store signage to respect the surrounding residential context of the immediate area.

At the October 3, 2013 Planning Commission hearing, the Commission voted to recommend approval of the proposed Ordinance. The Commission also recommends that Department staff and the District Supervisor develop specific criteria for the SUD that address the need for a selection of affordable goods when considering a Conditional Use Authorization for a formula retail grocery store use at the site. Planning Department staff is currently preparing recommended language on this issue for consideration by the Board. In addition, the Commission requests an informational hearing regarding the grocery affordability criteria prior to consideration of the proposed Planning Code Amendment by the Board of Supervisors.

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

Sincerely,



John Rahaim
Director of Planning

cc:

Supervisor London Breed
Vallie Brown, Office of Supervisor Breed
Conor Johnston, Office of Supervisor Breed
Jon Givner, City Attorney
Kate Stacy, City Attorney
Jason Elliot, Mayor's Director of Legislative & Government Affairs.

Attachments (two hard copies of the following):

Planning Commission Resolution
Draft Ordinance
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
- Other

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Resolution 18990 Planning Code Amendment

HEARING DATE: OCTOBER 3, 2013

Date: September 26, 2013
Case No.: 2013.0063CET
Project Address: 555 Fulton Street
Zoning: Hayes-Gough Neighborhood Commercial Transit (NCT) District
 Residential Transit-Oriented (RTO) District
 40-50-X Height and Bulk District
 Fulton Street Grocery Store Special Use District (SUD)
Block/Lot: 0794/015, 028
Project Sponsor: Jessica Zhou
 Fulton Street Ventures, LLC
 205 13th Street
 San Francisco, CA 94103
Staff Contact: Kevin Guy – (415) 558-6163
kevin.guy@sfgov.org

RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING THAT THE BOARD OF SUPERVISORS AMEND THE TEXT OF THE PLANNING CODE TO EXTEND THE TERM OF THE FULTON STREET GROCERY STORE SPECIAL USE DISTRICT FOR FIVE YEARS, ALLOW FORMULA RETAIL GROCERY STORE USES WITHIN THE FULTON STREET GROCERY STORE SPECIAL USE DISTRICT THROUGH CONDITIONAL USE AUTHORIZATION, AND SPECIFY ADDITIONAL SIGN REGULATIONS FOR GROCERY STORE USES WITHIN THE FULTON STREET GROCERY STORE SPECIAL USE DISTRICT, AND ADOPTING FINDINGS THAT THE PROPOSED AMENDMENT TO THE PLANNING CODE IS CONSISTENT WITH THE OBJECTIVES AND POLICIES OF THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF SECTION 101.1(b) OF THE PLANNING CODE.

RECITALS

1. WHEREAS, The Fulton Street Grocery Store Special Use District ("SUD"), Planning Code Section 249.35A, was adopted in 2008 to specifically enable the development of a mixed-use project containing a grocery store located at 555 Fulton Street, in order to provide retail grocery services in

an area which is currently underserved by such a use. The SUD expired after a five-year sunset period on April 3, 2013.

2. **WHEREAS**, On November 21, 2005, David Silverman, acting on behalf of the Trust for the Children of Henry Wong, ("Previous Project Sponsor") submitted an Environmental Evaluation Application with the Planning Department ("Department"), Case No. 2005.1085E. A Notification of Project Receiving Environmental Review was sent on December 8, 2006 to owners of properties within 300 feet, adjacent tenants, and other potentially interested parties.
3. **WHEREAS**, On August 29, 2008, the Previous Project Sponsor filed an application with the Planning Department requesting, under Sections 303 and 304, Conditional Use Authorization to allow a Planned Unit Development ("PUD"), to allow development on a lot greater than 10,000 square feet, allow a non-residential use size greater than 3,000 square feet, and to allow off-street parking for residential and commercial uses beyond the amount principally permitted by the Planning Code, for a development on a 44,250 square-foot site (Lots 015 and 028 in Assessor's Block 0794) at 555 Fulton Street, south side between Laguna and Octavia Streets ("Project Site"). The project proposed to demolish the existing office/industrial building and construct a new five-story building containing 143 dwelling units, a 21,945 square-foot grocery store, and 217 off-street parking spaces. The application was subsequently amended to request specific modifications to Planning Code regulations regarding off-street parking, rear yard, open space, dwelling unit exposure, height limits for narrow streets, and curb-cuts on streets with bicycle lanes, and to modify the project to propose 136 dwelling units, a 32,800 square-foot grocery store, and 205 off-street parking spaces (Case No. 2005.1085C; collectively, "Previous Project").
4. **WHEREAS**, On March 3, 2010, a Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the Previous Project was prepared and published for public review. The Draft IS/MND was available for public comment until March 23, 2010.
5. **WHEREAS**, On March 22, 2010, an appeal of the MND was filed with the Department.
6. **WHEREAS**, On May 13, 2010, the Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use/Planned Unit Development Application No. 2005.1085C and the Appeal of the MND, 2005.1085E.
7. **WHEREAS**, On May 13, 2010, the Commission upheld the PMND and approved the issuance of the Final Mitigated Negative Declaration (FMND) as prepared by the Department in compliance with CEQA, the State CEQA Guidelines and Chapter 31 (Motion No. 18082). The Commission reviewed and considered the Final MND and found that the contents of said report and the procedures through which the Final MND was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) ("CEQA"), 14 California Code of Regulations Sections 15000 et seq. ("the CEQA Guidelines"), and Chapter 31 of the San Francisco Administrative Code ("Chapter 31").

8. **WHEREAS**, The Commission found the Final MND was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Commission, and that the summary of comments and responses contained no significant revisions to the Draft IS/MND, and approved the Final MND for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31.
9. **WHEREAS**, Since the MND was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the MND due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the MND. The Planning Department, Jonas Ionin, is the custodian of records, located in the File for Case No. 2005.1085E, at 1650 Mission Street, Fourth Floor, San Francisco, California.
10. **WHEREAS**, Department staff prepared a Mitigation Monitoring and Reporting program ("MMRP"), which material was made available to the public and this Commission for this Commission's review, consideration and action.
11. **WHEREAS**, On May 13, 2010, the San Francisco Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting and approved Conditional Use Application No. 2005.1085C, which proposed to construct a mixed-use building containing 136 dwelling units and a grocery store measuring approximately 32,800 square feet, located at 555 Fulton Street ("Previous Project"). The Previous Project has not yet been constructed, and the performance period for the Previous Project expired on May 13, 2013.
12. **WHEREAS**, On January 16, 2013, Patrice Fambrini, acting on behalf of Fulton Street Ventures, LLC ("Project Sponsor") filed an application with the Planning Department requesting an extension of the performance period for the Previous Project, and proposing minor revisions to the design and program of uses that were previously approved. The application proposes to demolish an existing office/industrial building and construct a new five-story, mixed-use building containing approximately 139 dwelling units, 30,400 square feet of ground floor commercial uses (a grocery store), and 148 off-street parking spaces, located at 555 Fulton Street (Case No. 2013.0063C).
13. **WHEREAS**, In order for the Project to proceed, an extension of the term of the Fulton Street Grocery Store SUD would need to be adopted.
14. **WHEREAS**, On January 16, 2013, the Project Sponsor filed an application with the Planning Department requesting a Planning Code Amendment to allow formula retail uses within the Fulton Street Grocery Store Special Use District (Section 249.35A) with Conditional Use Authorization. Formula retail uses are currently prohibited within the Hayes-Gough NCT District. The Amendment also proposes to extend the term of the Fulton Street Grocery Store Special Use District (SUD) for an additional five years. (Case No. 2013.0063T).
15. **WHEREAS**, Formula retail uses are currently prohibited within the Hayes-Gough NCT District. The proposed amendment would broaden the types of grocery store tenants that could seek to operate at

this location, in an area that is currently underserved by such a use. Should this amendment be approved by the Board of Supervisors, a specific formula retail grocery store tenant would need to seek separate Conditional Use Authorization in the future.

16. **WHEREAS**, It is important that a specific grocery store tenant be selected for this site that serves the diverse needs of the surrounding community, and in particular, offers a selection of goods which are affordable to lower-income residents in the area.
17. **WHEREAS**, The provision of the SUD currently prohibits commercial uses other than the grocery store that are larger than 3,000 occupied square feet. This prohibition may limit certain types of additional commercial uses which may be appropriate for the site in order to serve the convenience needs of the surrounding area.
18. **WHEREAS**, The Project Sponsor has voluntarily agreed to incorporate additional signage controls for the grocery store use which are more restrictive than the existing controls which would apply to the Project Site. These restrictions are intended to restrain the grocery store signage to respect the surrounding residential context of the immediate area.
19. **WHEREAS**, The Project would affirmatively promote, be consistent with, and would not adversely affect the General Plan, including the following objectives and policies, for the reasons set forth set forth in Item #13 of Motion No. 18991, Case #2013.0063C, which are incorporated herein as though fully set forth.
20. **WHEREAS**, The Project complies with the eight priority policies of Planning Code Section 101.1, for the reasons set forth set forth in Item #14 of Motion No. 18991, Case #2013.0063C, which are incorporated herein as though fully set forth.
21. **WHEREAS**, A proposed ordinance, attached hereto as Exhibit A, has been prepared in order to make amendments to the Planning Code to extend the term of the Fulton Street Grocery Store Special Use District for five years, allow formula retail grocery store uses within the Fulton Street Grocery Store Special Use District through Conditional Use Authorization, delete the 3,000 square-foot limitation for commercial uses other than the grocery store, and specify additional sign regulations for grocery store uses within the Fulton Street Grocery Store Special Use District.
22. **WHEREAS**, the Office of the City Attorney has approved the proposed ordinance as to form.
23. **WHEREAS**, Section 4.105 of the San Francisco Charter and Section 302 of the Planning Code require that the Commission consider any proposed amendments to the City's Zoning Maps or Planning Code, and make a recommendation for approval or rejection to the Board of Supervisors before the Board of Supervisors acts on the proposed amendments.
24. **WHEREAS**, On October 3, 2013, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting and approved the Conditional Use Authorization described in Case No. 2013.0063C (Motion No. 18991), and approved the FMND prepared for the Previous Project (Case No. 2005.1085C).

25. **WHEREAS**, On October 3, 2013, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the Proposed Zoning Map Amendment and Zoning Text Amendment.

26. **WHEREAS**, The Commission has had available to it for its review and consideration studies, case reports, letters, plans, and other materials pertaining to the Project contained in the Department's case files, and has reviewed and heard testimony and received materials from interested parties during the public hearings on the Project.

NOW, THEREFORE BE IT RESOLVED THAT, the Commission finds, based upon the entire Record, the submissions by the Applicant, the staff of the Department, and other interested parties, the oral testimony presented to the Commission at the public hearing, and all other written materials submitted by all parties, that the public necessity, convenience and general welfare require that the Planning Code be amended to extend the term of the Fulton Street Grocery Store Special Use District for five years, allow formula retail grocery store uses within the Fulton Street Grocery Store Special Use District through Conditional Use Authorization, delete the 3,000 square-foot limitation for commercial uses other than the grocery store, and specify additional sign regulations for grocery store uses within the Fulton Street Grocery Store Special Use District., as proposed in Application No. 2013.0063T; and,

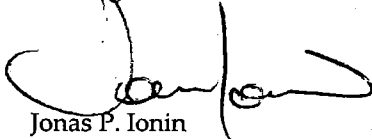
BE IT FURTHER RESOLVED THAT, the Commission recommends that Department staff and the District Supervisor develop specific criteria for the SUD that address the need for a selection of affordable goods when considering a Conditional Use Authorization for a formula retail grocery store use at the site; and,

BE IT FURTHER RESOLVED THAT, the Commission requests an informational hearing regarding the grocery affordability criteria prior to consideration of the proposed Planning Code Amendment by the Board of Supervisors; and,

BE IT FURTHER RESOLVED THAT, the Commission hereby adopts the FMND (Case No. 2005.1085E) for the Project that was finalized on May 13, 2010 by Motion No. 18082, and adopts the MMRP prepared for the Project, attached as "EXHIBIT C" to Motion No. 18991 (Case No 2013.0063C), which is incorporated by reference as thought fully set forth. Since the FMND was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the FMND due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the FMND; and,

BE IT FURTHER RESOLVED THAT, the Planning Commission recommends the Board of Supervisors approve the proposed Planning Code Amendment.

I hereby certify that the foregoing Resolution was ADOPTED by the Planning Commission at its regular meeting on October 3, 2013.



Jonas P. Ionin
Acting Commission Secretary

AYES: Fong, Antonini, Hillis, Wu

NOES: Moore, Sugaya

ABSENT: Borden

ADOPTED: October 3, 2013



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use/Planned Unit Development Planning Code Amendment

HEARING DATE: OCTOBER 3, 2013

Date: September 26, 2013
Case No.: 2013.0063CET
Project Address: 555 Fulton Street
Zoning: Hayes-Gough Neighborhood Commercial Transit (NCT) District
Residential Transit-Oriented (RTO) District
40-50-X Height and Bulk District
Fulton Street Grocery Store Special Use District (SUD)
Block/Lot: 0794/015, 028
Project Sponsor: Jessica Zhou
Fulton Street Ventures, LLC
205 13th Street
San Francisco, CA 94103
Staff Contact: Kevin Guy – (415) 558-6163
kevin.guy@sfgov.org
Recommendation: Approval with Conditions

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PROJECT DESCRIPTION

The proposal is to demolish an existing commercial/industrial building and construct a new five-story, mixed-use building containing approximately 139 dwelling units, 29,200 square feet of ground floor commercial uses (a grocery store), and 148 off-street parking spaces. The project sponsor is seeking approval of a Planned Unit Development, including a number of specific modifications from the requirements of the Planning Code, as discussed under 'Issues and Other Considerations' below. The requested approval would extend the performance period for a similar project was that previously approved for the site in 2010 (Case No. 2005.1085C). The current project proposes minor revisions to the design and program of uses that were previously approved.

The Project Sponsor also proposes a Planning Code Text Amendment to allow formula retail uses within the Fulton Street Grocery Store Special Use District (Section 249.35A) with Conditional Use Authorization. Formula retail uses are currently prohibited within the Hayes-Gough NCT District. The Amendment also proposes to extend the term of the Fulton Street Grocery Store Special Use District (SUD) for an additional five years, and would establish specific sign controls for the grocery store use.

SITE DESCRIPTION AND PRESENT USE

The project site is bounded by Fulton, Laguna, Octavia, and Birch Streets, Assessor's Block 0794, Lots 015 and 028, within the Hayes-Gough NCT District, the Residential Transit-Oriented District, the 40-50-X

Height and Bulk District, and the Fulton Street Grocery Store Special Use District (SUD). The site measures 44,250 square feet, and is nearly rectangular, with the exception of a separate parcel located at the northeast corner of Fulton and Octavia Streets. The site is currently developed with a two-story commercial/industrial building that measures approximately 19,620 square feet. The western portion of the site is a surface parking area, while the eastern portion of the site consists of surface parking and loading docks for the building.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The area surrounding the project site primarily consists of residential buildings of two to four stories in height. Ground floor retail and restaurant uses are found along Hayes Street two blocks south of the project site, while other isolated commercial establishments are scattered throughout the vicinity. The Civic Center district begins three blocks to the east of the project site, and includes various government buildings, museums, libraries, and performance spaces. Open spaces in the vicinity include Jefferson Square and Hayward Playground to the north, Patricia's Green and Koshland Park to the south, Buchanan Street Mall and Alamo Square to the west, and Civic Center Plaza to the east.

ENVIRONMENTAL REVIEW

On March 1, 2010, the Planning Department published an Initial Study/Preliminary Mitigated Negative Declaration (MND) pursuant to the California Environmental Quality Act (CEQA) for the previous project on the site (Case No. 2005.1085E). The Preliminary MND analyzed potential environmental impacts of the proposed development, and proposed specific mitigation and improvement measures to avoid potentially significant environmental effects in the areas of Cultural and Paleontological Resources, Noise, Air Quality, and Hazardous Materials. At the hearing on May 13, 2010, the Planning Commission upheld the Preliminary MND and approved the issuance of the Final Mitigated Negative Declaration (Motion No. 18082).

Since the MND was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the MND due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the MND.

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	September 13, 2013	September 13, 2013	20 days
Posted Notice	20 days	September 13, 2013	September 13, 2013	20 days
Mailed Notice	20 days	September 13, 2013	September 12, 2013	21 days

The proposal requires a Section 312-neighborhood notification, which was conducted in conjunction with the conditional use authorization process.

PUBLIC COMMENT

Staff has received letters in support of the Project from several organizations, as well as a petition containing 603 signatures (an excerpt is included as an attachment). These letters applaud the employment and housing opportunities that would be created by the Project, and emphasize the need for an affordable grocery store tenant. Staff has also received two letters in opposition to the project from the Hayes Valley Neighborhood Association, which express opposition to the proposed Planning Code Amendment to allow a formula retail grocery store use.

ISSUES AND OTHER CONSIDERATIONS

- **Special Use District Extension:** In 2008, the Fulton Street Grocery Store SUD was adopted to enable consideration of a mixed-use project to include a grocery store on the Project Site. The SUD applies only to projects that include a grocery store measuring a minimum of 15,000 square feet, and residential uses meeting a minimum density of one dwelling unit per 600 square feet of lot area. Although the Residential Transit-Oriented District applies to the majority of the project site, a project meeting the cited criteria is subject to the controls of the Hayes-Gough NCT, thereby enabling a grocery store proposal. The SUD places further limitations on the type, size, and amount of parking for other commercial uses beyond a grocery store. The SUD became effective on April 3, 2008, with a five-year sunset period. The SUD has since expired, and the Project Sponsor is requesting that the Board of Supervisors approve a Planning Code Amendment to extend the term of the SUD for an additional five years.
- **Formula Retail Uses:** As part of the Planning Code Amendment, the Project Sponsor is proposing that formula retail grocery store uses be allowed within SUD with Conditional Use Authorization. Formula retail uses are currently prohibited within the Hayes-Gough NCT District. No specific formula retail tenant is being proposed at this time. Should this amendment be approved by the Board of Supervisors, a specific formula retail grocery store tenant would need to seek separate Conditional Use Authorization in the future. The proposed amendment would broaden the types of grocery store tenants that could seek to operate at this location, in an area that is currently underserved by such a use.
- **Signage Controls.** The Project Sponsor has voluntarily agreed to incorporate additional signage controls for the grocery store use which are more restrictive than the existing controls which would apply to the site. These restrictions are intended to restrain the grocery store signage to respect the surrounding residential context of the immediate area. For example, existing sign regulations would allow wall signs of up to 100 square feet each on the Fulton, Laguna, and Birch Street frontages of the grocery store use. The proposed sign controls would allow wall signs of up to 40 square feet each on the Fulton and Laguna Street frontages of the grocery store use, with no wall signs permitted on the Birch Street frontage. The proposed restrictions would also prohibit directly-illuminated signs, but would allow indirectly-illuminated or non-illuminated signs.
- **Project Design:** The project site is located in an area that is eclectic in terms of development scale and architectural character, with no prevailing style establishing a dominant visual pattern for the immediate neighborhood. The scale of development also varies greatly in the vicinity. Development to the north and west was constructed in the mid- to late-20th century as part of the Western

Addition Redevelopment area, and are comprised of large, linear multi-unit apartment buildings situated across entire blocks. The development pattern to the south is characterized by a finer-grained pattern of individual buildings situated on narrow lots, dating from the late 19th and early 20th Century.

The proposed project is somewhat taller than the other buildings in the vicinity, and occupies a large lot. The mass and scale of the project is broken down by an alternating rhythm of bays and voids, changes in fenestration patterns across each elevation, and a procession of recesses that divide the larger building into smaller modules. The Department is supportive of the program of uses and design of the project.

It should be noted that, in approving the previous project on the site, the Commission added conditions of approval to revise several aspects of the site plan, including the deletion of a vehicular drop-off along Laguna Street and a reevaluation of the location and configuration of the entry court at the westerly end of the site. The current iteration of the project incorporates these modifications, creating a generous public plaza near the Laguna Street entry to the grocery store which serves as an extension of the public realm. The streetscape along the entire project frontage would receive substantial enhancements in accordance with the Better Streets Plan, which was not adopted at the time of the previous approval. These enhancements include street trees, extensive landscaping, continuous permeable paver strips along, textured paving and planting pockets along Birch Street, and a bulb-out at the corner of Laguna and Fulton Streets. Department staff and other appropriate agencies will coordinate with the Project Sponsor to refine the details of required streetscape improvements during the building permit review process.

- **Planned Unit Development Modifications:** The project does not strictly conform to several aspects of the Planning Code. As part of the Planned Unit Development (PUD) process, the Commission may grant modifications from certain requirements of the Planning Code for projects that exhibit outstanding overall design and are complementary to the design and values of the surrounding area. The project requests modifications from regulations related to rear yard, dwelling unit exposure, curb cuts locations, and vehicular entry widths. Staff believes that, given the overall quality of the design and the desirability of the program of uses in the project, these modifications can be supported.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant Conditional Use authorization, including a Planned Unit Development with the requested modifications from the requirements of the Planning Code. In addition, the Board of Supervisors would need to approve the requested extension of the term of the Fulton Street Grocery Store Special Use District. The Commission must also adopt the FMND (Case No. 2005.1085E) for the Project that was finalized on May 13, 2010 by Motion No. 18082, and adopt the MMRP prepared for the Project, attached as "EXHIBIT C" to the draft Conditional Use Authorization Motion.

BASIS FOR RECOMMENDATION

- The project would add 139 dwelling units to the City's housing stock, in a walkable and transit-rich area suited for dense, mixed-use development.
- Residents would be able to walk or utilize transit to commute and satisfy convenience needs without reliance on the private automobile.
- The project includes a mix of studio, one-bedroom, two-bedroom, and three-bedroom units to serve a diversity of household sizes and people with varied housing needs.
- The proposed grocery store will expand the spectrum of retail goods and services available in the area.
- The project will enhance the public realm with the creation of a publicly-accessible plaza on the Laguna Street frontage, as well as extensive streetscape enhancement along the entire project frontage.
- The project is necessary and desirable, is compatible with the surrounding neighborhood, and would not be detrimental to persons or adjacent properties in the vicinity.

RECOMMENDATION: Approval with Conditions
--

Attachments:

Draft Conditional Use Authorization Motion, including Mitigation, Monitoring and Reporting Program

Draft Resolution and Planning Code Amendment

Mitigated Negative Declaration, available on-line at:

<http://ec2-50-17-237-182.compute-1.amazonaws.com/docs/Commissions/CPC/2005.1085E.pdf>

Block Book Map

Sanborn Map

Aerial Photograph

Zoning Map

Correspondence Regarding Project

Residential Pipeline

Inclusionary Housing Affidavit

Project Sponsor Submittal and Project Plans

Attachment Checklist

- | | |
|---|---|
| <input checked="" type="checkbox"/> Executive Summary | <input checked="" type="checkbox"/> Project sponsor submittal |
| <input checked="" type="checkbox"/> Draft Motion | Drawings: <u>Existing Conditions</u> |
| <input type="checkbox"/> Environmental Determination | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u> |
| <input checked="" type="checkbox"/> Height & Bulk Map | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Parcel Map | 3-D Renderings (new construction or significant addition) |
| <input checked="" type="checkbox"/> Sanborn Map | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Aerial Photo | <input type="checkbox"/> Wireless Telecommunications Materials |
| <input checked="" type="checkbox"/> Context Photos | <input type="checkbox"/> Health Dept. review of RF levels |
| <input checked="" type="checkbox"/> Site Photos | <input type="checkbox"/> RF Report |
| | <input type="checkbox"/> Community Meeting Notice |
| | <input checked="" type="checkbox"/> Housing Documents |
| | <input checked="" type="checkbox"/> Inclusionary Affordable Housing Program: Affidavit for Compliance |
| | <input checked="" type="checkbox"/> Residential Pipeline |

Exhibits above marked with an "X" are included in this packet

Planner's Initials



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|---|---|
| <input checked="" type="checkbox"/> Affordable Housing (Sec. 415) | <input checked="" type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412) | <input checked="" type="checkbox"/> Other |

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Resolution 18990 Planning Code Amendment HEARING DATE: OCTOBER 3, 2013

Date: September 26, 2013
Case No.: 2013.0063CET
Project Address: 555 Fulton Street
Zoning: Hayes-Gough Neighborhood Commercial Transit (NCT) District
 Residential Transit-Oriented (RTO) District
 40-50-X Height and Bulk District
 Fulton Street Grocery Store Special Use District (SUD)
Block/Lot: 0794/015, 028
Project Sponsor: Jessica Zhou
 Fulton Street Ventures, LLC
 205 13th Street
 San Francisco, CA 94103
Staff Contact: Kevin Guy – (415) 558-6163
kevin.guy@sfgov.org

RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING THAT THE BOARD OF SUPERVISORS AMEND THE TEXT OF THE PLANNING CODE TO EXTEND THE TERM OF THE FULTON STREET GROCERY STORE SPECIAL USE DISTRICT FOR FIVE YEARS, ALLOW FORMULA RETAIL GROCERY STORE USES WITHIN THE FULTON STREET GROCERY STORE SPECIAL USE DISTRICT THROUGH CONDITIONAL USE AUTHORIZATION, AND SPECIFY ADDITIONAL SIGN REGULATIONS FOR GROCERY STORE USES WITHIN THE FULTON STREET GROCERY STORE SPECIAL USE DISTRICT, AND ADOPTING FINDINGS THAT THE PROPOSED AMENDMENT TO THE PLANNING CODE IS CONSISTENT WITH THE OBJECTIVES AND POLICIES OF THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF SECTION 101.1(b) OF THE PLANNING CODE.

RECITALS

1. WHEREAS, The Fulton Street Grocery Store Special Use District ("SUD"), Planning Code Section 249.35A, was adopted in 2008 to specifically enable the development of a mixed-use project containing a grocery store located at 555 Fulton Street, in order to provide retail grocery services in

an area which is currently underserved by such a use. The SUD expired after a five-year sunset period on April 3, 2013.

2. **WHEREAS**, On November 21, 2005, David Silverman, acting on behalf of the Trust for the Children of Henry Wong, ("Previous Project Sponsor") submitted an Environmental Evaluation Application with the Planning Department ("Department"), Case No. 2005.1085E. A Notification of Project Receiving Environmental Review was sent on December 8, 2006 to owners of properties within 300 feet, adjacent tenants, and other potentially interested parties.
3. **WHEREAS**, On August 29, 2008, the Previous Project Sponsor filed an application with the Planning Department requesting, under Sections 303 and 304, Conditional Use Authorization to allow a Planned Unit Development ("PUD"), to allow development on a lot greater than 10,000 square feet, allow a non-residential use size greater than 3,000 square feet, and to allow off-street parking for residential and commercial uses beyond the amount principally permitted by the Planning Code, for a development on a 44,250 square-foot site (Lots 015 and 028 in Assessor's Block 0794) at 555 Fulton Street, south side between Laguna and Octavia Streets ("Project Site"). The project proposed to demolish the existing office/industrial building and construct a new five-story building containing 143 dwelling units, a 21,945 square-foot grocery store, and 217 off-street parking spaces. The application was subsequently amended to request specific modifications to Planning Code regulations regarding off-street parking, rear yard, open space, dwelling unit exposure, height limits for narrow streets, and curb-cuts on streets with bicycle lanes, and to modify the project to propose 136 dwelling units, a 32,800 square-foot grocery store, and 205 off-street parking spaces (Case No. 2005.1085C; collectively, "Previous Project").
4. **WHEREAS**, On March 3, 2010, a Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the Previous Project was prepared and published for public review. The Draft IS/MND was available for public comment until March 23, 2010.
5. **WHEREAS**, On March 22, 2010, an appeal of the MND was filed with the Department.
6. **WHEREAS**, On May 13, 2010, the Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use/Planned Unit Development Application No. 2005.1085C and the Appeal of the MND, 2005.1085E.
7. **WHEREAS**, On May 13, 2010, the Commission upheld the PMND and approved the issuance of the Final Mitigated Negative Declaration (FMND) as prepared by the Department in compliance with CEQA, the State CEQA Guidelines and Chapter 31 (Motion No. 18082). The Commission reviewed and considered the Final MND and found that the contents of said report and the procedures through which the Final MND was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) ("CEQA"), 14 California Code of Regulations Sections 15000 et seq. ("the CEQA Guidelines"), and Chapter 31 of the San Francisco Administrative Code ("Chapter 31").

8. **WHEREAS**, The Commission found the Final MND was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Commission, and that the summary of comments and responses contained no significant revisions to the Draft IS/MND, and approved the Final MND for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31.
9. **WHEREAS**, Since the MND was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the MND due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the MND. The Planning Department, Jonas Ionin, is the custodian of records, located in the File for Case No. 2005.1085E, at 1650 Mission Street, Fourth Floor, San Francisco, California.
10. **WHEREAS**, Department staff prepared a Mitigation Monitoring and Reporting program ("MMRP"), which material was made available to the public and this Commission for this Commission's review, consideration and action.
11. **WHEREAS**, On May 13, 2010, the San Francisco Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting and approved Conditional Use Application No. 2005.1085C, which proposed to construct a mixed-use building containing 136 dwelling units and a grocery store measuring approximately 32,800 square feet, located at 555 Fulton Street ("Previous Project"). The Previous Project has not yet been constructed, and the performance period for the Previous Project expired on May 13, 2013.
12. **WHEREAS**, On January 16, 2013, Patrice Fambrini, acting on behalf of Fulton Street Ventures, LLC ("Project Sponsor") filed an application with the Planning Department requesting an extension of the performance period for the Previous Project, and proposing minor revisions to the design and program of uses that were previously approved. The application proposes to demolish an existing office/industrial building and construct a new five-story, mixed-use building containing approximately 139 dwelling units, 30,400 square feet of ground floor commercial uses (a grocery store), and 148 off-street parking spaces, located at 555 Fulton Street (Case No. 2013.0063C).
13. **WHEREAS**, In order for the Project to proceed, an extension of the term of the Fulton Street Grocery Store SUD would need to be adopted.
14. **WHEREAS**, On January 16, 2013, the Project Sponsor filed an application with the Planning Department requesting a Planning Code Amendment to allow formula retail uses within the Fulton Street Grocery Store Special Use District (Section 249.35A) with Conditional Use Authorization. Formula retail uses are currently prohibited within the Hayes-Gough NCT District. The Amendment also proposes to extend the term of the Fulton Street Grocery Store Special Use District (SUD) for an additional five years. (Case No. 2013.0063T).
15. **WHEREAS**, Formula retail uses are currently prohibited within the Hayes-Gough NCT District. The proposed amendment would broaden the types of grocery store tenants that could seek to operate at

this location, in an area that is currently underserved by such a use. Should this amendment be approved by the Board of Supervisors, a specific formula retail grocery store tenant would need to seek separate Conditional Use Authorization in the future.

16. **WHEREAS**, It is important that a specific grocery store tenant be selected for this site that serves the diverse needs of the surrounding community, and in particular, offers a selection of goods which are affordable to lower-income residents in the area.
17. **WHEREAS**, The provision of the SUD currently prohibits commercial uses other than the grocery store that are larger than 3,000 occupied square feet. This prohibition may limit certain types of additional commercial uses which may be appropriate for the site in order to serve the convenience needs of the surrounding area.
18. **WHEREAS**, The Project Sponsor has voluntarily agreed to incorporate additional signage controls for the grocery store use which are more restrictive than the existing controls which would apply to the Project Site. These restrictions are intended to restrain the grocery store signage to respect the surrounding residential context of the immediate area.
19. **WHEREAS**, The Project would affirmatively promote, be consistent with, and would not adversely affect the General Plan, including the following objectives and policies, for the reasons set forth set forth in Item #13 of Motion No. 18991, Case #2013.0063C, which are incorporated herein as though fully set forth.
20. **WHEREAS**, The Project complies with the eight priority policies of Planning Code Section 101.1, for the reasons set forth set forth in Item #14 of Motion No. 18991, Case #2013.0063C, which are incorporated herein as though fully set forth.
21. **WHEREAS**, A proposed ordinance, attached hereto as Exhibit A, has been prepared in order to make amendments to the Planning Code to extend the term of the Fulton Street Grocery Store Special Use District for five years, allow formula retail grocery store uses within the Fulton Street Grocery Store Special Use District through Conditional Use Authorization, delete the 3,000 square-foot limitation for commercial uses other than the grocery store, and specify additional sign regulations for grocery store uses within the Fulton Street Grocery Store Special Use District.
22. **WHEREAS**, the Office of the City Attorney has approved the proposed ordinance as to form.
23. **WHEREAS**, Section 4.105 of the San Francisco Charter and Section 302 of the Planning Code require that the Commission consider any proposed amendments to the City's Zoning Maps or Planning Code, and make a recommendation for approval or rejection to the Board of Supervisors before the Board of Supervisors acts on the proposed amendments.
24. **WHEREAS**, On October 3, 2013, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting and approved the Conditional Use Authorization described in Case No. 2013.0063C (Motion No. 18991), and approved the FMND prepared for the Previous Project (Case No. 2005.1085C).

25. **WHEREAS**, On October 3, 2013, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the Proposed Zoning Map Amendment and Zoning Text Amendment.

26. **WHEREAS**, The Commission has had available to it for its review and consideration studies, case reports, letters, plans, and other materials pertaining to the Project contained in the Department's case files, and has reviewed and heard testimony and received materials from interested parties during the public hearings on the Project.

NOW, THEREFORE BE IT RESOLVED THAT, the Commission finds, based upon the entire Record, the submissions by the Applicant, the staff of the Department, and other interested parties, the oral testimony presented to the Commission at the public hearing, and all other written materials submitted by all parties, that the public necessity, convenience and general welfare require that the Planning Code be amended to extend the term of the Fulton Street Grocery Store Special Use District for five years, allow formula retail grocery store uses within the Fulton Street Grocery Store Special Use District through Conditional Use Authorization, delete the 3,000 square-foot limitation for commercial uses other than the grocery store, and specify additional sign regulations for grocery store uses within the Fulton Street Grocery Store Special Use District, as proposed in Application No. 2013.0063T; and,

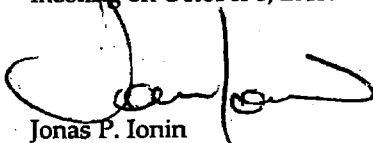
BE IT FURTHER RESOLVED THAT, the Commission recommends that Department staff and the District Supervisor develop specific criteria for the SUD that address the need for a selection of affordable goods when considering a Conditional Use Authorization for a formula retail grocery store use at the site; and,

BE IT FURTHER RESOLVED THAT, the Commission requests an informational hearing regarding the grocery affordability criteria prior to consideration of the proposed Planning Code Amendment by the Board of Supervisors; and,

BE IT FURTHER RESOLVED THAT, the Commission hereby adopts the FMND (Case No. 2005.1085E) for the Project that was finalized on May 13, 2010 by Motion No. 18082, and adopts the MMRP prepared for the Project, attached as "EXHIBIT C" to Motion No. 18991 (Case No 2013.0063C), which is incorporated by reference as thought fully set forth. Since the FMND was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the FMND due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the FMND; and,

BE IT FURTHER RESOLVED THAT, the Planning Commission recommends the Board of Supervisors approve the proposed Planning Code Amendment.

I hereby certify that the foregoing Resolution was ADOPTED by the Planning Commission at its regular meeting on October 3, 2013.


Jonas P. Ionin
Acting Commission Secretary

AYES: Fong, Antonini, Hillis, Wu

NOES: Moore, Sugaya

ABSENT: Borden

ADOPTED: October 3, 2013

Ausberry, Andrea

From: Rodgers, AnMarie
Sent: Friday, December 06, 2013 11:48 AM
To: Ausberry, Andrea; Ionin, Jonas
Cc: Rahaim, John; Jones, Sarah; Pereira, Monica; Turrell, Nannie
Subject: RE: File No. 131085 - Referral - Planning Commission
Attachments: 2013.0063T - 555 Fulton - Zoning Amend Reso 18990.pdf

Hi Andrea,

This item was already considered by the Planning Commission at their October 3, 2013 Commission hearing. See the attached transmittal that the Planning Department sent to the Clerk of the board on 10/25/13. Supervisor Breed has since signed on as sponsor and made the minor amendments.

Let me know if you have any questions.

AnMarie Rodgers, Manager Legislative Affairs

Planning Department | City and County of San Francisco
1650 Mission Street, Suite 400, San Francisco, CA 94103
Direct: 415.558.6395 | Fax: 415.558.6409
Email: anmarie@sfgov.org
Web: <http://www.sf-planning.org/Legislative.Affairs>
Property Info Map: <http://propertymap.sfplanning.org/>



From: Ausberry, Andrea
Sent: Thursday, December 05, 2013 5:02 PM
To: Ionin, Jonas
Cc: Rahaim, John; Jones, Sarah; Rodgers, AnMarie; Pereira, Monica; Turrell, Nannie
Subject: File No. 131085 - Referral - Planning Commission

Good Afternoon,

Attached is a referral for BOS File No. 131085 (Planning Code - Fulton Street Grocery Store Special Use District) which is being referred to the Planning Commission for public hearing and recommendation. Please forward the Commission's response as soon as its available.

Best,

Andrea S. Ausberry
Assistant Clerk
Board of Supervisors
Office 415.554.4442
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SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
- Other

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

Reception:
415.558.6378

Fax:
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Planning Commission Resolution 18990 Planning Code Amendment

HEARING DATE: OCTOBER 3, 2013

Date: September 26, 2013
Case No.: 2013.0063CET
Project Address: 555 Fulton Street
Zoning: Hayes-Gough Neighborhood Commercial Transit (NCT) District
 Residential Transit-Oriented (RTO) District
 40-50-X Height and Bulk District
 Fulton Street Grocery Store Special Use District (SUD)
Block/Lot: 0794/015, 028
Project Sponsor: Jessica Zhou
 Fulton Street Ventures, LLC
 205 13th Street
 San Francisco, CA 94103
Staff Contact: Kevin Guy – (415) 558-6163
kevin.guy@sfgov.org

RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING THAT THE BOARD OF SUPERVISORS AMEND THE TEXT OF THE PLANNING CODE TO EXTEND THE TERM OF THE FULTON STREET GROCERY STORE SPECIAL USE DISTRICT FOR FIVE YEARS, ALLOW FORMULA RETAIL GROCERY STORE USES WITHIN THE FULTON STREET GROCERY STORE SPECIAL USE DISTRICT THROUGH CONDITIONAL USE AUTHORIZATION, AND SPECIFY ADDITIONAL SIGN REGULATIONS FOR GROCERY STORE USES WITHIN THE FULTON STREET GROCERY STORE SPECIAL USE DISTRICT, AND ADOPTING FINDINGS THAT THE PROPOSED AMENDMENT TO THE PLANNING CODE IS CONSISTENT WITH THE OBJECTIVES AND POLICIES OF THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF SECTION 101.1(b) OF THE PLANNING CODE.

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1. WHEREAS, The Fulton Street Grocery Store Special Use District (“SUD”), Planning Code Section 249.35A, was adopted in 2008 to specifically enable the development of a mixed-use project containing a grocery store located at 555 Fulton Street, in order to provide retail grocery services in

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8. **WHEREAS**, The Commission found the Final MND was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Commission, and that the summary of comments and responses contained no significant revisions to the Draft IS/MND, and approved the Final MND for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31.
9. **WHEREAS**, Since the MND was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the MND due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the MND. The Planning Department, Jonas Ionin, is the custodian of records, located in the File for Case No. 2005.1085E, at 1650 Mission Street, Fourth Floor, San Francisco, California.
10. **WHEREAS**, Department staff prepared a Mitigation Monitoring and Reporting program ("MMRP"), which material was made available to the public and this Commission for this Commission's review, consideration and action.
11. **WHEREAS**, On May 13, 2010, the San Francisco Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting and approved Conditional Use Application No. 2005.1085C, which proposed to construct a mixed-use building containing 136 dwelling units and a grocery store measuring approximately 32,800 square feet, located at 555 Fulton Street ("Previous Project"). The Previous Project has not yet been constructed, and the performance period for the Previous Project expired on May 13, 2013.
12. **WHEREAS**, On January 16, 2013, Patrice Fambrini, acting on behalf of Fulton Street Ventures, LLC ("Project Sponsor") filed an application with the Planning Department requesting an extension of the performance period for the Previous Project, and proposing minor revisions to the design and program of uses that were previously approved. The application proposes to demolish an existing office/industrial building and construct a new five-story, mixed-use building containing approximately 139 dwelling units, 30,400 square feet of ground floor commercial uses (a grocery store), and 148 off-street parking spaces, located at 555 Fulton Street (Case No. 2013.0063C).
13. **WHEREAS**, In order for the Project to proceed, an extension of the term of the Fulton Street Grocery Store SUD would need to be adopted.
14. **WHEREAS**, On January 16, 2013, the Project Sponsor filed an application with the Planning Department requesting a Planning Code Amendment to allow formula retail uses within the Fulton Street Grocery Store Special Use District (Section 249.35A) with Conditional Use Authorization. Formula retail uses are currently prohibited within the Hayes-Gough NCT District. The Amendment also proposes to extend the term of the Fulton Street Grocery Store Special Use District (SUD) for an additional five years. (Case No. 2013.0063T).
15. **WHEREAS**, Formula retail uses are currently prohibited within the Hayes-Gough NCT District. The proposed amendment would broaden the types of grocery store tenants that could seek to operate at

this location, in an area that is currently underserved by such a use. Should this amendment be approved by the Board of Supervisors, a specific formula retail grocery store tenant would need to seek separate Conditional Use Authorization in the future.

16. **WHEREAS**, It is important that a specific grocery store tenant be selected for this site that serves the diverse needs of the surrounding community, and in particular, offers a selection of goods which are affordable to lower-income residents in the area.
17. **WHEREAS**, The provision of the SUD currently prohibits commercial uses other than the grocery store that are larger than 3,000 occupied square feet. This prohibition may limit certain types of additional commercial uses which may be appropriate for the site in order to serve the convenience needs of the surrounding area.
18. **WHEREAS**, The Project Sponsor has voluntarily agreed to incorporate additional signage controls for the grocery store use which are more restrictive than the existing controls which would apply to the Project Site. These restrictions are intended to restrain the grocery store signage to respect the surrounding residential context of the immediate area.
19. **WHEREAS**, The Project would affirmatively promote, be consistent with, and would not adversely affect the General Plan, including the following objectives and policies, for the reasons set forth set forth in Item #13 of Motion No. 18991, Case #2013.0063C, which are incorporated herein as though fully set forth.
20. **WHEREAS**, The Project complies with the eight priority policies of Planning Code Section 101.1, for the reasons set forth set forth in Item #14 of Motion No. 18991, Case #2013.0063C, which are incorporated herein as though fully set forth.
21. **WHEREAS**, A proposed ordinance, attached hereto as Exhibit A, has been prepared in order to make amendments to the Planning Code to extend the term of the Fulton Street Grocery Store Special Use District for five years, allow formula retail grocery store uses within the Fulton Street Grocery Store Special Use District through Conditional Use Authorization, delete the 3,000 square-foot limitation for commercial uses other than the grocery store, and specify additional sign regulations for grocery store uses within the Fulton Street Grocery Store Special Use District.
22. **WHEREAS**, the Office of the City Attorney has approved the proposed ordinance as to form.
23. **WHEREAS**, Section 4.105 of the San Francisco Charter and Section 302 of the Planning Code require that the Commission consider any proposed amendments to the City's Zoning Maps or Planning Code, and make a recommendation for approval or rejection to the Board of Supervisors before the Board of Supervisors acts on the proposed amendments.
24. **WHEREAS**, On October 3, 2013, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting and approved the Conditional Use Authorization described in Case No. 2013.0063C (Motion No. 18991), and approved the FMND prepared for the Previous Project (Case No. 2005.1085C).

25. **WHEREAS**, On October 3, 2013, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the Proposed Zoning Map Amendment and Zoning Text Amendment.

26. **WHEREAS**, The Commission has had available to it for its review and consideration studies, case reports, letters, plans, and other materials pertaining to the Project contained in the Department's case files, and has reviewed and heard testimony and received materials from interested parties during the public hearings on the Project.

NOW, THEREFORE BE IT RESOLVED THAT, the Commission finds, based upon the entire Record, the submissions by the Applicant, the staff of the Department, and other interested parties, the oral testimony presented to the Commission at the public hearing, and all other written materials submitted by all parties, that the public necessity, convenience and general welfare require that the Planning Code be amended to extend the term of the Fulton Street Grocery Store Special Use District for five years, allow formula retail grocery store uses within the Fulton Street Grocery Store Special Use District through Conditional Use Authorization, delete the 3,000 square-foot limitation for commercial uses other than the grocery store, and specify additional sign regulations for grocery store uses within the Fulton Street Grocery Store Special Use District, as proposed in Application No. 2013.0063T; and,

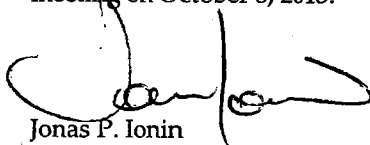
BE IT FURTHER RESOLVED THAT, the Commission recommends that Department staff and the District Supervisor develop specific criteria for the SUD that address the need for a selection of affordable goods when considering a Conditional Use Authorization for a formula retail grocery store use at the site; and,

BE IT FURTHER RESOLVED THAT, the Commission requests an informational hearing regarding the grocery affordability criteria prior to consideration of the proposed Planning Code Amendment by the Board of Supervisors; and,

BE IT FURTHER RESOLVED THAT, the Commission hereby adopts the FMND (Case No. 2005.1085E) for the Project that was finalized on May 13, 2010 by Motion No. 18082, and adopts the MMRP prepared for the Project, attached as "EXHIBIT C" to Motion No. 18991 (Case No 2013.0063C), which is incorporated by reference as though fully set forth. Since the FMND was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the FMND due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the FMND; and,

BE IT FURTHER RESOLVED THAT, the Planning Commission recommends the Board of Supervisors approve the proposed Planning Code Amendment.

I hereby certify that the foregoing Resolution was ADOPTED by the Planning Commission at its regular meeting on October 3, 2013.


Jonas P. Ionin
Acting Commission Secretary

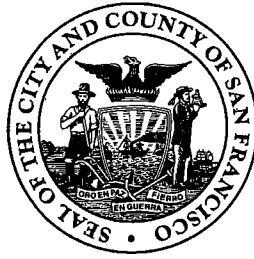
AYES: Fong, Antonini, Hillis, Wu

NOES: Moore, Sugaya

ABSENT: Borden

ADOPTED: October 3, 2013

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

December 23, 2013

File No. 131085

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On December 17, 2013, Supervisor Breed introduced the following substituted legislation:

File No. 131085

Ordinance amending the Planning Code, Section 249.35A, to extend the effective date for the Fulton Street Grocery Store Special Use District; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

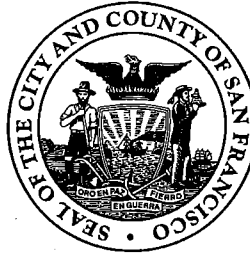
A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning
Nannie Turrell, Environmental Planning

BOARD of SUPERVISORS



City Hall
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San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

December 23, 2013

Planning Commission and
Attn: Jonas Ionin
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Dear Commissioners:

On December 17, 2013, Supervisor Breed introduced the following substituted legislation:

File No. 131085

Ordinance amending the Planning Code, Section 249.35A, to extend the effective date for the Fulton Street Grocery Store Special Use District; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Committee Clerk
Land Use & Economic Development Committee

c: John Rahaim, Director of Planning
Scott Sanchez, Zoning Administrator
Sarah Jones, Chief, Major Environmental Analysis
AnMarie Rodgers, Legislative Affairs
Monica Pereira, Environmental Planning
Nannie Turrell, Environmental Planning

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

December 5, 2013

Planning Commission and
Attn: Jonas Ionin
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Dear Commissioners:

On November 5, 2013, Supervisor Breed introduced the following legislation:

File No. 131085

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

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Committee Clerk
Land Use & Economic Development Committee

c: John Rahaim, Director of Planning
Scott Sanchez, Zoning Administrator
Sarah Jones, Chief, Major Environmental Analysis
AnMarie Rodgers, Legislative Affairs
Monica Pereira, Environmental Planning
Nannie Turrell, Environmental Planning

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

December 5, 2013

File No. 131085

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On November 5, 2013, Supervisor Breed introduced the following legislation:

File No. 131085

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

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

Handwritten signature of Andrea Ausberry in cursive.

By: Andrea Ausberry, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning
Nannie Turrell, Environmental Planning

*FMND finalized May 13,
2010 by Motion No. 18082,
and MMRP adopted. Legis-
lation contains no sub-
stantial project changes.
Joe Attached Transmittal.
Nannie L. Turrell
December 6, 2013*

Member, Board of Supervisors
District 8



orig. L.U. Clerk
COB
Leg Dep
C Page

RECEIVED
BOARD OF SUPERVISORS
City and County of San Francisco
SAN FRANCISCO

2014 JAN -3 AM 11:02

AA

SCOTT WIENER
威善高

DATE: January 2, 2014

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Scott Wiener
Chairperson *Scott Wiener*

RE: Land Use and Economic Development Committee
COMMITTEE REPORT

Pursuant to Board Rule 4.20, as Chair of the Land Use and Economic Development Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on January 7, 2014, as a Committee Report:

131085 Planning Code - Fulton Street Grocery Store Special Use District

Ordinance amending the Planning Code, Section 249.35A, to extend the effective date for the Fulton Street Grocery Store Special Use District; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

This matter will be heard in the Land Use and Economic Development Committee on January 6, 2014 at 1:30 p.m.

Member, Board of Supervisors
District 8



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BOARD OF SUPERVISORS
City and County of San Francisco
SAN FRANCISCO

2014 JAN -3 AM 11:02

AA-

SCOTT WIENER

威善高

DATE: January 2, 2014

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Scott Wiener
Chairperson *Scott Wiener*

RE: Land Use and Economic Development Committee
COMMITTEE REPORT

Pursuant to Board Rule 4.20, as Chair of the Land Use and Economic Development Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on January 7, 2014, as a Committee Report:

131085 Planning Code - Fulton Street Grocery Store Special Use District

Ordinance amending the Planning Code, Section 249.35A, to extend the effective date for the Fulton Street Grocery Store Special Use District; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

This matter will be heard in the Land Use and Economic Development Committee on January 6, 2014 at 1:30 p.m.

Member, Board of Supervisors
District 8



Orig. V Comm Clerk
COB, Leg Dep
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City and County of San Francisco
SAN FRANCISCO
2014 JAN -8 PM 5:02

SCOTT WIENER

威善高

DATE: January 8, 2014

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Scott Wiener
Chairperson

RE: Land Use and Economic Development Committee
COMMITTEE REPORT

A handwritten signature in black ink, appearing to be "SW", written over the "FROM" field of the memo.

Pursuant to Board Rule 4.20, as Chair of the Land Use and Economic Development Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on January 14, 2014, as a Committee Report:

131085 Planning Code - Fulton Street Grocery Store Special Use District

Ordinance amending Planning Code, Section 249.35A, to extend the effective date for the Fulton Street Grocery Store Special Use District; provide controls for business signs; making environmental findings, and findings of consistency with the General Plan, and the eight priority and policies of Planning Code, Section 101.1.

This matter will be heard in the Land Use and Economic Development Committee on January 13, 2014 at 1:30 p.m.

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor"
- 5. City Attorney request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No.
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on

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SAN FRANCISCO
2010 DEC 17 PM 1:11
inquires

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

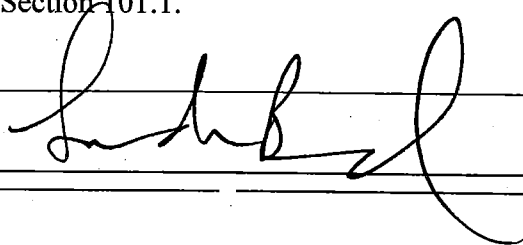
- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):

Subject:

The text is listed below or attached:

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

