



# SAN FRANCISCO PLANNING DEPARTMENT

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April 24, 2015

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

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

**Re: Transmittal of Planning Department Case Nos. 2015-001268PCA and 2015-001388PCA: Fillmore Street and Divisadero Street NCT  
Board File Nos. 150081 and 150082  
Planning Commission Recommendation: Approval with Modification**

Dear Ms. Calvillo and Supervisor Breed,

On April 2, 2015, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider proposed amendments to the San Francisco Zoning Map that would create the Fillmore Street and Divisadero Street Neighborhood Commercial Transit Districts, introduced by Supervisor Breed. At the hearing, the Planning Commission recommended approval with modification.

The Department determined that the proposed amendments are not defined as a project under CEQA Guidelines Section 15378 and 15060(c) (2) because they do not result in a physical change in the environment.

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron D. Starr", written over a horizontal line.

Aaron D. Starr  
Manager of Legislative Affairs

cc:

Judith A. Boyajian, Deputy City Attorney

Conor Johnston, Aide to Supervisor Breed

Andrea Ausberry, Assistant Clerk, Land Use and Transportation Committee

Attachments:

Planning Commission Resolutions

Planning Department Executive Summaries



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Resolution No. 19349

HEARING DATE: APRIL 2, 2015

*Project Name:* **Establishing the Fillmore Street NCT District**  
*Case Number:* 2015-001268PCA [Board File No. 150081]  
*Initiated by:* Supervisor Breed / Introduced January 27, 2015  
*Staff Contact:* Aaron Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362  
*Recommendation:* **Recommend Approval with Modifications**

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO ESTABLISH THE FILLMORE STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT ALONG FILLMORE STREET BETWEEN BUSH AND MCALLISTER STREETS IN PLACE OF THE FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT; AMENDING VARIOUS OTHER SECTIONS TO MAKE CONFORMING AND OTHER TECHNICAL CHANGES; AMENDING THE ZONING MAP TO MAKE CHANGES THAT CONFORM WITH THE CODE AMENDMENTS; AND AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1.

### PREAMBLE

Whereas, on January 27, 2015, Supervisor Breed introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 150081 that would amend the Planning Code to establish the Fillmore Street Neighborhood Commercial Transit District along Fillmore Street between Bush and McAllister Streets in place of the Fillmore Street Neighborhood Commercial District; amending various other sections to make conforming and other technical changes; amending the Zoning Map to make changes that conform with the Code amendments; and affirming the Planning Department's determination under the California Environmental Quality Act, and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.; and

Whereas, on April 2, 2015, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance and recommended approval with modifications of the proposed Ordinance; and

Whereas, the Planning Department (hereinafter Department) determined that the Project was not defined as a project under CEQA Guidelines Section 15378 and 15060(c) (2) because it does not result in a physical change in the environment; and

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

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

Whereas, the Commission has reviewed the proposed Ordinance; and

**MOVED**, that the Commission hereby recommends that the Board of Supervisors recommends approval with modifications of the proposed Ordinance and adopts the attached Draft Resolution to that effect. The modifications that the Commission recommends are as follows:

1. Include the rezoning of parcels 0780/035 and 0780/036 from NC-1 (Neighborhood Commercial, Cluster) District, to RTO (Residential Transit Oriented) District.
2. Amend the list of parcels in the Ordinance to reflect their correct zoning. Specifically Parcel 0798/001 should be RH-3, 0779/031 should be RM-4, and 0702/038 should be RM-3.
3. Add the lot merger restrictions for NCT Districts promulgated in Planning Code Section 121.7 to the Fillmore Street NCT.
4. Do not include the provision for the density bonus program proposed by staff at the hearing.

## **FINDINGS**

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Commission finds that the rezoning of the Fillmore Street NC District to the Fillmore Street NCT District will allow for greater density along a major transit corridor in the City. It will also help the City meet its current and future housing demands while still preserving existing neighborhood character.
2. The Commission finds that the additional units this rezoning could potentially produce will also help bring more people and life to the Fillmore Street corridor, improving the vitality of the neighborhood.
3. The Commission finds that it is appropriate to rezoned parcels 0780/035 and 0780/036 from NC-1 to RTO because these are properties have existing residential uses or are in a residential area, and having an NC-1 Zoning district directly across the street from an NCT Zoning District is inconsistent with the stated purpose of NC-1 Zoning Districts.
4. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

### **I. COMMERCE & INDUSTRY ELEMENT**

THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN SETS FORTH OBJECTIVES AND POLICIES THAT ADDRESS THE BROAD RANGE OF ECONOMIC

ACTIVITIES, FACILITIES, AND SUPPORT SYSTEMS THAT CONSTITUTE SAN FRANCISCO'S EMPLOYMENT AND SERVICE BASE.

**OBJECTIVE 4**

IMPROVE THE VIABILITY OF EXISTING INDUSTRY IN THE CITY AND THE ATTRACTIVENESS OF THE CITY AS A LOCATION FOR NEW INDUSTRY.

**Policy 6.6**

Adopt specific zoning districts, which conform to a generalized neighborhood commercial land use and density plan.

*The proposed district conforms to the generalized neighborhood commercial land use and density plan published in the General Plan.*

**HOUSING ELEMENT**

**THE HOUSING ELEMENT IS INTENDED TO PROVIDE THE POLICY BACKGROUND FOR HOUSING PROGRAMS AND DECISIONS; AND TO PROVIDE BROAD DIRECTION TOWARDS MEETING THE CITY'S HOUSING GOALS.**

**OBJECTIVE 1**

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

**Policy 1.6**

Consider greater flexibility in number and size of units within established building envelopes in community based planning processes, especially if it can increase the number of affordable units in multi-family structures.

*The proposed NCT will allow greater flexibility in the number and size of units within established building envelopes.*

**OBJECTIVE 11**

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

**Policy 11.3**

Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.

*The proposed rezoning will allow for greater growth within the corridor without substantially and adversely impacting existing neighborhood character as the height and bulk controls will remain the same.*

**OBJECTIVE 12**

**BALANCE HOUSING GROWTH WITH ADEQUATE INFRASTRUCTURE THAT SERVES THE CITY'S GROWING POPULATION.**

**Policy 12.1**

Encourage new housing that relies on transit use and environmentally sustainable patterns of movement.

*The proposed rezoning will allow more housing to be developed along a major transit and commercial corridor. This new housing will not be required to have any parking, making it more likely that the future residents will rely on transit.*

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

A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

*The proposed Ordinance does not propose any changes to the use controls in the commercial districts. It will not have a negative impact on existing neighborhood-serving retail uses*

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

*The proposed Ordinance would allow greater density within existing height and bulk limitations, helping to meet the City's housing demand while preserving existing neighborhood character.*

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

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

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

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

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

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

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

*Preparedness against injury and loss of life in an earthquake is unaffected by the proposed*

*Ordinance. Any new construction or alteration associated with a use would be executed in compliance with all applicable construction and safety measures.*

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

*Landmarks and historic buildings would be unaffected by the proposed Ordinance. Should a proposed use be located within a landmark or historic building, such site would be evaluated under typical Planning Code provisions and comprehensive Planning Department policies.*

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

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

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on April 2, 2015.

Jonas P Ionin  
Commission Secretary

AYES: Antonini, Fong, Hillis, Johnson, Moore, Richards, and Wu

NAYS: none

ABSENT: none

ADOPTED: April 2, 2015



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text & Zoning Map Amendment

HEARING DATE: APRIL 2, 2015

*Date:* March 26, 2015  
*Project Name:* **Establishing the Fillmore Street NCT District**  
*Case Number:* 2015-001268PCA [Board File No. 150081]  
*Initiated by:* Supervisor Breed / Introduced January 27, 2015  
*Staff Contact:* Aaron Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362  
*Recommendation:* **Recommend Approval with Modifications**

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### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to establish the Fillmore Street Neighborhood Commercial Transit District along Fillmore Street between Bush and McAllister Streets in place of the Fillmore Street Neighborhood Commercial District; amend various other sections to make conforming and other technical changes; and amend the Zoning Map to make changes that conform with the Code amendments.

#### The Way It Is Now:

1. Properties along long Fillmore Street between Bush and McAllister Streets are zoned Fillmore Street Neighborhood Commercial (NC) District, RM-4 (Residential Mixed, High Density) RM-3 Residential Mixed Medium Density), and RH-3 (Residential House, Three-Family).
2. In the Fillmore Street NC, RM-4, and RM-3 Districts, residential density limits are based on the area of the lot. In RH-3 Districts residential density is limited to three units per lot. The density limits for Fillmore Street NC, RM-4 and RM-3 Districts are as follows:
  - a) **Fillmore Street NC District:** One unit per 600 sq. ft. lot area for Dwelling Units.
  - b) **RM-4 Districts:** One unit per 200 sq. ft. lot area for Dwelling Units.
  - c) **RM-3 Districts:** One unit per 400 sq. ft. lot area for Dwelling Units.

#### The Way It Would Be:

1. Properties along Fillmore Street between Bush and McAllister Streets would be zoned Fillmore Street Neighborhood Commercial Transit (NCT) District.
2. Residential density would be regulated by other Planning Code requirements such as height/bulk limitations, open space, rear yard setbacks, and exposure requirements.

### BAKCGROUND

The Planning Commission considered the establishment of the Fillmore Street NC District on June 13, 2013, (Board File No. 120814, Case #2012.1183TZ), and recommended approval with modifications to the Board of Supervisors. That ordinance rezoned the NC-3 parcels along Fillmore Street from Bush to



McAllister; it removed parking minimums; and allowed for the five foot height bonus on the ground floor. It also principally permitted Philanthropic Administrative Services and prohibited the conversion of residential units on the second and third floors. There were also amendments that would have placed additional restrictions on Formula Retail within the district. This ordinance only recently became effective in December of last year, because Supervisor Breed was waiting for the outcome of the Formal Retail Report and corresponding ordinance<sup>1</sup>. After the Formula Retail ordinance was passed, the additional provisions for Formula Retail were taken out of the proposed ordinance and it moved forward at the Board of Supervisors.

## **ISSUES AND CONSIDERATIONS**

### **Meeting the Demand for Housing**

In response to an unprecedented demand for housing and rising housing costs, Mayor Lee published an executive directive in January 2014 where he pledged 30,000 new and rehabilitated homes throughout the City by 2020, of which at least one-third of those would be permanently affordable to low and moderate income families, and with the majority of them within financial reach of working, middle income San Franciscans. San Francisco is in a housing affordability crisis and is frequently described as among the worst in the nation,<sup>2 3 4 5</sup> and the demand for housing is expected to increase. The 2012 American Community Survey estimated San Francisco's population to be about 807,755. The Associate on Bay Area Governments projects continued population growth to 981,800 by 2030 or an overall increase of about 174,045 people who will need to be housed over the next 18 years. Household growth, an approximation of the demand for housing, indicates a need for some 72,530 new units in the 18 years to 2030 just to accommodate projected population and household growth.<sup>6</sup> The City's challenge is to find new ways to accommodate more housing units into the existing urban fabric in order to meet current and future demands without negatively impacting neighborhood character.

### **Regulating the Number of Units with Building Form**

The City started to adopt zoning districts without density controls in 2007 as a result of the Market Octavia Plan<sup>7</sup>. These new districts include the Residential Transit Oriented (RTO, RTO-Mission) Districts, the Neighborhood Commercial Transit Districts (NCT-1, NCT-2, and NCT-3) and several new named

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<sup>1</sup> Board File 140844, Enactment #235-14

<sup>2</sup> Fortune Magazine. July 10, 2014. "Americas Housing Affordability Crisis is Getting Worse" Matthews, Chris. Retrieved at: <http://fortune.com/2014/07/10/us-housing-affordability/>

<sup>3</sup> A June 21, 2014 article in the NextCity, a city planning nonprofit wrote: "Mayor Lee has called the lack of affordable housing a "crisis" that "threatens to choke off [the city's] economic growth and prosperity for the future". Retrieved from: <http://nextcity.org/daily/entry/san-francisco-apartment-cost-affordable-housing>

<sup>4</sup> New York Times. April 14, 2014. "In Many Cities, Rent Is Rising Out of Reach of Middle Class". Dewan, Shaila. Retrieved from: <http://www.nytimes.com/2014/04/15/business/more-renters-find-30-affordability-ratio-unattainable.html>

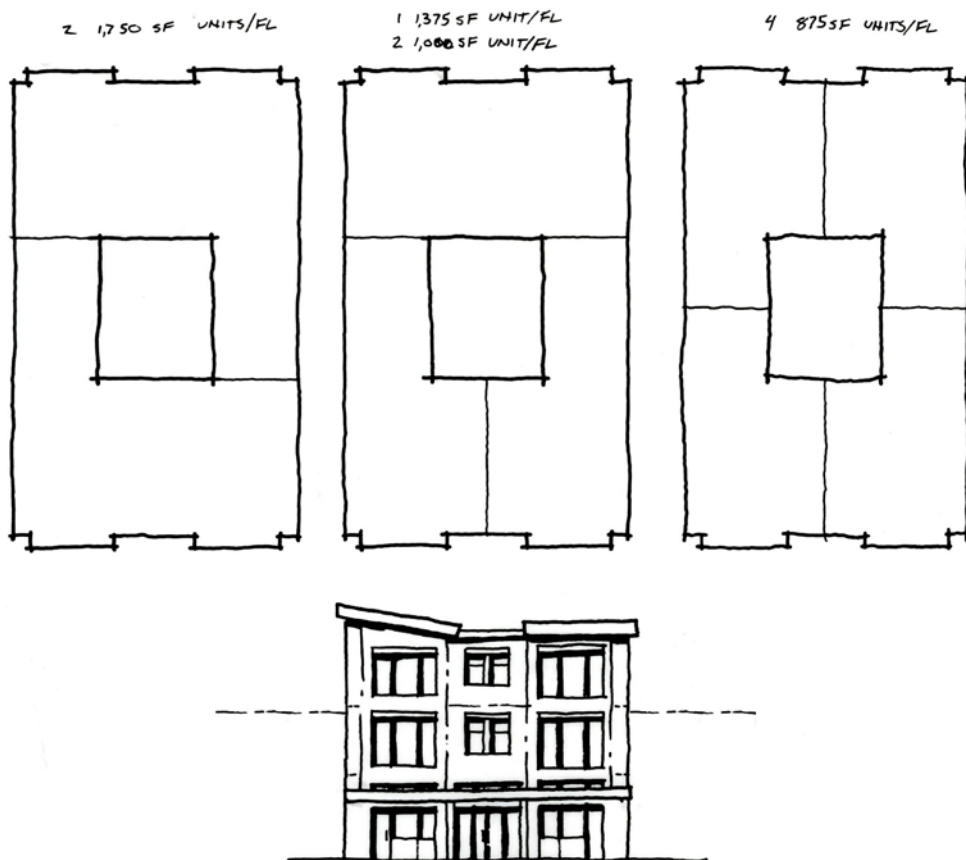
<sup>5</sup> The Economist. April 16, 2014. "The Spectre Haunting San Francisco". London, R.A. Retrieved from: <http://www.economist.com/blogs/freexchange/2014/04/housing-markets>

<sup>6</sup> San Francisco General Plan 2014 Housing Element

<sup>7</sup> Board of Supervisors Ordinance No. 0246-07, adopted October 23, 2007

Neighborhood Commercial Districts, including the SOMA NCT, Mission Street NCT, Ocean Avenue NCT, and the Glenn Park NCT Districts. Rather than regulating the number of units by the area of the lot, the number of units in RTO and NCT Districts is limited by height/bulk, open space, setback, and exposure requirements. This allows for a slightly more units than would be permitted under the current regulations.

As an example, the height limits in the Fillmore Street NCD are 40 feet (40-X) 50 feet (50-X) 130 feet (130-B) and 160 feet (160-F), depending on the parcel. On a 75 x 100 foot parcel with a 130 foot height limit that contains 7,500 sq. ft., a property owner would be limited to 13 residential units in a building that is permitted to go up 13 floors (7,500 sq. ft. /600 sq. ft. per unit). Removing this limitation allows more housing to be put into the same size building, increasing the potential number of units permitted in the Fillmore St. corridor without impacting a neighborhood's visual character or scale. Below is a sketch of how this concept works for a three story, mixed-use building:



### NCT-3 Districts

The Fillmore Street NCT District is proposed at the same scale of intensity as a NCT-3 Zoning District. NCT-3 Districts are transit-oriented moderate- to high-density mixed-use neighborhoods of varying scale concentrated near transit services. The NCT-3 Districts are mixed use districts that support neighborhood-serving commercial uses on lower floors and housing above. These districts are well-served by public transit and aim to maximize residential and commercial opportunities on or near major

transit services. The district's form can be either linear along transit-priority corridors, concentric around transit stations, or broader areas where transit services criss-cross the neighborhood. Housing density is limited not by lot area, but by the regulations on the built envelope of buildings, including height, bulk, setbacks, and lot coverage, and standards for residential uses, including open space and exposure, and urban design guidelines. Residential parking is not required and generally limited. Commercial establishments are discouraged or prohibited from building accessory off-street parking in order to preserve the pedestrian-oriented character of the district and prevent attracting auto traffic. There are prohibitions on access (i.e. driveways, garage entries) to off-street parking and loading on critical stretches of NC and transit streets to preserve and enhance the pedestrian-oriented character and transit function.

#### **Required Unit Mix in NCT Districts**

To ensure an adequate supply of family-sized units in existing and new housing stock, Section 207.6 of the Planning Code requires new residential construction in NCT Districts with five or more units to be comprised of at least 40 percent two-bedroom units or 30 percent three bedrooms units. These requirements may be waived or modified with Conditional Use Authorization, if the project demonstrates a need or mission to serve unique populations, or the project site features physical constraints that make it unreasonable to fulfill these requirements.

#### **Division of Existing Dwelling Units in NCT Districts**

Planning Code Section 207.8 limits the subdivision of existing dwelling units in order to ensure an adequate supply of family-sized units. The division of any existing dwelling unit into two or more units NCT districts is permitted only if it meets both of the following conditions:

- a. The existing unit exceeds 2,000 occupied square feet or contains more than 3 bedrooms; and
- b. At least one of the resulting units is no less than 2 bedrooms and 1,250 square feet in size.

#### **Commercial District Expansion**

The proposed Ordinance would expand the district to include three new parcels; two to the south (863 Fillmore and 949 Fillmore Street) and one to the north on the corner of Geary and Steiner (1640 Steiner Street). Please see the map in Exhibit C for more information.

**863 Fillmore** (0798/001), at the southwest corner of Fillmore and Fulton, is zoned RH-3 and has an existing nonconforming ground-floor commercial use, with housing above; NCT zoning will make the existing commercial use conforming.

**949 Fillmore** (0779/031) currently zoned RM-4 is a large parcel (30,938 sq. ft.), with a single-story church and surface parking lot, occupying the entire west side of Fillmore Street between McAllister and Fulton streets. NCT zoning allows both retail and residential uses, which are appropriate to the site. Future ground-floor retail uses could enhance walkability of this stretch of Fillmore, and extend the commercial district south to Fulton Street. The Department isn't aware of any plans for the church site, but NCT zoning designation gives them a broader range of uses to choose from.

**1640 Steiner** (0702/038) is currently zoned RM-3 and occupied by a residential building. The Department isn't aware of any plans to redevelop this parcel, but rezoning it to an NCT district will also give that

property a broader range of uses to choose from and allow for greater density along a major transit corridor.

## **REQUIRED COMMISSION ACTION**

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

## **RECOMMENDATION**

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

The Department recommends the following modifications:

1. Include the rezoning of parcels 0780/035 and 0780/036 from NC-1 (Neighborhood Commercial, Cluster) District, to RTO (Residential Transit Oriented) District.
2. Amend the list of parcels in the Ordinance to reflect their correct zoning. Specifically Parcel 0798/001 should be RH-3, 0779/031 should be RM-4, and 0702/038 should be RM-3.

## **BASIS FOR RECOMMENDATION**

The Department supports the rezoning of the Fillmore Street NC District to the Fillmore Street NCT District because it will allow for greater density along a major transit corridor in the City. It will also help the City meet its current and future housing demands while still preserving existing neighborhood character. The added units this ordinance could potentially produce will also help bring more people and life to the Fillmore Street corridor, improving the vitality of the neighborhood.

### **Recommendation 1: Include the rezoning of parcels 0780/035 and 0780/036 from NC-1 (Neighborhood Commercial, Cluster) District, to RTO (Residential Transit Oriented) District in the proposed Ordinance.**

These parcels are located right next to each other (Exhibit C) on the corner of Fillmore and Fulton Street. The parcel directly on the corner is occupied by a three-story residential building and the other parcel that fronts on Fulton is a surface parking lot. Currently, these parcels are zoned NC-1 and will be directly across the street from the proposed NCT District. NC-1 districts are intended to be located within residential neighborhoods, and are often found in outlying areas of the City. They are also intended for lower intensity of commercial activity that mainly focuses on serving the surrounding neighborhood. Having this an NC-1 District directly next to another commercial district is inconsistent with the intent of the zoning; therefore the Department is proposing to rezone it to RTO.

The Department finds that RTO zoning is the best fit for this parcel because like NCT Districts, it does not have density controls based on the lot size, but is a residential zoning district. The building fronting on Fulton Street is a relatively new residential building. It's unlikely to get redeveloped anytime soon, and the RTO zoning district is consistent with its existing use. The surface parking lot is located within a residential area off the main commercial street, and should it be redeveloped in the future RTO zoning would allow greater density and be consistent with the existing land use pattern.

### **Recommendation 2: Amend the list of parcels in the Ordinance to reflect their correct zoning. Specifically Parcel 0798-001 should be RH-3, 0779-031 should be RM-4, and 0702-038 should be RM-3.**

This is a clerical amendment and is intended to fix a drafting error in the Ordinance.

## **ENVIRONMENTAL REVIEW**

The proposed Ordinance is not defined as a project under CEQA Guidelines Section 15378 and 15060(c) (2) because it does not result in a physical change in the environment.

## **PUBLIC COMMENT**

The Department has received several phone calls and emails in response to the mailed notice sent out for this Ordinance. Most people who contacted the Department wanted clarification on what the ordinance would do. There was some skepticism and the Department did receive one clear expression of opposition to the proposed Ordinance.

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

- Exhibit A:        Draft Planning Commission Resolution
- Exhibit B:        Map of Proposed Fillmore Street NCT
- Exhibit C:        Board of Supervisors File No. 150081



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Resolution No. 19348

HEARING DATE: APRIL 2, 2015

*Project Name:* **Establishing the Divisadero Street NCT District**  
*Case Number:* 2015-001388PCA [Board File No. 150082]  
*Initiated by:* Supervisor Breed / Introduced January 27, 2015  
*Staff Contact:* Aaron Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362  
*Recommendation:* **Recommend Approval with Modifications**

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**RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO ESTABLISH THE DIVISADERO STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT ALONG DIVISADERO STREET BETWEEN HAIGHT AND O'FARRELL STREETS IN PLACE OF THE DIVISADERO STREET NEIGHBORHOOD COMMERCIAL DISTRICT AND MAKE CONFORMING AND OTHER TECHNICAL CHANGES TO VARIOUS OTHER SECTIONS; AMENDING THE ZONING MAP TO MAKE CHANGES THAT CONFORM WITH THE CODE AMENDMENTS; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1.**

### **PREAMBLE**

Whereas, on January 27, 2015, Supervisor Breed introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 150082 that would amend the San Francisco Planning Code to establish the Divisadero Street Neighborhood Commercial Transit District along Divisadero Street between Haight and O'Farrell Streets in place of the Divisadero Street Neighborhood Commercial District and make conforming and other technical changes to various other sections; amending the Zoning Map to make changes that conform with the Code amendments; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.; and

Whereas, on April 2, 2015, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance and recommended approval with modifications of the proposed Ordinance; and

Whereas, the Planning Department (hereinafter Department) determined that the Project was not defined as a project under CEQA Guidelines Section 15378 and 15060(c) (2) because it does not result in a physical change in the environment; and

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

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

Whereas, the Commission has reviewed the proposed Ordinance; and

**MOVED**, that the Commission hereby recommends that the Board of Supervisors recommends **approval with modifications** of the proposed Ordinance and adopts the attached Draft Resolution to that effect. The modifications that the Commission recommends are as follows:

1. Add the lot merger restrictions for NCT Districts promulgated in Planning Code Section 121.7 to the Divisadero Street NCT.
2. Do not include the provision for the density bonus program proposed by staff at the hearing.

## **FINDINGS**

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Commission supports the rezoning of the Divisadero Street NC District to the Divisadero Street NCT District because it will allow for greater density along a major transit corridor in the City. It will also help the City meet its current and future housing demands while still preserving existing neighborhood character.
2. The Commission finds that Divisadero Street has been transformed over the past decade by changing demographics and increased involvement from merchants and residents. Rezoning the area to a NCT district would help continue this transformation, and help create a more dynamic and vibrant neighborhood.
3. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

### **I. COMMERCE & INDUSTRY ELEMENT**

THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN SETS FORTH OBJECTIVES AND POLICIES THAT ADDRESS THE BROAD RANGE OF ECONOMIC ACTIVITIES, FACILITIES, AND SUPPORT SYSTEMS THAT CONSTITUTE SAN FRANCISCO'S EMPLOYMENT AND SERVICE BASE.

#### **OBJECTIVE 4**

IMPROVE THE VIABILITY OF EXISTING INDUSTRY IN THE CITY AND THE ATTRACTIVENESS OF THE CITY AS A LOCATION FOR NEW INDUSTRY.

**Policy 6.6**

Adopt specific zoning districts, which conform to a generalized neighborhood commercial land use and density plan.

*The proposed district conforms to the generalized neighborhood commercial land use and density plan published in the General Plan.*

**HOUSING ELEMENT**

**THE HOUSING ELEMENT IS INTENDED TO PROVIDE THE POLICY BACKGROUND FOR HOUSING PROGRAMS AND DECISIONS; AND TO PROVIDE BROAD DIRECTION TOWARDS MEETING THE CITY'S HOUSING GOALS.**

**OBJECTIVE 1**

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

**Policy 1.6**

Consider greater flexibility in number and size of units within established building envelopes in community based planning processes, especially if it can increase the number of affordable units in multi-family structures.

*The proposed NCT will allow greater flexibility in the number and size of units within established building envelopes.*

**OBJECTIVE 11**

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

**Policy 11.3**

Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.

*The proposed rezoning will allow for greater growth within the corridor without substantially and adversely impacting existing neighborhood character as the height and bulk controls will remain the same.*

**OBJECTIVE 12**

**BALANCE HOUSING GROWTH WITH ADEQUATE INFRASTRUCTURE THAT SERVES THE CITY'S GROWING POPULATION.**

**Policy 12.1**

Encourage new housing that relies on transit use and environmentally sustainable patterns of movement.

*The proposed rezoning will allow more housing to be developed along a major transit and commercial corridor. This new housing will not be required to have any parking, making it more likely that the future residents will rely on transit.*



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

- A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

*The proposed Ordinance does not propose any changes to the use controls in the commercial districts. It will not have a negative impact on existing neighborhood-serving retail uses*

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

*The proposed legislation would allow greater density within existing height and bulk limitations, helping to meet the City's housing demand while preserving existing neighborhood character.*

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

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

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

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

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

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

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

*Preparedness against injury and loss of life in an earthquake is unaffected by the proposed Ordinance. Any new construction or alteration associated with a use would be executed in compliance with all applicable construction and safety measures.*

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

*Landmarks and historic buildings would be unaffected by the proposed Ordinance. Should a proposed use be located within a landmark or historic building, such site would be evaluated under typical Planning Code provisions and comprehensive Planning Department policies.*

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

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

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on April 2, 2015.

Jonas P Ionin  
Commission Secretary

AYES: Antonini, Fong, Hillis, Johnson, Moore, Richards, and Wu

NAYS: none

ABSENT: none

ADOPTED: April 2, 2015



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text & Zoning Map Amendment

HEARING DATE: APRIL 2, 2015

*Date:* March 26, 2015  
*Project Name:* **Establishing the Divisadero Street NCT District**  
*Case Number:* 2015-001388PCA [Board File No. 150082]  
*Initiated by:* Supervisor Breed / Introduced January 27, 2015  
*Staff Contact:* Aaron Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362  
*Recommendation:* **Recommend Approval**

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### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to establish the Divisadero Street Neighborhood Commercial Transit District along Divisadero Street between Haight and O'Farrell Streets in place of the Divisadero Street Neighborhood Commercial District and make conforming and other technical changes to various other sections; and amending the Zoning Map to make changes that conform with the Code amendments.

#### The Way It Is Now:

1. Properties along Divisadero Street between Haight and O'Farrell Streets are zoned Divisadero Street Neighborhood Commercial (NC) District.
2. In the Divisadero Street NC District, residential density limits are based on the area of the lot. These limits are currently one unit per 800 sq. ft. lot area for Dwelling Units, and 1 bedroom per 275 sq. ft. lot area for Group Housing.

#### The Way It Would Be:

1. Properties along Divisadero Street between Haight and O'Farrell Street would be zoned Divisadero Street Neighborhood Commercial Transit (NCT) District.
2. Residential density would be regulated by other Planning Code requirements such as height/bulk limitations, open space, rear yard setbacks, and exposure requirements.

### BACKGROUND

The Planning Commission considered the establishment of the Divisadero Street NC District on November 29, 2012 (Board File No. 120796, Case #2012.0950TZ), and recommended approval to the Board of Supervisors. That ordinance rezoned the NC-2 parcels that faced Divisadero Street between Haight and O'Farrell Streets to the Divisadero Street NC District; it removed parking minimums; and allowed for the five foot height bonus on the ground floor. It also changed the use controls to allow Bars, Restaurants, Limited-Restaurants, Movie Theaters, Other Entertainment, Philanthropic Administrative Services and Trade Shops on the second floor; and removed the Divisadero Street Alcohol Street

Restricted Use Districts, but preserved the prohibition on new liquor stores in the NCD. This ordinance only recently became effective in December of last year, because Supervisor Breed was waiting for the outcome of the Formal Retail Report and ordinance<sup>1</sup>. After the Formula Retail ordinance was passed, the additional provisions for Formula Retail were taken out of the proposed ordinance and it moved forward at the Board of Supervisors.

## **ISSUES AND CONSIDERATIONS**

### **Meeting the Housing Demand**

In response to an unprecedented demand for housing and rising housing costs, Mayor Lee published an executive directive in January 2014 where he pledged 30,000 new and rehabilitated homes throughout the City by 2020, of which at least one-third of those are permanently affordable to low and moderate income families, and with the majority of them within financial reach of working, middle income San Franciscans. San Francisco is in a housing affordability crisis and is frequently described as among the worst in the nation,<sup>2 3 4 5</sup> and the demand for housing is predicted to increase. The 2012 American Community Survey estimated San Francisco's population to be about 807,755. The Association of Bay Area Governments projects continued population growth to 981,800 by 2030 or an overall increase of about 174,045 people who will need to be housed over the next 18 years. Household growth, an approximation of the demand for housing, indicates a need for some 72,530 new units in the 18 years to 2030 just to accommodate projected population and household growth.<sup>6</sup> The City's challenge is to find new ways to accommodate more housing units into the existing urban fabric in order to meet current and future demands without negatively impacting neighborhood character.

### **Regulating the Number of Units with Building Form**

The City started to adopt zoning districts without density controls in 2007 as a result of the Market Octavia Plan<sup>7</sup>. These new districts include the Residential Transit Oriented (RTO, RTO-M) Districts, the Neighborhood Commercial Transit Districts (NCT-1, NCT-2, and NCT-3) and several new named Neighborhood Commercial Districts including the SOMA NCT, Mission Street NCT, Ocean Avenue NCT, and the Glenn Park NCT Districts. Rather than rely on regulating the number of units by the area of the lot, the number of units in RTO and NCT Districts is limited by height/bulk, open space, and exposure

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<sup>1</sup> Board File 140844, Enactment #235-14

<sup>2</sup> Fortune Magazine. July 10, 2014. "Americas Housing Affordability Crisis is Getting Worse" Matthews, Chris. Retrieved at: <http://fortune.com/2014/07/10/us-housing-affordability/>

<sup>3</sup> A June 21, 2014 article in the NextCity, a city planning nonprofit wrote: "Mayor Lee has called the lack of affordable housing a "crisis" that "threatens to choke off [the city's] economic growth and prosperity for the future". Retrieved from: <http://nextcity.org/daily/entry/san-francisco-apartment-cost-affordable-housing>

<sup>4</sup> New York Times. April 14, 2014. "In Many Cities, Rent Is Rising Out of Reach of Middle Class". Dewan, Shaila. Retrieved from: <http://www.nytimes.com/2014/04/15/business/more-renters-find-30-affordability-ratio-unattainable.html>

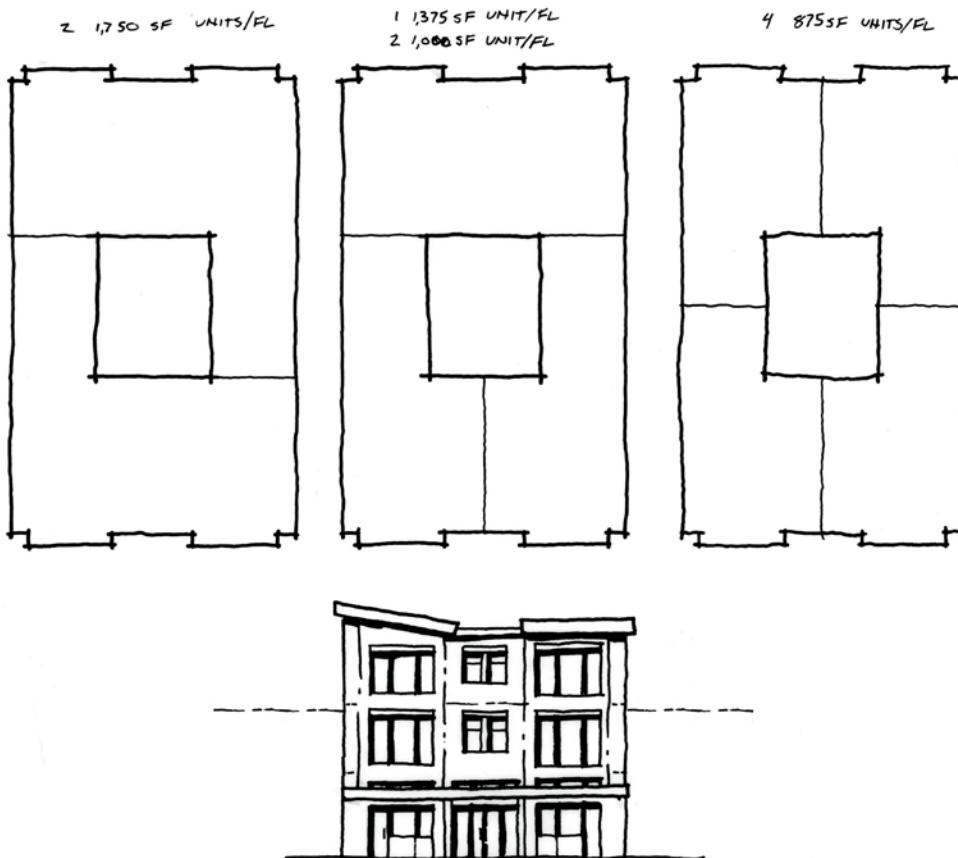
<sup>5</sup> The Economist. April 16, 2014. "The Spectre Haunting San Francisco". London, R.A. Retrieved from: <http://www.economist.com/blogs/freexchange/2014/04/housing-markets>

<sup>6</sup> San Francisco General Plan 2014 Housing Element

<sup>7</sup> Board of Supervisors Ordinance No. 0246-07, adopted October 23, 2007

requirements. This allows for a slightly more units than would be permitted under the current regulations.

For example, most of the Divisadero Street NCD is zoned for 65 feet (65-A), or 6 floors. On a normal 25 x 100 foot parcel that contained 2,500 sq. ft. a property owner would be limited to 3 residential units in a building that is permitted to go up 6 floors (2,500 sq. ft. /800 sq. ft. per unit); less than one unit per floor. Removing this limitation allows more housing to be put into the same size building, increasing the potential number of units permitted in the Divisadero St. corridor without impacting a neighborhood's visual character or scale. Below is an example of how this concept works for a three story, mixed-use building:



### NCT-2 Districts

The Divisadero Street NCT District is proposed at the same scale of intensity as a NCT-2 Zoning District. NCT-2 Districts are transit-oriented mixed-use neighborhoods with small scale commercial uses near transit services. The NCT Districts are mixed use districts that support neighborhood-serving commercial uses on lower floors and housing above. These Districts are well-served by public transit and aim to maximize residential and commercial opportunities on or near major transit services. The District's form is generally linear along transit-priority corridors, though may be concentric around transit stations or in broader areas where multiple transit services criss-cross the neighborhood.

Housing density is limited not by lot area, but by the regulations on the built envelope of buildings, including height, bulk, setbacks, and lot coverage, and standards for residential uses, including open space and exposure, and urban design guidelines. There are prohibitions on access (e.g., driveways, garage entries) to off-street parking and loading on critical stretches of commercial and transit street frontages to preserve and enhance the pedestrian-oriented character and transit function. Residential parking is not required and generally limited. Commercial establishments are discouraged from building excessive accessory off-street parking in order to preserve the pedestrian-oriented character of the district and prevent attracting auto traffic.

NCT-2 Districts are intended to provide convenience goods and services to the surrounding neighborhoods as well as limited comparison shopping goods for a wider market. The range of comparison goods and services offered is varied and often includes specialty retail stores, restaurants, and neighborhood-serving offices. The small-scale district controls provide for mixed-use buildings, which approximate or slightly exceed the standard development pattern. Rear yard requirements above the ground story and at residential levels preserve open space corridors of interior blocks.

#### **Required Unit Mix in NCT Districts**

To ensure an adequate supply of family-sized units in existing and new housing stock, Section 207.6 of the Planning Code requires new residential construction in NCT Districts with five or more units to be comprised of at least 40 percent two-bedroom units or 30 percent three bedrooms units. These requirements may be waived or modified with Conditional Use Authorization, if the project demonstrates a need or mission to serve unique populations, or the project site features physical constraints that make it unreasonable to fulfill these requirements.

#### **Division of Existing Dwelling Units in NCT Districts**

Planning Code Section 207.8 limits the subdivision of existing dwelling units in order to ensure an adequate supply of family-sized units. The division of any existing dwelling unit into two or more units NCT districts is permitted only if it meets both of the following conditions:

- a. The existing unit exceeds 2,000 occupied square feet or contains more than 3 bedrooms; and
- b. At least one of the resulting units is no less than 2 bedrooms and 1,250 square feet in size.

#### **REQUIRED COMMISSION ACTION**

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

#### **RECOMMENDATION**

The Department recommends that the Commission recommend *approval* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

#### **BASIS FOR RECOMMENDATION**

The Department supports the rezoning of the Divisadero Street NC District to the Divisadero Street NCT District because it will allow for greater density along a major transit corridor in the City. It will also help the City meet its current and future housing demands while still preserving existing neighborhood

character. Divisadero Street has been transformed over the past decade by changing demographics and increased involvement from merchants and residents. Rezoning the area to a NCT district would help continue this transformation, and help create a more dynamic and vibrant neighborhood.

### **ENVIRONMENTAL REVIEW**

The proposed Ordinance is not defined as a project under CEQA Guidelines Section 15378 and 15060(c) (2) because it does not result in a physical change in the environment.

### **PUBLIC COMMENT**

The Department has received several phone calls and emails in response to the mailed notice sent out for this Ordinance. Most people who contacted the Department wanted clarification on what the ordinance would do. While there was some skepticism, the Department did not receive any expressed opposition to the proposed Ordinance, and some people expressed support for the proposed changes.

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

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Map of Proposed Zoning District
- Exhibit C: Board of Supervisors File No. 150082