

**Amendment of the Whole
June 16, 2006.**

FILE NO. 060266

ORDINANCE NO.

1 [Japantown Special Use District.]

2
3 **Ordinance adding Planning Code Section 249.31 to establish the Japantown Special**
4 **Use District for property generally bounded by Bush Street, Geary Boulevard, Laguna**
5 **Street, and Fillmore Street, as defined herein, to require conditional use authorization**
6 **and additional Planning Commission findings for specified uses, and to require**
7 **specified ~~posted and mailed~~ notice, including additional posted notice; amending**
8 **Planning Code Section 703.3 to require conditional use authorization for the**
9 **establishment of formula retail uses in this District; amending the City's Zoning Map**
10 **Sectional Map 2SU to reflect the boundaries of this District; requiring a report on the**
11 **status of this District; and making environmental findings and findings of consistency**
12 **with the General Plan and the priority policies of Planning Code Section 101.1.**

13 Note: Additions are *single-underline italics Times New Roman*;
14 deletions are *strikethrough italics Times New Roman*.
15 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

17 Section 1. Findings. The Board of Supervisors of the City and County of San
18 Francisco hereby finds and declares as follows:

19 a. The legislation will affect property located in Japantown, which generally is bounded
20 by Bush Street, Geary Boulevard, Laguna Street, and Fillmore Street.

21 b. In response to various historic, social, and economic events, Japantown, at one
22 time, had been the center of a highly concentrated Japanese-American residential population.
23 However, changing social, economic, and urban patterns led to a decline in Japantown's size
24 and identity as a neighborhood center for the population it once served. Nonetheless,
25 Japantown continues to play an important local and regional role to many Japanese-

1 Americans as a placed to visit for cultural, educational, commercial, and entertainment
2 reasons. Japantown also plays an important local, regional, national, and international role for
3 San Francisco residents and tourists seeking Japanese and Pan-Asian goods and services
4 and the unique cultural opportunities that Japantown provides.

5 c. Japantown is a city within a city with an identifiable main street on Post Street; major
6 public gathering places, such as Peace Plaza; a commercial core found at the Japantown
7 Center; areas with a high concentration of community cultural facilities, such as Sutter Street
8 and the Buchanan Mall; entertainment and cinematic venues; and quiet residential districts.

9 d. Japantown, established shortly after the 1906 earthquake, currently is
10 commemorating its centennial anniversary, and is one of three remaining Japantowns in the
11 United States. Consequently, Japantown has iconic and historical significance at a local,
12 statewide, and national level.

13 e. The goal of this legislation is to strengthen Japantown's identity as the cultural,
14 spiritual, recreational, and commercial center of the region's Japanese and Japanese-
15 American community. Through zoning and urban design principles, the City intends to
16 reposition Japan Center as a unique resource for Japanese and Pan-Asian goods and
17 services; preserve Japantown as a focus for Japanese American cultural and educational
18 institutions; rekindle Japantown's historical and spiritual connection to the Japanese American
19 community; and enhance Japantown's character as an unique experience for the City's
20 residents and tourists.

21 f. An additional goal of this legislation is to stabilize change in Japantown and preserve
22 its existing character so that the City and stakeholders have an opportunity to work
23 collaboratively on an anticipated community planning process, which may result in additional
24 Planning Code amendments. Part of this community planning process will be discussion and
25 evaluation of the Concepts for the Japantown Community Plan prepared for the Japantown

1 Planning Preservation and Development Task Force. A copy of this report is on file with the
2 Clerk of the Board of Supervisors in File No. 060266 and is incorporated herein by reference.

3 Section 2. Environmental Findings, General Plan Findings, and Other Required
4 Findings.

5 a. The Planning Department has determined that the actions contemplated in this
6 Ordinance are in compliance with the California Environmental Quality Act (California Public
7 Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of the
8 Board of Supervisors in File No. 060266 and is incorporated herein by reference. The Board
9 adopts, as though fully set forth herein, the environmental findings and affirms the conclusion
10 of the Planning Commission in its Resolution No. 17248, adopted after a duly noticed public
11 hearing on May 25, 2006. A copy of which said Planning Commission Resolution is on file
12 with the Clerk of the Board of Supervisors in File No. 060266, and is incorporated by
13 reference herein.

14 b. On May 25, 2006, the Planning Commission, in Resolution No. 17248 approved and
15 recommended for adoption by the Board, the Japantown Special Use District, and adopted
16 findings that the legislation is consistent, on balance, with the City's General Plan and eight
17 priority policies of Planning Code Section 101.1. The Board adopts these findings as its own.
18 A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No.
19 060266, and is incorporated by reference herein.

20 c. Pursuant to Planning Code Section 302, this Board of Supervisors finds that this
21 Special Use District will serve the public necessity, convenience and welfare for the reasons
22 set forth in Planning Commission Resolution No. 17248, and incorporates such reasons by
23 reference herein.

24 Section 3. The San Francisco Planning Code is hereby amended by adding Section
25 249.31, to read as follows:

1 Sec. 249.31. Japantown Special Use District.

2 A Special Use District entitled "Japantown Special Use District," the boundaries of which are
3 shown on Sectional Map 2SU of the Zoning Map of the City and County of San Francisco is hereby
4 established for the purposes set forth below.

5 (a) Purposes. In order to maintain the cultural and historic integrity and neighborhood
6 character of Japantown, the Japantown Special Use District is established to:

7 (1) Preserve and develop Japantown as a viable neighborhood by revitalizing its commercial,
8 recreational, cultural, and spiritual identity as a local, regional, statewide, national, and international
9 resource;

10 (2) Enhance the distinctive image and unique character of Japantown to passing motorists,
11 transit riders, and pedestrians through architectural design, streetscape enhancements, signage, and
12 other elements of the built environment;

13 (3) Strengthen and support Japantown's identity through recognition of its planning
14 subdistricts including the Geary Boulevard corridor; Japantown Center; Post Street commercial core;
15 Sutter Street community/cultural core; Buchanan Mall; Fillmore Street corridor; and surrounding
16 residential districts; and

17 (4) Encourage the representational expression of Japanese architectural design and aesthetic
18 for commercial, cultural, and institutional uses.

19 (b) Controls. The following provisions, in addition to all other applicable provisions of the
20 Planning Code, shall apply within such Special Use District:

21 (1) Conditional Use Authorization. The following activities, if not otherwise prohibited, shall
22 require conditional use authorization from the Planning Commission pursuant to Section 303.

23 (i) Use Size. The establishment of a new use or any change in use in excess of 4,000
24 gross square feet.

1 (ii) Merger. The merger of one or more existing uses into a use in excess of 2,500
2 gross square feet.

3 (iii) Formula Retail. The establishment of any formula retail use, as defined in Section
4 703.3(b).

5 (2) For any use subject to conditional use authorization and for any activity for which that the
6 Planning Commission takes considers under its discretionary review power, the Planning
7 Commission shall make the following additional findings:

8 (i) The use is not incompatible with the cultural and historic integrity, neighborhood
9 character, development pattern, and design aesthetic of the Special Use District; and

10 (ii) The use supports one or more of the purposes for establishing the Japantown
11 Special Use District.

12 (3) Notice. In addition to any other notice requirement, any application for a building
13 permit or Planning Code required approval Any change in use or establishment of a new use
14 in the neighborhood commercial zones within this Special Use District shall require notice
15 pursuant to section 312 and shall include the following:

16 (i) Posted Notice. No later than the date of application submission for a building
17 permit or Planning Code required approval, the applicant shall cause a notice to be
18 posted Posted notice shall be in locations that the Zoning Administrator designates. Said locations
19 shall be easily visible to members of the public and shall be posted, at a minimum, on Geary Boulevard,
20 Post Street, and Webster Street, Fillmore Street, or Laguna Street. The notice shall provide the
21 name and address of the project sponsor; a contact telephone number; and a brief description
22 of the proposed use.

23 (ii) Mailed Notice. On the date that notice is posted pursuant to Subsection
24 (b)(3)(i), the project sponsor shall mail notice containing the same information as the posted
25 notice to relevant neighborhood organizations as described in Section 311(c)(2)(C).

1 Section 4. The San Francisco Planning Code is hereby amended by amending Section
2 703.3 as follows:

3 SEC. 703.3. FORMULA RETAIL USES.

4 (a) Findings.

5 (1) San Francisco is a city of diverse and distinct neighborhoods identified in large
6 part by the character of their commercial areas.

7 (2) San Francisco needs to protect its vibrant small business sector and create a
8 supportive environment for new small business innovations. One of the eight Priority Policies
9 of the City's General Plan resolves that "existing neighborhood-serving retail uses be
10 preserved and enhanced and future opportunities for resident employment in and ownership
11 of such businesses enhanced."

12 (3) Retail uses are the land uses most critical to the success of the City's
13 commercial districts.

14 (4) Formula retail businesses are increasing in number in San Francisco, as they
15 are in cities and towns across the country.

16 (5) Money earned by independent businesses is more likely to circulate within the
17 local neighborhood and City economy than the money earned by formula retail businesses
18 which often have corporate offices and vendors located outside of San Francisco.

19 (6) Formula retail businesses can have a competitive advantage over independent
20 operators because they are typically better capitalized and can absorb larger startup costs,
21 pay more for lease space, and commit to longer lease contracts. This can put pressure on
22 existing businesses and potentially price out new startup independent businesses.

23 (7) San Francisco is one of a very few major urban centers in the state in which
24 housing, shops, work places, schools, parks and civic facilities intimately co-exist to create
25 strong identifiable neighborhoods. The neighborhood streets invite walking and bicycling and

1 the City's mix of architecture contributes to a strong sense of neighborhood community within
2 the larger City community.

3 (8) Notwithstanding the marketability of a retailer's goods or services or the visual
4 attractiveness of the storefront, the standardized architecture, color schemes, decor and
5 signage of many formula retail businesses can detract from the distinctive character of certain
6 neighborhood commercial districts.

7 (9) The increase of formula retail businesses in the City's neighborhood commercial
8 areas, if not monitored and regulated, will hamper the City's goal of a diverse retail base with
9 distinct neighborhood retailing personalities comprised of a mix of businesses. Specifically,
10 the unregulated and unmonitored establishment of additional formula retail uses may unduly
11 limit or eliminate business establishment opportunities for smaller or medium-sized
12 businesses, many of which tend to be non-traditional or unique, and unduly skew the mix of
13 businesses towards national retailers in lieu of local or regional retailers, thereby decreasing
14 the diversity of merchandise available to residents and visitors and the diversity of purveyors
15 of merchandise.

16 (10) If, in the future, neighborhoods determine that the needs of their neighborhood
17 commercial districts are better served by eliminating the notice requirements for proposed
18 formula retail uses, by converting formula retail uses into conditional uses in their district, or
19 by prohibiting formula retail uses in their district, they can propose legislation to do so.

20 (b) Formula Retail Use. Formula retail use is hereby defined as a type of retail
21 sales activity or retail sales establishment which, along with eleven or more other retail sales
22 establishments located in the United States, maintains two or more of the following features:
23 a standardized array of merchandise, a standardized façade, a standardized décor and color
24 scheme, a uniform apparel, standardized signage, a trademark or a servicemark.

25

1 (1) Standardized array of merchandise shall be defined as 50% or more of in-stock
2 merchandise from a single distributor bearing uniform markings.

3 (2) Trademark shall be defined as a word, phrase, symbol or design, or a
4 combination of words, phrases, symbols or designs that identifies and distinguishes the
5 source of the goods from one party from those of others.

6 (3) Servicemark shall be defined as word, phrase, symbol or design, or a
7 combination of words, phrases, symbols or designs that identifies and distinguishes the
8 source of a service from one party from those of others.

9 (4) Décor shall be defined as the style of interior finishings, which may include but is
10 not limited to, style of furniture, wallcoverings or permanent fixtures.

11 (5) Color Scheme shall be defined as selection of colors used throughout, such as
12 on the furnishings, permanent fixtures, and wallcoverings, or as used on the façade.

13 (6) Façade shall be defined as the face or front of a building, including awnings,
14 looking onto a street or an open space.

15 (7) Uniform Apparel shall be defined as standardized items of clothing including but
16 not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and pins (other than
17 name tags) as well as standardized colors of clothing.

18 (8) Signage shall be defined as business sign pursuant to Section 602.3 of the
19 Planning Code.

20 (c) "Retail sales activity or retail sales establishment" shall include the following
21 uses, as defined in Article 7 of this code: "bar," "drive-up facility," "eating and drinking use,"
22 "liquor store," "restaurant, large fast-food," "restaurant, small self-service," "restaurant, full-
23 service," "sales and service, other retail," "sales and service, retail," "movie theatre," "video
24 store," "amusement and game arcade," and "take-out food."
25

1 (d) Formula Retail Uses Permitted. Any use permitted in a Neighborhood
2 Commercial District, which is all a "formula retail use" as defined in this section, is hereby
3 permitted.

4 (e) Formula Retail Use Prohibited. Notwithstanding subsection (d), any use
5 permitted in the Hayes-Gough Neighborhood Commercial District, or the North Beach
6 Neighborhood Commercial District, which is also a "formula retail use" as defined in this
7 section, is hereby prohibited.

8 (f) Conditional Uses. Notwithstanding subsections (d) or (e), any use permitted in
9 the Haight Street Neighborhood Commercial District, the Japantown Special Use District as
10 defined in Section 249.31, or in the Small-Scale Neighborhood Commercial District along
11 Divisadero Street, bounded by Haight Street to the south and Turk Street to the north (Block
12 1128, Lot 20, Block 1129, Lots 93 - 106, Block 1153, Lots 1 - 4, 6, and 21 - 22 Block 1154,
13 Lots 13 - 17B and 35 - 40, Block 1155, Lots 16 - 21, Lots 23, 24, and 36 - 38, Block 1156,
14 Lots 4 - 6, 8, 38 and 40 - 41, Block 1179, Lots 1 - 1C, 27, and 28, Block 1180, Lots 12 - 17,
15 Block 1181, Lots 14 - 19, Block 1182, Lots 2 - 6, 8, 22 - 23, 30 - 60, Block 1201, Lots 1 - 4, 8 -
16 10, 39 - 54 and 57 - 61, Block 1202, Lots 2A, 2B, 2J and 7, Block 1203, Lots 17 - 22, 24 and
17 37, Block 1204, Lots 1 - 11A, Block 1215, Lots 8 - 16, Block 1216, Lots 5, 1 and 17 - 18, Block
18 1217, Lots 20 - 29, Block 1218, Lots 1 - 8, 29, 32, and 50, Block 1237, Lots 1 - 7, Block 1238,
19 Lots 21 - 27, Block 1239, Lot 27, Block 1240, Lot 1), or in the Neighborhood Commercial
20 Cluster Districts located at Cole and Carl Streets (Block 1267, Lot 9, Block 1268, Lots 26, 27,
21 28 and 29, Block 1271, Lots 24, 24A, 24B, 25 and 26, Block 1272, Lots 1, 2, 3, 4, and 5, Block
22 1278, Lot 22), and at Parnassus and Stanyan Streets (Block 1276, Lot 21), which is also a
23 "formula retail use" as defined in this section, is hereby permitted only as a conditional use.
24 Additional criteria to be used by the Planning Commission when considering granting
25 conditional use permits to formula retail uses in these districts are listed in Section 303(i).

1 (g) Neighborhood Commercial Notification and Design Review. After the effective
2 date of this ordinance, any building permit application for a use permitted in a Neighborhood
3 Commercial District which is also a "formula retail use" as defined in this section shall be
4 subject to the neighborhood commercial notification and design review procedures of Section
5 312 of this Code.

6 (h) Discretionary Review Guidelines. The Planning Commission shall develop and
7 adopt guidelines which it shall employ when considering any request for discretionary review
8 made pursuant to this section. These guidelines shall include but are not limited to
9 consideration of the following factors:

10 (1) Existing concentrations of formula retail uses within the neighborhood
11 commercial district.

12 (2) Availability of other similar retail uses within the neighborhood commercial
13 district.

14 (3) Compatibility of the proposed formula retail use with the existing architectural
15 and aesthetic character of the neighborhood commercial district.

16 (4) Existing retail vacancy rates within the neighborhood commercial district.

17 (5) Existing mix of Citywide-serving retail uses and neighborhood-serving retail uses
18 within the neighborhood commercial district.

19 (i) Determination of Formula Retail Use. After the effective date of this ordinance,
20 in those areas in which "formula retail uses" are prohibited, any building permit application
21 determined by the City to be for a "formula retail use" that does not identify the use as a
22 "formula retail use" is incomplete and cannot be processed until the omission is corrected.
23 Any building permit approved after the effective date of this ordinance that is determined by
24 the City to have been, at the time of application, for a "formula retail use" that did not identify
25 the use as a "formula retail use" is subject to revocation at any time.

1 After the effective date of this ordinance, in those areas in which "formula retail uses"
2 are subject to the Neighborhood Commercial Notification and Design Review provisions of
3 subsection (e), any building permit application determined by the City to be for a "formula
4 retail use" that does not identify the use as a "formula retail use" is incomplete and cannot be
5 processed until the omission is corrected. After the effective date of this ordinance, any
6 building permit approved that is determined by the City to be for a "formula retail use" that
7 does not identify the use as a "formula retail use" must complete the Neighborhood
8 Commercial Notification and Design Review required in subsection (e).

9 If the City determines that a building permit application or building permit subject to this
10 section of the Code is for a "formula retail use," the building permit applicant or holder bears
11 the burden of proving to the City that the proposed or existing use is not a "formula retail use."

12 Section 5. Pursuant to Sections 106 and 302(c) of the Planning Code, the following
13 change is hereby adopted as an amendment to the Zoning Map of the City and County of San
14 Francisco, Sectional Map 2SU as follows:

15 Description of Property

16 Assessor's Blocks 675, 676, 677, 684, 685, 686, 700, and 701 to be identified as Japantown
17 Special Use District pursuant to Planning Code Section 249.31.

18 Section 6. This Section is uncodified. Within 2 years of the effective date of this
19 Ordinance, the Planning Department shall transmit to the Clerk of the Board of Supervisors a
20 report that summarizes statistics relating to the implementation of the Special Use District,
21 which may be the basis for subsequent amendments to Planning Code Section 249.31.
22 Those statistics shall include, but are not necessarily limited to, filings of Conditional Use
23 authorization and use of the Commission's Discretionary Review powers with respect to the
24 following: (1) how many applications have been filed, (2) outcome of such filings, and (3)
25 whether those filings were made based on (a) one or more requirements contained in Section

1 249.31, (b) notice requirements under Section 249.31, or (c) other Sections of the Planning
2 Code. This report also shall include data on the timing to process Planning approvals within
3 this District. In addition, the report shall propose a method to assess the economic impacts
4 that are associated with compliance with this District's requirements. Within 90 days of the
5 receipt of the report, a Committee of the Board shall hold a hearing on said report.

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

8 By: _____
9 John D. Malamut
10 Deputy City Attorney