



# 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

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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 13<sup>th</sup> Street  
 San Francisco, CA 94103  
*Staff Contact:* Kevin Guy – (415) 558-6163  
[kevin.guy@sfgov.org](mailto: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,

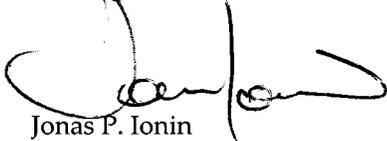
BE IT FURTHER RESOLVED THAT, the Commission recommends that Department staff and the District Supervisor develop specific criteria for the SUD that address the need for a selection of affordable goods when considering a Conditional Use Authorization for a formula retail grocery store use at the site;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