



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text Change

HEARING DATE: MARCH 3, 2011

*Project Name:* Active, Commercial Use Required on  
Certain Portions of Fillmore Street

*Case Number:* 2011.0046T [Board File No. 11-0010]

*Initiated by:* Supervisor Mirkarimi

*Introduced:* January 4, 2011

*Staff Contact:* AnMarie Rodgers, Manager of Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395

*Recommendation:* **Recommend Approval with Modification**

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### PLANNING CODE AMENDMENT

The proposed Ordinance introduced by Supervisor Mirkarimi is a targeted piece of legislation [Board File No. 11-0010], which would require active ground floor commercial uses on Fillmore Street between Bush and McAllister Streets.

Specifically, this legislation would add "Fillmore Street, in the NC-3 District from Bush Street to McAllister Street" to Planning Code Section 145.4, Required Ground Floor Commercial Uses.

#### The Way It Is Now:

The stretch of Fillmore Street between Bush Street and McAllister Street is largely zoned NC-3<sup>1</sup>. Under legislation [BF 101053] recently approved by this Commission and currently pending at the Board, all districts with a "neighborhood commercial" zoning designation would be required to comply with Section 145.1 which requires "active" facades by regulating parking setbacks, parking and loading entrances, active uses, ground floor ceiling height, street-facing, ground level spaces, transparency and fenestration, and grates and grillwork. The NC-3 Zoning control table establishes permitted, non-permitted, and conditionally-permitted uses. This area of Fillmore Street is not currently required to provide "active uses" as defined by Section 145.4

#### The Way It Will Be:

The Proposed Ordinance would amend Planning Code Section 145.4 to include the specified section of Fillmore Street. Section 145.4 requires "active uses" including those uses listed in Table 145.4 (See Attachment A). This list excludes and therefore prohibits certain uses, including but not limited to uses oriented towards motor vehicle use, public utility installations, movie theaters, massage uses, residential uses, residential care uses, and certain services including

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<sup>1</sup> Block 0733 is the only block on Fillmore Street between Bush and McAllister that is not zoned NC-3. As this block is zoned RM-4, the proposed Ordinance would not apply to this block.

business, professional, administration, hospital, and medical services. Individual ground floor uses would be limited to no more than 75 contiguous linear feet for a depth of at least 25 feet into the building. Larger uses shall be wrapped with separate individual storefronts for a depth of at least 25 feet.



Zoning Map of Area Proposed for New Controls.

## 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 modification* as described below to the proposed Ordinance and adopt the attached Draft Resolution to that effect.

- The requested modification is to amend to the proposal to include the additional uses of § 790.93 Self-service Specialty Food and § 790.70 Outdoor Activity Area as uses permitted by 145.4.

## BASIS FOR RECOMMENDATION

This legislation would limit the uses permitted at this location in the same manner as the City currently regulates portions of the following streets: Folsom Street, Van Ness Avenue, South Van Ness Avenue, Market Street, Third Street, Fourth Street, Hayes Street, Octavia Boulevard, Church

Street, Twenty Second Street, Twenty Fourth Street, Sixteenth Street, Twenty-Second Street, Sixth Street, Ocean Avenue, Valencia Street, Mission Street, Ocean Avenue, and Geneva Avenue.

The Department recommends amending the table contained in Section 145.4 to permit the following additional uses: § 790.93 Self-service Specialty Food and §790.70 Outdoor Activity Area. Self-service Specialty Food is a relatively new restaurant type that should now be included with the other restaurant uses as an “active use”. Similarly, “outdoor activity areas” are by definition active uses that should be encouraged where §145.4 would apply.

## **ENVIRONMENTAL REVIEW**

The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

## **PUBLIC COMMENT**

As of the date of this report, the Planning Department has received no correspondence from the public in support of or opposition to the proposal.

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

- Exhibit A:        Planning Code Table 145.4
- Exhibit B:        Draft Planning Commission Resolution
- Exhibit C:        Board of Supervisors File No. 11-0010

**Exhibit A: Planning Code Table 145.4**

Reference for Neighborhood Commercial Districts	Reference for Mixed Use Districts	Use
790.4	890.4	Amusement Game Arcade
790.6	890.6	Animal Hospital
790.12	890.13	Automobile Sale or Rental (see qualification, above)
790.22	890.22	Bar
N/A	890.23	Business Goods and Equipment Sales and Repair Service
790.34	890.34	Eating and Drinking Use
790.38	890.37	Entertainment, Other
N/A	890.39	Gift Store-Tourist Oriented
790.50, 790.51	890.50	Institutions, Other (see qualification, above)
N/A	890.51	Jewelry Store
790.68	890.68	Neighborhood-Serving Business
N/A	890.69	Non-Auto Vehicle Sales or Rental (see qualification, above)
790.80	890.80	Public Use (see qualification, above)
790.91	890.90	Restaurant, Fast-Food (Small)
790.90	890.91	Restaurant, Fast-Food (Large)
790.92	890.92	Restaurant, Full-Service
790.102	890.102	Sales and Service, Other Retail
790.104	890.104	Sales and Services, Retail
790.110	890.110	Service, Financial
790.112	890.112	Service, Limited Financial
790.114	890.114	Service, Medical
790.116	890.116	Service, Personal
790.122	890.122	Take-Out Food
790.124	890.124	Trade Shop

790.140	890.140	Walk-Up Facility
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# SAN FRANCISCO PLANNING DEPARTMENT

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## Draft Planning Commission Resolution

HEARING DATE: MARCH 3, 2011

*Project Name:* **Active, Commercial Use Required on  
Certain Portions of Fillmore Street**

*Case Number:* 2011.0046T [Board File No. 11-0010]

*Initiated by:* Supervisor Mirkarimi

*Introduced:* January 4, 2011

*Staff Contact:* AnMarie Rodgers, Manager of Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395

*Recommendation:* **Recommend Approval with Modification**

**RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE WITH MODIFICATIONS THAT WILL AMEND THE PLANNING CODE ADD "FILLMORE STREET, IN THE NC-3 DISTRICT FROM BUSH STREET TO MCALLISTER STREET" TO PLANNING CODE SECTION 145.4, REQUIRED GROUND FLOOR COMMERCIAL USES.**

### **PREAMBLE**

Whereas, on January 4, 2011, Supervisor Mirkarimi introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 11-0010 which would require active ground floor commercial uses on Fillmore Street between Bush and McAllister Streets; and

Whereas, on March 3, 2011, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed zoning changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); 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, the 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

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MOVED, that the Commission hereby recommends that the Board of Supervisors recommends *approval of the proposed Ordinance with modifications* and adopts the Resolution to that effect.

- The requested modification is to amend to the proposal to include the additional uses of § 790.93 Self-service Specialty Food and §790.70 Outdoor Activity Area as uses permitted by 145.4.

## 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 proposed Ordinance seeks to limit uses on this segment of Fillmore Street to “active uses” as defined by Planning Code Section 145.5;
2. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

### I. COMMERCE & INDUSTRY ELEMENT

#### OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

#### POLICY 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

### II. URBAN DESIGN ELEMENT

#### POLICY 4.13

Improve pedestrian areas by providing human scale and interest.

3. The proposed replacement 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 will encourage neighborhood-serving retail uses by requiring active 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 will not burden existing neighborhood character and housing.*

- 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.

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

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

*Landmarks and historic buildings would be unaffected by the proposed amendments as the Ordinance regulates use type and does not affect the building itself.*

- 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 amendments. 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 March 3, 2011.

Linda Avery  
Commission Secretary

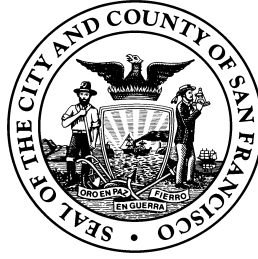
AYES:

NAYS:

ABSENT:

ADOPTED: March 3, 2011

**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**

January 12, 2011

Linda Avery  
Planning Commission  
1660 Mission Street, 5<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Commissioners:

On January 4, 2011, Supervisor Mirkarimi introduced the following proposed legislation:

**File No. 110010**

Ordinance (1) amending Section 145.4 of the San Francisco Planning Code to require active ground-floor commercial uses in properties fronting on Fillmore Street between Bush and McAllister Streets in the NC-3 District; and (2) adopting findings, including environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the 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 that reads "Alisa Somera".

By: Alisa Somera, Committee Clerk  
Land Use & Economic Development Committee

Attachment

- c: John Rahaim, Director of Planning
- Scott Sanchez, Zoning Administrator
- Bill Wycko, Chief Mayor Environmental Analysis
- AnMarie Rodgers, Legislative Affairs
- Nannie Turrell, Major Environmental Analysis
- Brett Bollinger, Major Environmental Analysis
- Georgia Powell, Planning Misc. Permits Routing

1 [Zoning - NC-3 District of Fillmore Street between Bush and McAllister Streets]

2

3 **Ordinance (1) amending Section 145.4 of the San Francisco Planning Code to require**  
 4 **active ground-floor commercial uses in properties fronting on Fillmore Street between**  
 5 **Bush and McAllister Streets in the NC-3 District; and (2) adopting findings, including**  
 6 **environmental findings, Planning Code Section 302 findings, and findings of**  
 7 **consistency with the General Plan and the Priority Policies of Planning Code Section**  
 8 **101.1.**

9 NOTE: Additions are *single-underline italics Times New Roman*;  
 10 deletions are ~~*strike-through italics Times New Roman*~~.  
 11 Board amendment additions are double-underlined;  
 Board amendment deletions are ~~strikethrough normal~~.

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

13 Section 1. Findings.

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

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

23 (c) This Board finds that these Planning Code amendments are consistent with the  
 24 General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set  
 25

1 forth in Planning Commission Resolution No. \_\_\_\_\_, and the Board hereby incorporates  
2 such reasons herein by reference.

3 Section 2. The San Francisco Planning Code is hereby amended by amending Section  
4 145.4, to read as follows:

5 **SEC. 145.4. REQUIRED GROUND FLOOR COMMERCIAL USES.**

6 (a) **Purpose:** To support active, pedestrian-oriented commercial uses on important  
7 commercial streets.

8 (b) **Applicability.** The requirements of this Section apply to the following street  
9 frontages.

10 (1) Folsom Street for the entirety of the Rincon Hill DTR, pursuant to Section 827;

11 (2) Folsom Street for the entirety of the Folsom and Main Residential/Commercial  
12 Special Use District;

13 (3) Van Ness Avenue, in the Van Ness and Market Downtown Residential Special  
14 Use District, from Fell Street to Market Street;

15 (4) South Van Ness Avenue, for the entirety of the Van Ness and Market Downtown  
16 Residential Special Use District;

17 (5) Market Street, for the entirety of the Van Ness and Market Downtown  
18 Residential Special Use District;

19 (6) 3rd Street, in the UMU districts for parcel frontages wholly contained within 100  
20 linear feet north or south of Mariposa Street or 100 linear feet north or south of 20th Street;

21 (7) 4th Street, between Bryant and Townsend in the SLI and MUO Districts;

22 (8) Hayes Street, for the entirety of the Hayes-Gough NCT;

23 (9) Octavia Boulevard, between Fell Street and Hayes Street, in the Hayes-Gough  
24 NCT;

- 1 (10) Market Street, for the entirety of the NCT-3, Upper Market NCD, and Upper  
2 Market NCT Districts;
- 3 (11) Church Street, for the entirety of the NCT-3 and Upper Market NCT Districts;
- 4 (12) 22nd Street, between 3rd Street and Minnesota Streets within the NCT-2  
5 District;
- 6 (13) Valencia Street, between 15th and 23rd Streets in the Valencia Street NCT  
7 District;
- 8 (14) Mission Street, for the entirety of the Mission Street NCT District;
- 9 (15) 24th Street, for the entirety of the 24th Street-Mission NCT;
- 10 (16) 16th Street, between Guerrero and Capp Streets;
- 11 (17) 22nd Street, between Valencia and Mission Streets;
- 12 (18) 6th Street for its entirety within the SoMa NCT District;
- 13 (19) Ocean Avenue, for the entirety of the Ocean Avenue NCT District, except on the  
14 north side of Ocean Avenue between Plymouth and Brighton Avenues;
- 15 (20) Geneva Avenue, between I-280 and Delano Avenue within the NCT-2 District;
- 16 (21) Fillmore Street, in the NC-3 District from Bush Street to McAllister Street.

17 (c) **Definitions.**

18 "Active commercial uses" shall include those uses specifically identified below in Table  
19 145.4, and:

20 (1) Shall not include uses oriented to motor vehicles except for automobile sale or  
21 rental where curb-cuts, garage doors, or loading access are not utilized or proposed, and  
22 such sales or rental activity is entirely within an enclosed building and does not encroach on  
23 surrounding sidewalks or open spaces;

24 (2) Shall include public uses except for utility installations; and  
25

(3) Shall not include residential care uses as defined in Sections 790.50, 790.51, and 890.50.

**Table 145.4**

<b>Reference for Neighborhood Commercial Districts</b>	<b>Reference for Mixed Use Districts</b>	<b>Use</b>
790.4	890.4	Amusement Game Arcade
790.6	890.6	Animal Hospital
790.12	890.13	Automobile Sale or Rental (see qualification, above)
790.22	890.22	Bar
N/A	890.23	Business Goods and Equipment Sales and Repair Service
790.34	890.34	Eating and Drinking Use
790.38	890.37	Entertainment, Other
N/A	890.39	Gift Store-Tourist Oriented
790.50, 790.51	890.50	Institutions, Other (see qualification, above)
N/A	890.51	Jewelry Store
790.68	890.68	Neighborhood-Serving Business
N/A	890.69	Non-Auto Vehicle Sales or Rental (see qualification, above)
790.80	890.80	Public Use (see qualification, above)
790.91	890.90	Restaurant, Fast-Food (Small)

1	790.90	890.91	Restaurant, Fast-Food (Large)
2	790.92	890.92	Restaurant, Full-Service
3	790.102	890.102	Sales and Service, Other Retail
4	790.104	890.104	Sales and Services, Retail
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11	790.140	890.140	Walk-Up Facility

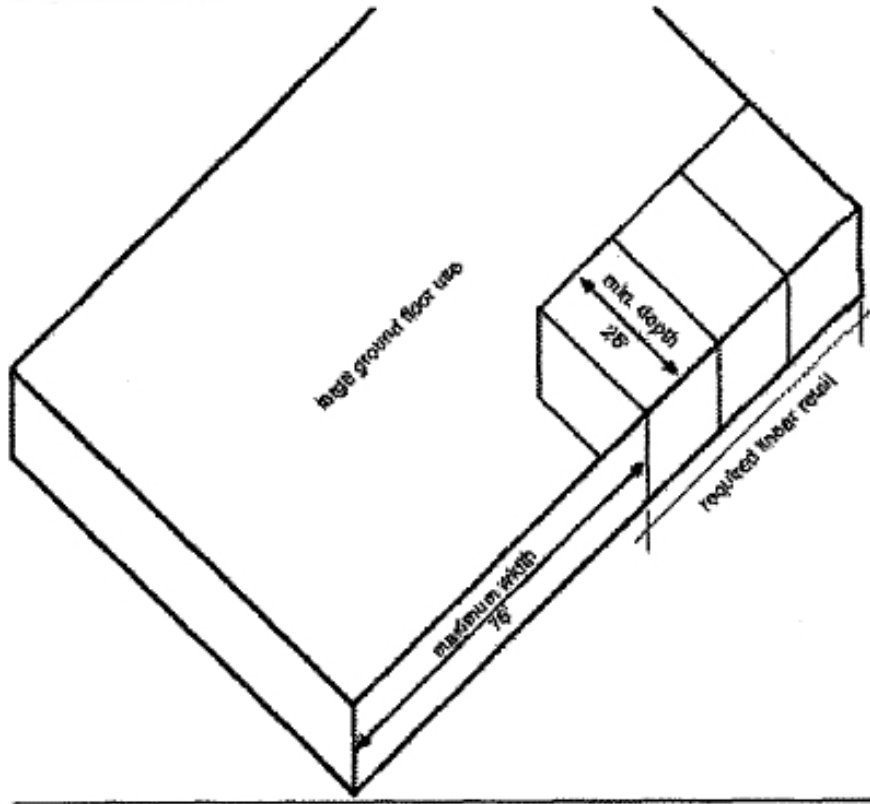
12  
13 (d) **Controls.**

14 (1) Active commercial uses which are permitted by the specific district in which they  
15 are located are required on the ground floor of all street frontages listed in Subsection (b)  
16 above.

17 (2) Active commercial uses shall comply with the standards applicable to active  
18 uses as set forth in Section 145.1(c)(3) and shall further be consistent with any applicable  
19 design guidelines.

20 (3) On those street frontages listed in Subsection (b), an individual ground floor  
21 nonresidential use may not occupy more than 75 contiguous linear feet for the first 25 feet of  
22 depth along a street-facing facade. Separate individual storefronts shall wrap large ground  
23 floor uses for the first 25 feet of depth, as illustrated in Figure 145.4.

Figure 145.4.



(e) **Modifications.** Modifications to the requirements of this Section are not permitted in DTR Districts. In Neighborhood Commercial Districts, modifications to the requirements of this Section may be granted through the Conditional Use process, as set forth in Section 303. In the Eastern Neighborhoods Mixed Use Districts, modifications to the requirements of this Section may be granted through the procedures of Section 329 for ///

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1 projects subject to that Section or through an Administrative Modification from the Zoning  
2 Administrator for other projects, as set forth in Section 307(g).

3  
4 APPROVED AS TO FORM:  
5 DENNIS J. HERRERA, City Attorney

6 By: \_\_\_\_\_  
7 JUDITH A. BOYAJIAN  
8 Deputy City Attorney  
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## LEGISLATIVE DIGEST

[Zoning - NC-3 District of Fillmore Street between Bush and McAllister Streets]

**Ordinance (1) amending Section 145.4 of the San Francisco Planning Code to require active ground-floor commercial uses in properties fronting on Fillmore Street between Bush and McAllister Streets in the NC-3 District; and (2) adopting findings, including environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.**

### Existing Law

Planning Code Section 145.4 requires "active commercial uses," as defined in subsection (c), to be on the ground floor of properties on the commercial streets listed in subsection (b).

### Amendments to Current Law

This ordinance adds the Upper Market Neighborhood Commercial District and Fillmore Street in the NC-3 District from Bush Street to McAllister Street to the list of commercial streets that Section 145.4 applies to.

### Background

The San Francisco Redevelopment Agency designated the Fillmore Jazz Preservation District, centered along Fillmore Street between Post and Steiner, as part of the Redevelopment Plan for the Western Addition A-2 District. In May, 2000, the Board of Supervisors adopted Resolution 464-00 to affirm San Francisco's "unwavering commitment to the residents and merchants of the Fillmore Jazz Preservation District to make this project a reality and place it as a top priority among redevelopment projects."

A centerpiece of the Fillmore Jazz Preservation District strategy was the commercial revitalization of Fillmore Street as a destination retail and entertainment center. Elements of the revitalization plan include a multimillion dollar landscape improvement program along Fillmore Street, loans and grants to attract and retain retail and entertainment businesses, and the establishment of a Community Benefit District.

The Planning Code requires active commercial uses on the ground floor in districts across the City in order to foster economic revitalization, safety, and neighborhood character. The Planning Code requires active ground-floor commercial uses along 20 important commercial streets across the City (Section 145.4), as well as throughout the Downtown Retail District (Section 212), and the Jackson Square Special Use District (Section 249.25). This ordinance adds to Section 145.4 Fillmore Street in the NC-3 District from Bush Street to McAllister Street to further the goals of the Fillmore Jazz Preservation District.