



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Zoning Map & Planning Code Text Change

HEARING DATE: NOVEMBER 29, 2012

Project Name: **Amendments relating to the proposed Fillmore Street NCDs**
Case Number: 2012.1183TZ [Board File No. 120814]
Initiated by: Supervisor Olague/ Introduced July 31, 2012
Staff Contact: Aaron Starr, Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation: **Recommend Approval with Modifications**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend the San Francisco Planning Code and Zoning Map by: 1) adding Section 744.1 to establish the Fillmore Street Neighborhood Commercial District along Fillmore Street between Bush and Fulton Streets; 2) amending Section 151.1, a portion of Table 151.1, Section 263.20 and Section 607.1(f) to make conforming and other technical changes; 3) amending Sheets ZN02 and ZN07 of the Zoning Map to rezone specified properties to the Fillmore Street Neighborhood Commercial District; and 4) adopting 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 Way It Is Now:

- There is a Neighborhood Commercial, Moderate-Scale (NC-3) zoning district that runs along Fillmore Street from Bush to Fulton Street that also includes parcels that front on Webster, Turk, Geary, Sutter and Bush Streets.
- Other parcels, which are adjacent to the existing NC-3 District and are included in the proposed legislation are zoned Residential, Mixed, Medium Density (RM-3), Residential, Mixed, High Density (RM-4), Neighborhood Commercial, Cluster (NC-1), and Residential, House, Three-Family (RH-3), which are general zoning districts found throughout the City.
- NC-3, RM-3, RM-4, NC-1 and RH-3 Zoning Districts have minimum parking requirements that are outlined in Planning Code Section 151.
- In NC-3 Districts, residential conversion is permitted on the ground floor and requires Conditional Use authorization on the second and third floors.
- Philanthropic Administrative Services are only permitted in the Upper Fillmore Neighborhood Commercial District.
- The subject area is within the Fringe Financial Services Restricted Use District, which prohibits new check caching services.

The Way It Would Be:

The proposed legislation would:

- Create a new named Neighborhood Commercial District (NCD) primarily along Fillmore Street from Bush to Fulton. Some properties will be rezoned from residential only districts to neighborhood commercial districts, which allow for a mix of uses. See Exhibit C for a map of the proposed district.
- Institute maximum parking controls within the Fillmore Street NCD, as outlined under Section 151.1
- Provide a 5 foot height bonus for properties zoned 40-X along Fillmore Street.
- Prohibit residential conversion on the second and third floors.
- Allow Philanthropic Administrative Services on the second floor as of right.

ISSUES AND CONSIDERATIONS

NC-3 and Named Neighborhood Commercial Districts

NC-3 Districts are intended to offer a wide variety of comparison and specialty goods and services to a population greater than the immediate neighborhood, additionally providing convenience goods and services to the surrounding neighborhoods. NC-3 Districts are linear districts located along heavily trafficked thoroughfares which also serve as major transit routes. NC-3 Districts include some of the longest linear commercial streets in the City, some of which have continuous retail development for many blocks. Large-scale lots and buildings and wide streets distinguish the districts from smaller-scaled commercial streets, although the districts may include small as well as moderately scaled lots. Buildings typically range in height from two to four stories with occasional taller structures.

Named Commercial Districts are generally of the same scale and intensity as Neighborhood Commercial, Small-Scale (NC-2) Districts. There are currently 27 named NCDs in the City. Some of the oldest named NCDs in the City include the Broadway, Castro, Upper Fillmore, Haight and Inner and Outer Clement NCDs, and there is a trend to create more individually named NCDs throughout the City. These types of districts allow for more tailored controls and help to protect or enhance unique characteristics associated with a neighborhood. Changes that are made to a named commercial district only apply to that district, whereas changes made to NC-1, NC-2 or NC-3 Districts apply citywide. For example, if a named NCD wants to control the number of nail salons because of a perceived over-concentration, then the controls for that named NCD can be changed to prohibit or require Conditional Use authorization for Personal Service uses. Conversely, if a neighborhood wants to encourage a type of use, the controls for that named NCD can be changed so that use is principally permitted.

Density in NC-3 Districts

The stated density limit in NC-3 zoning districts is 1 unit per 600 sq. ft. of lot area; however, Planning Code Section 207.4 allows the density ratio in any NC district to be as high as the density ratio in the nearest Residential District. So while the Ordinance proposes to rezone some properties from RM-4, (one unit per 200 sq. ft. of lot area) and RM-3 (one dwelling unit per 400 sq. ft. of lot area) to NC-3, the number of units permitted on those properties will not decrease because they are still adjacent to other properties that have RM-4 or RM-3 zoning.

Japantown Planning Process

The Japantown Economic and Social Heritage Strategy (formerly Japantown Better Neighborhoods Plan) will include multiple strategies for preserving and supporting Japantown's social heritage and stimulating its economy. One of these strategies will be the creation of a Japantown Neighborhood Commercial – Transit (NCT) District along those portions of Post and Buchanan Streets that are reflective of Japanese and Japanese American culture and commerce. This planning area includes the lot that contains the Kabuki Cinema building, which is also proposed to be rezoned in this legislation.

NCD Height Controls

San Francisco's commercial height districts tend to be base ten numbers such as 40, 50, etc. These base ten districts may lead to buildings that are similar in height to the neighboring buildings but that are lesser in human comfort than buildings of similar scale built prior to the City's height limits. This is due to the desire to maximize the number of stories in new projects. Recent community planning efforts have highlighted some failings of these base 10 height districts. The 2008 Market & Octavia¹ and Eastern Neighborhoods² Plans recognize that the base ten height limits in neighborhood commercial districts often encourage inferior architecture. For this reason, both of these plans sought to encourage more active and attractive ground floor space by giving a five foot height bonus to buildings which meet the definition of "active ground floor" use. This five foot increase must be used for adding more space to the ground floor.

In 2008, Supervisor Sandoval sponsored a similar text amendment that extended this height increase outside of established plan areas to provide for a maximum five foot special height exception for active ground floor uses in the NC-2 and NC-3 designated parcels fronting portions of Mission Street³. Another amendment introduced by Supervisor Avalos in 2009 that now allows a maximum five foot height increase in certain NC-1 parcels in District 11⁴. Most recently, Geary Boulevard, Inner Clement, Outer Clement, the new Outer Sunset NCDs, 24th-Noe Street NCD and NC-2 zoned portions of Balboa Street were added to the list of zoning districts that allow the 5' height bonus.

The proposed Ordinance would not allow an additional floor to new projects. A 40-X and 50-X height limit can accommodate a maximum of four and five floors, respectively. Since the additional five foot height can only be used on the ground floor, the height limit still can only accommodate the same number of floors.

Philanthropic, Administrative Services

Philanthropic Administrative Services is defined as follows:

A nonretail use which provides executive, management, administrative, and clerical services and support related to philanthropic activities that serve non-profit institutions and organizations; such philanthropic activities may

¹ Ord. 72-08, File No. 071157, App. 4/3/2008.

² Ord. 297-08, 298-08, 299-08 and 300-08, App. 12/19/2008.

³ Ord. 321-08, File no. 081100, App. 12/19/2008.

⁴ Ord. [5-10](#), File No. 090319, App. 1/22/2010

include funding and support of educational, medical, environmental, cultural, and social services institutions and organization. Such uses:

- (a) May not be located on the first story of buildings, where the most recent prior use of which was any use other than residential or office; and
- (b) May be located in a single undivided space not physically separated from a residential use; provided that:
 - (1) Any Residential Conversion above the first story, associated with, or following, commencement of such use shall be considered a conditional use requiring approval pursuant to Section 703.2(b)(1)(B); and
 - (2) Any loss of dwelling units described in Section 317 shall require approval as provided in Section 317.

This use was added to the Planning Code in 2009 to allow a private charitable foundation to operate in a residential building located at 2503 Clay Street in the Upper Fillmore NCD. Currently this use is only found Upper Fillmore NCD. According to City records, this use was never established at this 2503 Clay Street and since it was added to the Planning Code no other nonprofit has taken advantage of this definition.

Because this definition was added to the Planning Code under unusual circumstances, it includes some unusual provisions listed in subsections (a) and (b) above. Subsection (a) prohibits the use from operating on the first floor and subsection (b) allows the use to operate in a residence without regard to accessory use controls and reiterates that the loss of a dwelling unit is subject to the requirements outlined in Section 317.

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* of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The proposed modifications include:

1. Remove all parcels that are not currently zoned NC-3 as well as the Kabuki Cinema lot (Assessor's parcel 0701/001) from the proposed new Fillmore Street NCD.
2. Modify the Philanthropic Administrative Services to remove subsections (a) and (b).

The following are clerical modifications and are only proposed to provide more clarity to the Planning Code or correct errors in the Planning Code.

3. Make the following change to the proposed Fillmore Street NCD Use Table:

744.68	<i>Fringe Financial Service</i>	§ 790.111	P NP #
744.25	<i>Drive-Up Facility</i>	§ 790.30	#-(remove #)

4. Amend Section 201, 702.1 to add new named NCD in addition to the named NCD recently adopted for the Outer Sunset (Taraval, Noriega, Judah and Irving NCDs)
5. Amend 207.4 and 207.5 by removing specific table listings and add a sentence referring the reader to specific district tables in Articles 7 & 8. These tables are not necessary because the information

is already listed in the individual use tables. This section is often overlooked when new zoning districts are added. Removing these tables will reduce the number of cross reference Code errors.

6. Adopt clerical changes outlined in Exhibit D.

BASIS FOR RECOMMENDATION

The Department supports the creation of an individually named neighborhood commercial district on Fillmore Street; individually named NCDs help to preserve and enhance the character of a neighborhood and they also help create a sense of identity. This neighborhood was under the authority of the Redevelopment Agency for several decades and this stretch of Fillmore Street experienced a concentrated period of development in the late 1980s and early 1990s. While the new development kept the density, the new buildings did not maintain the historic ties to the street that the historic ground floor commercial spaces once had. Many of the new buildings face the street with arcades, utility boxes and non-active uses on the ground floor, which has a negative effect on visual interest and street activity. Further, in the last decade the neighborhood underwent another wave of urban renewal in the form of a new "Jazz District." In many ways this effort was successful in bring increased nightlife activity back to the area; however the street still suffers from a lack of activity and vitality during the day. Creating a named Neighborhood Commercial District for the Fillmore is a positive first step improving the vitality of this commercial street because it provides a mechanism for the community to further build upon its identity.

Recommendation 1

The Ordinance proposes to rezone several parcels that are not already zoned as neighborhood commercial. These properties are primarily occupied by housing while one parcel is occupied by a church (see Exhibit F). The Department is recommending that these parcels not be included in the new NCD for the following reasons:

- Including these parcels would expand the commercial district to properties that contain buildings and uses that are not consistent with the character of a neighborhood commercial district. While changing the zoning creates future development opportunities for these sites, the General Plan discourages the demolition of sound existing housing; many of these buildings were constructed within the last few decades and are not near the end of their natural life.
- It appears as if the area already has problems keeping storefronts occupied. It's more important to focus on the commercial spaces and properties that are already included in the neighborhood commercial district rather than expanding it.
- The blocks south of McAllister that are proposed to be added to the new NCD are separated by a block of residential development and an underdeveloped lot that contains a church and parking lot. These blocks would feel separated from the rest of the Commercial District.
- The existing NC-3 District is arguably too large. Several properties, particularly along Webster, Eddy and Turk Streets that are included in the existing NC-3 District should probably be removed from the commercial district because they are developed with recently constructed residential buildings and have little visual connection to the commercial uses on Fillmore Street. However, given the limits of the Ordinance process, this would have to be taken up under separate legislation.

Japantown is going through its own planning process called the Japantown Economic and Social Heritage Strategy, which is looking into the creation of a Japantown Neighborhood Commercial – Transit (NCT)

District along portions of Post and Buchanan Streets. This includes the Kabuki theater site. Given that the Japantown community is already in the process of developing its own neighborhood commercial district and that the Kabuki Theater is associated physically and culturally with this district, the Department recommends removing this parcel from the proposed Ordinance.

Recommendation 2

- Staff is recommending that subsections (a) and (b) be removed from this definition. Subsection (a) is unnecessary because uses are controlled by floor in neighborhood commercial districts; if the intention is to prohibit this use on the first floor then the use chart can show that it's prohibited on the first floor. Subsection (b) is a confusing provision that was crafted for a particular property that ended up not establishing this use. The Department doesn't think it is necessary and it seems to conflict with Section 317 in that it allows an office use to displace at least part of a dwelling unit. Further, accessory use controls allow home offices in residential units.

Recommendation 3

These recommendations are clerical in nature.

- Fringe Financial is prohibited in the District already because it is located within the Fringe Financial Services Restricted Use District; the use table says that it is "permitted," but then refers you to a foot note stating that the use is prohibited.
- There is no footnote for Drive-Up Facility; the Department is recommending that it be removed for clarity.

Recommendations 4-6

These recommendations are clerical in nature and are only proposed to correct references or to provide more clarity to the Planning Code. Some of these corrections are also in the Code Correction Ordinance and duplicated here to ensure that one Ordinance does not cancel out the other.

Pending ordinances which should be accommodated in this draft ordinance: This note is being provided as a courtesy to the City Attorney and the Clerk of the Board to help identify other Ordinances which may present conflicting amendments as the legislative process proceeds.

- Sections 263.20 BF 120774 Permitting a Height Bonus in Castro Street and 24th Street NCDs
- Sections 151.1, 702.1 BF Pending Western SoMa Plan
- Sections 151.1, 263.20, 702.1, 702.3, 703.3 BF Pending Code Corrections Ordinance 2012
- Sections 151.1, 263.20, 744.1, 607.1 BF 120796 Divisadero Street NCD

ENVIRONMENTAL REVIEW

The proposal ordinance has would result in no physical impact on the environment. The Project was determined to be exempt from the California Environmental Quality Act ("CEQA") under the General Rule Exclusion (CEQA Guidelines Section 15061(b)(3)) as described in the determination contained in the Planning Department files for this Project.

PUBLIC COMMENT

As of the date of this report, the Planning Department has received several inquiries about the proposed legislation from members of the public. The Department has not received any explicitly stated opposition or support for the proposed ordinance.

RECOMMENDATION: Recommendation of Approval with Modification
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 120814
- Exhibit C: Map of Proposed District
- Exhibit D: Additional Code Correction Changes
- Exhibit E: Environmental Determination
- Exhibit F: District Photos



SAN FRANCISCO PLANNING DEPARTMENT

Draft Planning Commission Resolution

HEARING DATE: NOVEMBER 29, 2012

Project Name: **Amendments relating to the proposed Fillmore Street NCDs**
Case Number: 2012.1183TZ [Board File No. 12-0814]
Initiated by: Supervisor Olague/ Introduced July 31, 2012
Staff Contact: Aaron Starr, Legislative Affairs
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Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
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Recommendation: **Recommend Approval with Modifications**

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE WITH MODIFICATIONS THAT WOULD AMEND THE SAN FRANCISCO PLANNING CODE BY: 1) ADDING SECTION 744.1 TO ESTABLISH THE FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT ALONG FILLMORE STREET BETWEEN BUSH AND FULTON STREETS; 2) AMENDING SECTION 151.1, A PORTION OF TABLE 151.1, SECTION 263.20 AND SECTION 607.1(F) TO MAKE CONFORMING AND OTHER TECHNICAL CHANGES; 3) AMENDING SHEETS ZN02 AND ZN07 OF THE ZONING MAP TO REZONE SPECIFIED PROPERTIES TO THE FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT; AND 4) ADOPTING 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.

PREAMBLE

Whereas, on July 31, 2012, Supervisor Olague introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 12-0814 which would amend the San Francisco Planning Code by: 1) adding Section 744.1 to establish the Fillmore Street Neighborhood Commercial District along Fillmore Street between Bush and Fulton Streets; 2) amending Section 151.1, a portion of Table 151.1, Section 263.20 and Section 607.1(f) to make conforming and other technical changes; 3) amending Sheets ZN02 and ZN07 of the Zoning Map to rezone specified properties to the Fillmore Street Neighborhood Commercial District; and 4) adopting 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; and

Whereas, on November 29, 2012, 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, on October 23, 2012 the Project was determined to be exempt from the California Environmental Quality Act (“CEQA”) under the General Rule Exclusion (CEQA Guidelines Section 15061(b)(3)) as described in the determination contained in the Planning Department files for this Project; 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

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

The proposed modifications include:

1. Remove all parcels that are not currently zoned NC-3 as well as the Kabuki Cinema lot (Assessor’s parcel 0701/001) from the proposed new Fillmore Street NCD.
2. Modify the Philanthropic Administrative Services to remove subsections (a) and (b).

The following recommendation are clerical and only proposed to provide more clarity to the Planning Code.

3. Make the following change to the proposed Fillmore Street NCD Use Table:

744.68	Fringe Financial Service	§ 790.111	P NP #
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4. Amend Section 201, 702.1 to add new named NCD in addition to the named NCD recently adopted for the Outer Sunset (Taraval, Noriega, Judah and Irving NCDs)
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6. Adopt clerical changes outlined in Exhibit D.

Pending ordinances which should be accommodated in this draft ordinance: This note is being provided as a courtesy to the City Attorney and the Clerk of the Board to help identify other Ordinances which may present conflicting amendments as the legislative process proceeds.

1. Sections 263.20 BF 120774 Permitting a Height Bonus in Castro Street and 24th Street NCDs

2. Sections 151.1, 702.1 BF Pending Western SoMa Plan
3. Sections 151.1, 263.20, 702.1, 702.3, 703.3 BF Pending Code Corrections Ordinance 2012
4. Sections 151.1, 263.20, 744.1, 607.1 BF 120796 Divisadero Street NCD

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:

- Individually named neighborhood commercial districts help to preserve and enhance the character of a neighborhood and a sense of identity.
- This neighborhood was under the authority of the Redevelopment Agency for several decades and this stretch of Fillmore Street experienced a concentrated period of development in the late 1980s and early 1990s. While the new development kept the density, the new buildings did not maintain the historic ties to the street that the historic ground floor commercial spaces once had. Many of the new buildings face the street with arcades, utility boxes and non-active uses on the ground floor, which has a negative effect on visual interest and street activity.
- In the last decade the neighborhood underwent another wave of urban renewal in the form of a new "Jazz District." In many ways this effort was successful in bring increased nightlife activity back to the area; however the street still suffers from a lack of activity and vitality during the day. Creating a named Neighborhood Commercial District for the Fillmore is a positive first step improving the vitality of this commercial street because it provides a mechanism for the community to further build upon its identity.
- Parts of the Philanthropic Administrative Services definition are unnecessary and seem to conflict with Section 317 in that they allow an office use to displace at least part of a dwelling unit.
- Including parcels not already zoned NC-3 would expand the commercial district to properties that contain buildings and uses that are not consistent with the character of a neighborhood commercial district. While changing the zoning creates future development opportunities for these sites, the General Plan discourages the demolition of sound existing housing; many of these buildings were constructed within the last few decades and are not near the end of their natural life.
- The Commission finds that it is more important to focus on the commercial spaces and properties that are already included in the neighborhood commercial district rather than expanding it to new parcels.
- The blocks south of McAllister that are proposed to be added to the new NCD are separated by a block of residential development and an underdeveloped lot that contains a church and parking lot. These blocks would feel separated from the rest of the Commercial District.

- Japantown is going through its own planning process called the Japantown Economic and Social Heritage Strategy, which is looking into the creation of a Japantown Neighborhood Commercial – Transit (NCT) District along portions of Post and Buchanan Streets. This includes the Kabuki theater site. Given that the Japantown community is already in the process of developing its own neighborhood commercial district and that the Kabuki Theater is associated physically and culturally with this district, the Commission recommends removing this parcel from the proposed Ordinance.

1. **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 6.2

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society.

The proposed legislation would create an individually named Neighborhood Commercial District on Fillmore Street, which would help to preserve and enhance the character of a neighborhood and create a sense of identity. The proposed changes will also allow this neighborhood to more easily respond to economic and technological innovation in the marketplace and society.

Policy 6.6

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

As amended, the proposed NCD conforms to the generalized neighborhood commercial land use and density plan published in the General Plan.

2. 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 does not propose significant changes to the controls in the subject Neighborhood Commercial Districts. However, creating named NCDs will allow the district to respond more easily to emerging issues that may impact opportunities for resident employment in and ownership of 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 create individually named Neighborhood Commercial Districts on Fillmore Street, which help to preserve and enhance the character of the various neighborhoods.

- 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 November 29, 2012.

Linda Avery
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: November 29, 2012

LEGISLATIVE DIGEST

[Planning Code - Establishing the Fillmore Street Neighborhood Commercial District]

Ordinance amending the San Francisco Code by 1) adding Section 744.1 to establish the Fillmore Street Neighborhood Commercial District along Fillmore Street between Bush and Fulton Streets, 2) amending Section 151.1, a portion of Table 151.1, Section 263.20 and Section 607.1(f) to make conforming and other technical changes, 3) amending Sheets ZN02 and ZN07 of the Zoning Map to rezone specified properties to the Fillmore Street NCD, and 4) adopting 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

The Fillmore Street commercial district between Bush and McAllister streets is currently zoned NC-3, Moderate-Scale Neighborhood Commercial.

Amendments to Current Law

This ordinance creates a new Fillmore Street Neighborhood Commercial District. This new NCD modifies certain of the former NC-3 district controls.

Residential Conversion is prohibited above the ground floor. Philanthropic Administrative Services, which are currently not permitted in the district, are permitted on the second floor. Buildings on lots located in the 40-X and 50-X height district are permitted an additional 5 feet in height, if that additional height is used to provide a tall ground floor housing active street-fronting residential or non-residential uses. Minimum parking requirements for all uses are eliminated from the district. Maximum permitted parking for residential and non-residential uses are reduced to that of a Neighborhood Commercial Transit (NCT) District.

1 [Planning Code - Establishing the Fillmore Street Neighborhood Commercial District]

2

3 **Ordinance amending the San Francisco Code by: 1) adding Section 744.1 to establish**
4 **the Fillmore Street Neighborhood Commercial District along Fillmore Street between**
5 **Bush and Fulton Streets; 2) amending Section 151.1, a portion of Table 151.1, Section**
6 **263.20 and Section 607.1(f) to make conforming and other technical changes; 3)**
7 **amending Sheets ZN02 and ZN07 of the Zoning Map to rezone specified properties to**
8 **the Fillmore Street Neighborhood Commercial District; and 4) adopting environmental**
9 **findings, Planning Code Section 302 findings, and findings of consistency with the**
10 **General Plan and the Priority Policies of Planning Code Section 101.1.**

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

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

16 Section 1. Findings.

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

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

Supervisor Olague
BOARD OF SUPERVISORS

1 (c) This Board finds that these Planning Code amendments are consistent with the
2 General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set
3 forth in Planning Commission Resolution No. _____, and the Board hereby incorporates such
4 reasons herein by reference.

5
6 Section 2. The San Francisco Planning Code is hereby amended by adding Section
7 744.1, to read as follows:

8 **SEC. 744.1. FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT.**

9 The Fillmore Street Neighborhood Commercial District extends along Fillmore Street between
10 Bush and Fulton. Fillmore Street's dense mixed-use character consists of buildings with residential
11 units above ground-story commercial use. Buildings range in height one-story commercial buildings to
12 high-rise towers. Fillmore Street and Geary Boulevard are important public transit corridors. The
13 commercial district provides convenience goods and services to the surrounding neighborhoods as well
14 as shopping, cultural, and entertainment uses that attract visitors from near and far.

15 The Fillmore Street District controls are designed to encourage and promote development that
16 enhances the walkable, mixed-use character of the corridor and surrounding neighborhoods. Rear yard
17 requirements at residential levels preserve open space corridors of interior blocks.

18 Consistent with Fillmore Street's existing mixed-use character, new commercial development is
19 permitted at the ground and second stories. Most neighborhood- and visitor-serving businesses are
20 strongly encouraged. Eating and Drinking and entertainment uses are confined to the ground story.
21 The second story may be used by some retail stores, personal services, and medical, business and
22 professional offices. Parking and hotels are monitored at all stories. Limits on drive-up facilities and
23 other automobile uses protect the livability within and around the district, and promote continuous
24 retail frontage.

1 Housing development in new buildings is encouraged above the ground story. Existing
 2 residential units are protected by limitations on demolition and upper-story conversions.

3 **SEC. 744. FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT**

4 **ZONING CONTROL TABLE**

			<u>Fillmore Street</u>
<u>No.</u>	<u>Zoning Category</u>	<u>§ References</u>	<u>Controls</u>
<u>BUILDING STANDARDS</u>			
<u>744.10</u>	<u>Height and Bulk Limit</u>	<u>§§ 102.12, 105, 106, 250</u> <u>- 252, 260, 261.1, 263.20,</u> <u>270, 271</u>	<u>Heights range from 40- to</u> <u>160-F, see Zoning Map.</u> <u>Additional 5 feet for parcels in</u> <u>the 40' and 50' height</u> <u>districts, see § 263.20. Height</u> <u>Sculpting on Alleys: § 261.1</u>
<u>744.11</u>	<u>Lot Size</u> <u>[Per Development]</u>	<u>§§ 790.56, 121.1</u>	<u>P up to 9,999 sq. ft.; C 10,000</u> <u>sq. ft. & above § 121.1</u>
<u>744.12</u>	<u>Rear Yard</u>	<u>§§ 130, 134, 136</u>	<u>Required at residential levels</u> <u>only, § 134(a) (e)</u>
<u>744.13a</u>	<u>Street Frontage</u>	<u>§ 145.1</u>	<u>Required</u>
<u>744.13b</u>	<u>Street Frontage, Required</u> <u>Ground Floor Commercial</u>	<u>§ 145.4</u>	<u>Required along Fillmore</u> <u>Street from Bush Street to</u> <u>McAllister Street</u>
<u>744.14</u>	<u>Awning</u>	<u>§ 136.1(a)</u>	<u>P</u>

1	<u>744.15</u>	<u>Canopy</u>	<u>§ 136.1(b)</u>	<u>P</u>
2				
3	<u>744.16</u>	<u>Marquee</u>	<u>§ 136.1(c)</u>	<u>P</u>
4				
5	<u>744.17</u>	<u>Streetscape and Pedestrian</u>		<u>Required</u>
6		<u>Improvements</u>		<u>§ 138.1</u>
7	<u>COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES</u>			
8	<u>744.20</u>	<u>Floor Area Ratio</u>	<u>§§ 102.9, 102.11, 123</u>	<u>3.6 to 1</u>
9				<u>§ 124(a) (b)</u>
10	<u>744.21</u>	<u>Use Size</u>	<u>§ 790.130</u>	<u>P up to 5,999 sq. ft.;</u>
11		<u>[Non-Residential]</u>		<u>C 6,000 sq. ft. & above</u>
12				<u>§ 121.2</u>
13	<u>744.22</u>	<u>Off-Street Parking,</u>	<u>§§ 145.1, 150, 151.1, 153</u>	<u>None required. Maximum</u>
14		<u>Commercial/Institutional</u>	<u>- 157, 159 - 160, 204.5</u>	<u>amounts set forth in Section</u>
15				<u>151.1</u>
16	<u>744.23</u>	<u>Off-Street Freight Loading</u>	<u>§§ 150, 153 - 155, 204.5</u>	<u>Generally, none required if</u>
17				<u>gross floor area is less than</u>
18				<u>10,000 sq. ft.</u>
19				<u>§§ 152, 161(b)</u>
20	<u>744.24</u>	<u>Outdoor Activity Area</u>	<u>§ 790.70</u>	<u>P if located in front; C if</u>
21				<u>located elsewhere</u>
22				<u>§ 145.2(a)</u>
23	<u>744.25</u>	<u>Drive-Up Facility</u>	<u>§ 790.30</u>	<u>#</u>
24	<u>744.26</u>	<u>Walk-Up Facility</u>	<u>§ 790.140</u>	<u>P if recessed 3 ft.;</u>
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			<u>C if not recessed</u>		
			<u>§ 145.2(b)</u>		
<u>744.27</u>	<u>Hours of Operation</u>	<u>§ 790.48</u>	<u>No Limit</u>		
<u>744.30</u>	<u>General Advertising Sign</u>	<u>§§ 262, 602 - 604, 608, 609</u>			
<u>744.31</u>	<u>Business Sign</u>	<u>§§ 262, 602 - 604, 608, 609</u>	<u>P</u>	<u>§ 607.1(f)(3)</u>	
<u>744.32</u>	<u>Other Signs</u>	<u>§§ 262, 602 - 604, 608, 609</u>	<u>P</u>	<u>§ 607.1(c) (d) (g)</u>	
			<u>Fillmore Street</u>		
<u>No.</u>	<u>Zoning Category</u>	<u>§ References</u>	<u>Controls by Story</u>		
		<u>§ 790.118</u>	<u>1st</u>	<u>2nd</u>	<u>3rd+</u>
<u>744.38</u>	<u>Residential Conversion</u>	<u>§ 790.84</u>	<u>P</u>	<u>NP</u>	<u>NP</u>
<u>744.39</u>	<u>Residential Demolition</u>	<u>§ 790.86</u>	<u>P</u>	<u>C</u>	<u>C</u>
<u>Retail Sales and Services</u>					
<u>744.40</u>	<u>Other Retail Sales and Services</u>	<u>§ 790.102</u>	<u>P</u>	<u>P</u>	<u>P</u>
	<u>[Not Listed Below]</u>				
<u>744.41</u>	<u>Bar</u>	<u>§ 790.22</u>	<u>P</u>	<u>P</u>	
<u>744.43</u>	<u>Limited-Restaurant</u>	<u>§ 790.90</u>	<u>P</u>	<u>P</u>	
<u>744.44</u>	<u>Restaurant</u>	<u>§ 790.91</u>	<u>P</u>	<u>P</u>	
<u>744.45</u>	<u>Liquor Store</u>	<u>§ 790.55</u>			
<u>744.46</u>	<u>Movie Theater</u>	<u>§ 790.64</u>	<u>P</u>	<u>P</u>	
<u>744.47</u>	<u>Adult Entertainment</u>	<u>§ 790.36</u>	<u>C</u>	<u>C</u>	
<u>744.48</u>	<u>Other Entertainment</u>	<u>§ 790.38</u>	<u>P</u>	<u>P</u>	

1	<u>744.49</u>	<u>Financial Service</u>	<u>§ 790.110</u>	<u>P</u>	<u>P</u>	
2	<u>744.50</u>	<u>Limited Financial Service</u>	<u>§ 790.112</u>	<u>P</u>	<u>P</u>	
3	<u>744.51</u>	<u>Medical Service</u>	<u>§ 790.114</u>	<u>P</u>	<u>P</u>	<u>P</u>
4	<u>744.52</u>	<u>Personal Service</u>	<u>§ 790.116</u>	<u>P</u>	<u>P</u>	<u>P</u>
5	<u>744.53</u>	<u>Business or Professional Service</u>	<u>§ 790.108</u>	<u>P</u>	<u>P</u>	<u>P</u>
6	<u>744.54</u>	<u>Massage Establishment</u>	<u>§ 790.60</u>	<u>C</u>	<u>C</u>	
7			<u>§ 1900 Health Code</u>			
8	<u>744.55</u>	<u>Tourist Hotel</u>	<u>§ 790.46</u>	<u>C</u>	<u>C</u>	<u>C</u>
9	<u>744.56</u>	<u>Automobile Parking</u>	<u>§§ 790.8, 145.1, 156, 160</u>	<u>C</u>	<u>C</u>	<u>C</u>
10	<u>744.57</u>	<u>Automotive Gas Station</u>	<u>§ 790.14</u>	<u>C</u>		
11	<u>744.58</u>	<u>Automotive Service Station</u>	<u>§ 790.17</u>	<u>C</u>		
12	<u>744.59</u>	<u>Automotive Repair</u>	<u>§ 790.15</u>	<u>C</u>	<u>C</u>	
13	<u>744.60</u>	<u>Automotive Wash</u>	<u>§ 790.18</u>	<u>C</u>		
14	<u>744.61</u>	<u>Automobile Sale or Rental</u>	<u>§ 790.12</u>	<u>C</u>		
15	<u>744.62</u>	<u>Animal Hospital</u>	<u>§ 790.6</u>	<u>C</u>	<u>C</u>	
16	<u>744.63</u>	<u>Ambulance Service</u>	<u>§ 790.2</u>	<u>C</u>		
17	<u>744.64</u>	<u>Mortuary</u>	<u>§ 790.62</u>	<u>C</u>	<u>C</u>	<u>C</u>
18	<u>744.65</u>	<u>Trade Shop</u>	<u>§ 790.124</u>	<u>P</u>	<u>C</u>	<u>C</u>
19	<u>744.66</u>	<u>Storage</u>	<u>§ 790.117</u>	<u>C</u>	<u>C</u>	<u>C</u>
20	<u>744.68</u>	<u>Fringe Financial Service</u>	<u>§ 790.111</u>	<u>P #</u>		
21	<u>744.69</u>	<u>Tobacco Paraphernalia</u>	<u>§ 790.123</u>	<u>C</u>		
22		<u>Establishments</u>				
23	<u>744.69B</u>	<u>Amusement Game Arcade</u>	<u>§ 790.4</u>	<u>C</u>		
24		<u>(Mechanical Amusement Devices)</u>				
25						

1	<u>744.69C</u>	<u>Neighborhood Agriculture</u>	<u>§ 102.35(a)</u>	<u>P</u>	<u>P</u>	<u>P</u>
2	<u>744.69D</u>	<u>Large-Scale Urban Agriculture</u>	<u>§ 102.35(b)</u>	<u>C</u>	<u>C</u>	<u>C</u>
3	<u>Institutions and Non-Retail Sales and Services</u>					
4	<u>744.70</u>	<u>Administrative Service</u>	<u>§ 790.106</u>	<u>C</u>	<u>C</u>	<u>C</u>
5	<u>744.80</u>	<u>Hospital or Medical Center</u>	<u>§ 790.44</u>	<u>C</u>	<u>C</u>	<u>C</u>
6	<u>744.81</u>	<u>Other Institutions, Large</u>	<u>§ 790.50</u>	<u>P</u>	<u>P</u>	<u>P</u>
7	<u>744.82</u>	<u>Other Institutions, Small</u>	<u>§ 790.51</u>	<u>P</u>	<u>P</u>	<u>P</u>
8	<u>744.83</u>	<u>Public Use</u>	<u>§ 790.80</u>	<u>C</u>	<u>C</u>	<u>C</u>
9	<u>744.84</u>	<u>Medical Cannabis Dispensary</u>	<u>§ 790.141</u>	<u>P #</u>		
10	<u>744.85</u>	<u>Philanthropic Administrative</u>	<u>§ 790.107</u>		<u>P</u>	
11		<u>Service</u>				
12	<u>RESIDENTIAL STANDARDS AND USES</u>					
13	<u>744.90</u>	<u>Residential Use</u>	<u>§ 790.88</u>	<u>P</u>	<u>P</u>	<u>P</u>
14	<u>744.91</u>	<u>Residential Density, Dwelling</u>	<u>§§ 207, 207.1, 790.88(a)</u>	<u>Generally, 1 unit per 600 sq.</u>		
15		<u>Units</u>		<u>ft. lot area</u>		
16				<u>§ 207.4</u>		
17	<u>744.92</u>	<u>Residential Density, Group</u>	<u>§§ 207.1, 208, 790.88(b)</u>	<u>Generally, 1 bedroom per 210</u>		
18		<u>Housing</u>		<u>sq. ft. lot area</u>		
19	<u>744.93</u>	<u>Usable Open Space</u>	<u>§§ 135, 136</u>	<u>Generally, either 80 sq. ft. if</u>		
20		<u>[Per Residential Unit]</u>		<u>private, or 100 sq. ft. if</u>		
21				<u>common</u>		
22				<u>§ 135(d)</u>		
23	<u>744.94</u>	<u>Off-Street Parking, Residential</u>	<u>§§ 145.1, 150, 151.1, 153</u>	<u>None required. P up to 0.5</u>		
24			<u>- 157, 159 – 160, 166,</u>	<u>cars per unit; C up to 0.75</u>		
25						

		<u>167, 204.5</u>	<u>cars per unit</u>		
<u>744.95</u>	<u>Community Residential Parking</u>	<u>§ 790.10</u>	<u>C</u>	<u>C</u>	<u>C</u>

SPECIFIC PROVISIONS FOR THE FILLMORE STREET

NEIGHBORHOOD COMMERCIAL DISTRICT

<u>Article 7</u>		
<u>Code</u>	<u>Other Code</u>	
<u>Section</u>	<u>Section</u>	<u>Zoning Controls</u>
<u>§ 744.68</u>	<u>§ 249.35</u>	<u>FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT</u> <u>(FFSRUD)</u> <u>Boundaries: The FFSRUD and its 1/4 mile buffer includes, but is not limited to, properties within the Fillmore Street NCD.</u> <u>Controls: Within the FFSRUD and its 1/4 mile buffer, fringe financial services are NP pursuant to Section 249.35. Outside the FFSRUD and its 1/4 mile buffer, fringe financial services are P subject to the restrictions set forth in Subsection 249.35(c)(3).</u>
<u>§ 744.84</u>	<u>§ 790.141</u> <u>Health</u> <u>Code § 3308</u>	<u>Medical Cannabis Dispensaries may only operate between the hours of 8 a.m. and 10 p.m.</u>

Section 4. The San Francisco Planning Code is hereby amended by amending Section 151.1 and a portion of Table 151.1, Section 263.20, Section 607.1(f), Section 702.3, the Specific Provisions of the Section 711 Zoning Control Table, and Section 790.55, to read as follows:

SEC. 151.1. SCHEDULE OF PERMITTED OFF-STREET PARKING SPACES IN SPECIFIED DISTRICTS.

Supervisor Olague
BOARD OF SUPERVISORS

1 (a) **Applicability.** This subsection shall apply only to ~~DTR~~, NCT, RC, Upper Market
2 NCD, RTO, Eastern Neighborhood Mixed Use, South of Market Mixed Use, M-1, PDR-1-D, and
3 PDR-1-G, C-M, or C-3 Districts, and to the Broadway, Divisadero Street, Fillmore Street, North
4 Beach, and Upper Market Neighborhood Commercial Districts.

5 (b) **Controls.** Off-street accessory parking shall not be required for any use, and the
6 quantities of off-street parking specified in Table 151.1 shall serve as the maximum amount of
7 off-street parking that may be provided as accessory to the uses specified. For non-residential
8 and non-office uses in the UMU, PDR-1-D, and PDR-1-G Districts, the maximum amount of
9 off-street parking that may be provided as accessory shall be no more than 50% greater than
10 that indicated in Table 151.1. Variances from accessory off-street parking limits, as described
11 in this Section, may not be granted. Where off-street parking is provided that exceeds the
12 quantities specified in Table 151.1 or as explicitly permitted by this Section, such parking shall
13 be classified not as accessory parking but as either a principally permitted or conditional use,
14 depending upon the use provisions applicable to the district in which the parking is located. In
15 considering an application for a conditional use for any such parking due to the amount being
16 provided, the Planning Commission shall consider the criteria set forth in Section 157 and
17 157.1 of this Code.

18 (c) **Definition.** Where a number or ratio of spaces are described in Table 151.1, such
19 number or ratio shall refer to the total number of parked cars accommodated in the project
20 proposal, regardless of the arrangement of parking, and shall include all spaces accessed by
21 mechanical means, valet, or non-independently accessible means. For the purposes of
22 determining the total number of cars parked, the area of an individual parking space, except
23 for those spaces specifically designated for persons with physical disabilities, may not exceed
24 185 square feet, including spaces in tandem, or in parking lifts, elevators or other means of
25 vertical stacking. Any off-street surface area accessible to motor vehicles with a width of 7.5

1 feet and a length of 17 feet (127.5 square feet) not otherwise designated on plans as a
 2 parking space may be considered and counted as an off-street parking space at the discretion
 3 of the Zoning Administrator if the Zoning Administrator, in considering the possibility for
 4 tandem and valet arrangements, determines that such area is likely to be used for parking a
 5 vehicle on a regular basis and that such area is not necessary for the exclusive purpose of
 6 vehicular circulation to the parking or loading facilities otherwise permitted.

7 (d) **Car-Share Parking.** Any off-street parking space dedicated for use as a car-share
 8 parking space, as defined in Section 166, shall not be credited toward the total parking
 9 permitted as accessory in this Section.

10 **Table 151.1**

11 **OFF-STREET PARKING PERMITTED AS ACCESSORY**

Use or Activity	Space Devoted to Off-Street Car Parking or Number of Off-Street Car Parking Spaces Permitted
Dwelling units and SRO units in NCT, <u>RC</u> , C-M, RSD, and SLR <i>Districts, and Chinatown Mixed Use Districts, and the Broadway, Divisadero, Fillmore, North Beach, and the Upper Market NCD Neighborhood Commercial Districts,</i> except as specified below	P up to one car for each two dwelling units; C up to 0.75 cars for each dwelling unit, subject to the criteria and procedures of Section 151.1(g); NP above 0.75 cars for each dwelling unit.

22 **SEC. 263.20. SPECIAL HEIGHT EXCEPTION: ADDITIONAL FIVE FEET HEIGHT FOR**
 23 **ACTIVE GROUND FLOOR USES IN ~~NCT 30-X, 40-X AND 50-X HEIGHT AND BULK~~**
 24 **~~DISTRICTS, IN NC-2 AND NC-3 DESIGNATED PARCELS FRONTING MISSION STREET,~~**
 25

1 ~~FROM SILVER AVENUE TO THE DALY CITY BORDER, AND IN SPECIFIED NC-1~~
2 ~~DESIGNATED PARCELS AND IN SPECIFIED N~~ CERTAIN DISTRICTS.

3 (a) **Intent.** In order to encourage generous ground floor ceiling heights for commercial
4 and other active uses, encourage additional light and air into ground floor spaces, allow for
5 walk-up ground floor residential uses to be raised slightly from sidewalk level for privacy and
6 usability of front stoops, and create better building frontage on the public street, up to an
7 additional 5' of height is allowed along major streets in NCT districts, or in specific ~~NC-3, NC-2,~~
8 ~~or NC-1~~ districts listed below, for buildings that feature either higher ground floor ceilings for
9 non-residential uses or ground floor residential units (that have direct walk-up access from the
10 sidewalk) raised up from sidewalk level.

11 (b) **Applicability.** The special height exception described in this section shall only
12 apply to projects that meet all of the following criteria:

13 (1) project is located in a 30-X, 40-X or 50-X Height and Bulk District as designated on
14 the Zoning Map;

15 (2) project is located:

16 (A) in an NCT district as designated on the Zoning Map;

17 (B) in the Upper Market Street, Divisadero Street, Fillmore Street, Irving Street, Judah
18 Street, Noriega Street, Taraval Street, Inner Clement Street and Outer Clement Street NCDs;

19 (C) on a NC-2 or NC-3 designated parcel fronting Mission Street, from Silver Avenue
20 to the Daly City border;

21 (D) on a NC-2 designated parcel on Balboa Street between 2nd Avenue and 8th
22 Avenue, and between 32nd Avenue and 39th Avenue;

23 (E) on a NC-1 designated parcel within the boundaries of Sargent Street to Orizaba
24 Avenue to Lobos Street to Plymouth Avenue to Farallones Street to San Jose Avenue to
25

1 Alemany Boulevard to 19th Avenue to Randolph Street to Monticello Street and back to
2 Sargent Street; or

3 (F) on a NC-3 designated parcel fronting on Geary Boulevard from Masonic Avenue to
4 28th Avenue, except for parcels on the north side of Geary Boulevard between Palm Avenue
5 and Parker Avenue;

6 (G) on a parcel zoned NC-1 or NC-2 with a commercial use on the ground floor on Noriega
7 Street west of 19th Avenue;

8 (H) on a parcel zoned NC-1 or NC-2 with a commercial use on the ground floor on Irving
9 Street west of 19th Avenue;

10 (I) on a parcel zoned NC-1 or NC-2 with a commercial use on the ground floor on Taraval
11 Street west of 19th Avenue;

12 (J) on a parcel zoned NC-1 or NC-2 with a commercial use on the ground floor on Judah Street
13 west of 19th Avenue;

14 (3) project features ground floor commercial space or other active use as defined by
15 Section 145.1(b)(2) with clear ceiling heights in excess of ten feet from sidewalk grade, or in
16 the case of residential uses, such walk-up residential units are raised up from sidewalk level;

17 (4) said ground floor commercial space, active use, or walk-up residential use is
18 primarily oriented along a right-of-way wider than 40 feet;

19 (5) said ground floor commercial space or active use occupies at least 50% of the
20 project's ground floor area; and

21 (6) except for projects located in NCT districts, the project sponsor has conclusively
22 demonstrated that the additional 5' increment allowed through Section 263.20 would not add
23 new shadow to any public open spaces.

24 (c) One additional foot of height, up to a total of five feet, shall be permitted above the
25 designated height limit for each additional foot of ground floor clear ceiling height in excess of

1 10 feet from sidewalk grade, or in the case of residential units, for each foot the unit is raised
2 above sidewalk grade.

3 **SEC. 607.1. NEIGHBORHOOD COMMERCIAL AND RESIDENTIAL-COMMERCIAL**
4 **DISTRICTS.**

5 (f) **Business Signs.** Business signs, as defined in Section 602.3 shall be permitted in
6 all Neighborhood Commercial and Residential-Commercial Districts subject to the limits set forth
7 below.

8 (1) **NC-1 and NCT-1 Districts.**

9 (A) **Window Signs.** The total area of all window signs, as defined in Section 602.1(b),
10 shall not exceed 1/3 the area of the window on or in which the signs are located. Such signs
11 may be nonilluminated, indirectly illuminated, or directly illuminated.

12 (B) **Wall Signs.** The area of all wall signs shall not exceed one square foot per square
13 foot of street frontage occupied by the business measured along the wall to which the signs
14 are attached, or 50 square feet for each street frontage, whichever is less. The height of any
15 wall sign shall not exceed 15 feet or the height of the wall to which it is attached. Such signs
16 may be nonilluminated or indirectly illuminated; or during business hours, may be directly
17 illuminated.

18 (C) **Projecting Signs.** The number of projecting signs shall not exceed one per
19 business. The area of such sign, as defined in Section 602.1(a), shall not exceed 24 square
20 feet. The height of such sign shall not exceed 15 feet or the height of the wall to which it is
21 attached. No part of the sign shall project more than 75 percent of the horizontal distance from
22 the street property line to the curblin, or six feet six inches, whichever is less. The sign may
23 be nonilluminated or indirectly illuminated, or during business hours, may be directly
24 illuminated.

1 (D) **Signs on Awnings.** Sign copy may be located on permitted awnings in lieu of wall
2 signs and projecting signs. The area of such sign copy as defined in Section 602.1(c) shall not
3 exceed 20 square feet. Such sign copy may be nonilluminated or indirectly illuminated.

4 (2) **NC-2, NCT-2, NC-S, Broadway, Castro Street, Inner Clement Street, Outer**
5 **Clement Street, Divisadero Street, Fillmore Street, Upper Fillmore Street, Inner Sunset,**
6 **Haight Street, Hayes-Gough, Upper Market Street, North Beach, Ocean Avenue, Pacific**
7 **Avenue, Polk Street, Sacramento Street, SoMa, Union Street, Valencia Street, 24th**
8 **Street - Mission, 24th Street - Noe Valley, West Portal Avenue, and Glen Park**
9 **Neighborhood Commercial Districts.**

10 (A) **Window Signs.** The total area of all window signs, as defined in Section 602.1(b),
11 shall not exceed 1/3 the area of the window on or in which the signs are located. Such signs
12 may be nonilluminated, indirectly illuminated, or directly illuminated.

13 (B) **Wall Signs.** The area of all wall signs shall not exceed two square feet per foot of
14 street frontage occupied by the use measured along the wall to which the signs are attached,
15 or 100 square feet for each street frontage, whichever is less. The height of any wall sign shall
16 not exceed 24 feet, or the height of the wall to which it is attached, or the height of the lowest
17 of any residential windowsill on the wall to which the sign is attached, whichever is lower.
18 Such signs may be nonilluminated, indirectly, or directly illuminated.

19 (C) **Projecting Signs.** The number of projecting signs shall not exceed one per
20 business. The area of such sign, as defined in Section 602.1(a), shall not exceed 24 square
21 feet. The height of such sign shall not exceed 24 feet, or the height of the wall to which it is
22 attached, or the height of the lowest of any residential windowsill on the wall to which the sign
23 is attached, whichever is lower. No part of the sign shall project more than 75 percent of the
24 horizontal distance from the street property line to the curblin, or six feet six inches,
25

1 whichever is less. Such signs may be nonilluminated or indirectly illuminated; or during
2 business hours, may be directly illuminated.

3 (D) **Signs on Awnings and Marquees.** Sign copy may be located on permitted
4 awnings or marquees in lieu of projecting signs. The area of such sign copy as defined in
5 Section 602.1(c) shall not exceed 30 square feet. Such sign copy may be nonilluminated or
6 indirectly illuminated; except that sign copy on marquees for movie theaters or places of
7 entertainment may be directly illuminated during business hours.

8 (E) **Freestanding Signs and Sign Towers.** With the exception of automotive gas and
9 service stations, which are regulated under Paragraph 607.1(f)(4), one freestanding sign or
10 sign tower per lot shall be permitted in lieu of a projecting sign, if the building or buildings are
11 recessed from the street property line. The existence of a freestanding business sign shall
12 preclude the erection of a freestanding identifying sign on the same lot. The area of such
13 freestanding sign or sign tower, as defined in Section 602.1(a), shall not exceed 20 square
14 feet nor shall the height of the sign exceed 24 feet. No part of the sign shall project more than
15 75 percent of the horizontal distance from the street property line to the curblin, or six feet,
16 whichever is less. Such signs may be nonilluminated or indirectly illuminated; or during
17 business hours, may be directly illuminated.

18 (3) **Mission Street NCT, NC-3, and NCT-3 Neighborhood Commercial Districts.**

19 (A) **Window Signs.** The total area of all window signs, as defined in Section 602.1(b),
20 shall not exceed 1/3 the area of the window on or in which the signs are located. Such signs
21 may be nonilluminated, indirectly illuminated, or directly illuminated.

22 (B) **Wall Signs.** The area of all wall signs shall not exceed three square feet per foot of
23 street frontage occupied by the use measured along the wall to which the signs are attached,
24 or 150 square feet for each street frontage, whichever is less. The height of any wall sign shall
25 not exceed 24 feet, or the height of the wall to which it is attached, or the height of the lowest

1 of any residential windowsill on the wall to which the sign is attached, whichever is lower.
2 Such signs may be nonilluminated, indirectly, or directly illuminated.

3 (C) **Projecting Signs.** The number of projecting signs shall not exceed one per
4 business. The area of such sign, as defined in Section 602.1(a), shall not exceed 32 square
5 feet. The height of the sign shall not exceed 24 feet, or the height of the wall to which it is
6 attached, or the height of the lowest of any residential windowsill on the wall to which the sign
7 is attached, whichever is lower. No part of the sign shall project more than 75 percent of the
8 horizontal distance from the street property line to the curblin, or six feet six inches,
9 whichever is less. Such signs may be nonilluminated, indirectly, or directly illuminated.

10 (D) **Sign Copy on Awnings and Marquees.** Sign copy may be located on permitted
11 awnings or marquees in lieu of projecting signs. The area of such sign copy, as defined in
12 Section 602.1(c), shall not exceed 40 square feet. Such sign copy may be nonilluminated or
13 indirectly illuminated; except that sign copy on marquees for movie theaters or places of
14 entertainment may be directly illuminated during business hours.

15 (E) **Freestanding Signs and Sign Towers.** With the exception of automotive gas and
16 service stations, which are regulated under Paragraph 607.1(f)(4) of this Code, one
17 freestanding sign or sign tower per lot shall be permitted in lieu of a projecting sign if the
18 building or buildings are recessed from the street property line. The existence of a
19 freestanding business sign shall preclude the erection of a freestanding identifying sign on the
20 same lot. The area of such freestanding sign or sign tower, as defined in Section 602.1(a),
21 shall not exceed 30 square feet nor shall the height of the sign exceed 24 feet. No part of the
22 sign shall project more than 75 percent of the horizontal distance from the street property line
23 to the curblin, or six feet, whichever is less. Such signs may be nonilluminated or indirectly
24 illuminated, or during business hours, may be directly illuminated.

1 (4) **Special Standards for Automotive Gas and Service Stations.** For automotive
2 gas and service stations in Neighborhood Commercial Districts, only the following signs are
3 permitted, subject to the standards in this Paragraph (f)(4) and to all other standards in this
4 Section 607.1.

5 (A) A maximum of two oil company signs, which shall not extend more than 10 feet
6 above the roofline if attached to a building, or exceed the maximum height permitted for
7 freestanding signs in the same district if freestanding. The area of any such sign shall not
8 exceed 180 square feet, and along each street frontage, all parts of such a sign or signs that
9 are within 10 feet of the street property line shall not exceed 80 square feet in area. No such
10 sign shall project more than five feet beyond any street property line. The areas of other
11 permanent and temporary signs as covered in Subparagraph (B) below shall not be included
12 in the calculation of the areas specified in this Subparagraph.

13 (B) Other permanent and temporary business signs, not to exceed 30 square feet in
14 area for each such sign or a total of 180 square feet for all such signs on the premises. No
15 such sign shall extend above the roofline if attached to a building, or in any case project
16 beyond any street property line or building setback line.

17 **SEC. 702.3. NEIGHBORHOOD COMMERCIAL RESTRICTED USE SUBDISTRICTS.**

18 In addition to the Neighborhood Commercial Use Districts established by Section 702.1
19 of this Code, certain Neighborhood Commercial Special Use Districts are established for the
20 purpose of controlling the expansion of certain kinds of uses which if uncontrolled may
21 adversely affect the character of certain Neighborhood Commercial Districts.

22 The purposes and provisions set forth in Section 781.1 through ~~781.6~~ 781.10 of this
23 Code shall apply respectively within these districts. The boundaries of the districts are as
24 shown on the Zoning Map as referred to in Section 105 of this Code, subject to the provisions
25 of that Section.

Neighborhood Commercial Restricted Use Subdistricts	Section Number
Taraval Street Restaurant Subdistrict	§ 781.1
Irving Street Restaurant Subdistrict	§ 781.2
Ocean Avenue Fast Food Subdistrict	§ 781.3
Geary Boulevard Formula Retail Pet Supply Store and Formula Retail Eating and Drinking Subdistrict	§ 781.4
Mission Street Formula Retail Restaurant Subdistrict	§ 781.5
North Beach Financial Service, Limited Financial Service, and Business or Professional Service Subdistrict	§ 781.6
Chestnut Street Financial <u>Service Subdistrict</u>	§ 781.7
Haight Street Alcohol Restricted Use District	§ 781.9
Divisadero Street Alcohol Restricted Use District	§ 783
Lower Haight Street Alcohol Restricted Use District	§ 784
Excelsior Alcohol Special Use District	§ 785
Lower Haight Tobacco Paraphernalia Restricted Use District	§ 786

**SEC. 711. SMALL-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-2
ZONING CONTROL TABLE
SPECIFIC PROVISIONS FOR NC-2 DISTRICTS**

Article 7 Code Section	Other Code Section	Zoning Controls
§ 711.68	§ 249.35	<p>FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT (FFSRUD)</p> <p>Boundaries: The FFSRUD and its ¼ mile buffer includes, but is not limited to, properties within: the Mission Alcoholic Beverage Special Use District the Haight Street Alcohol Restricted Use District; the Third Street Alcohol Restricted Use District; the Divisadero Street Alcohol Restricted Use District; the North of Market Residential Special Use District and the Assessor's Blocks and Lots fronting on both sides of Mission Street from Silver Avenue to the Daly City borders as set forth in Special Use District Maps SU11 and SU12; and includes Small-Scale Neighborhood Commercial Districts within its boundaries.</p> <p>Controls: Within the FFSRUD and its ¼ mile buffer, fringe financial services are NP pursuant to Section 249.35. Outside the FFSRUD and its ¼ mile buffer, fringe financial services are P subject to the restrictions set forth in Subsection 249.35(c)(3).</p>

SEC. 790.55. LIQUOR STORE.

A retail use which sells beer, wine, or distilled spirits to a customer in an open or closed container for consumption off the premises and which needs a State of California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-sale general)

1 This classification shall not include retail uses that (1) are both (a) classified as a general
 2 grocery store use as set forth in Section 790.102(a), a specialty grocery store use as set forth
 3 in Section 790.102(b), or a self-service specialty food use as set forth in Section 790.93, and
 4 (b) have a gross floor area devoted to alcoholic beverages that is within the accessory use
 5 limits set forth in Section 703.2(b)(1)(C)(vi); or (2) have both a) a use size as defined in
 6 Section 790.130 of this Code of greater than 10,000 gross square feet and (b) a gross floor
 7 area devoted to alcoholic beverages that is within accessory use limits as set forth in Section
 8 204.2 or 703.2(b)(1)(c) of this Code, depending on the zoning district in which the use is
 9 located. For purposes of Planning Code Sections 249.5, 781.8, 781.9, 782, ~~783~~, and 784, the
 10 retail uses explicitly exempted from this definition as set forth above shall only apply to
 11 general grocery and specialty grocery stores that exceed 5,000s/f in size, shall not:

12 (a) sell any malt beverage with an alcohol content greater than 5.7% by volume; any
 13 wine with an alcohol content of greater than 15% by volume, except for "dinner wines" that
 14 have been aged two years or more and maintained in a corked bottle; or any distilled spirits in
 15 container sizes smaller than 600 ml;

16 (b) devote more than 15% of the gross square footage of the establishment to the
 17 display and sale of alcoholic beverages; and

18 (c) sell single servings of beer in container sizes 24 oz. or smaller.

19
 20 Section 5. Sheets ZN02 and ZN07 of the Zoning Map of the City and County of San
 21 Francisco is hereby amended, as follows:

	Use District to be	Use District
<u>Description of Property</u>	<u>Superseded</u>	<u>Hereby Approved</u>
All parcels zoned NC-3 on Blocks 0677, 0678, 0683,	NC-3	Fillmore Street Neighborhood Commercial District

1	0684, 0702, 0707, 0708, 0725, 0726,		
2	0731, 0732, 0749, 0750, 0755, 0756,		
3	and 0774; Block 0701, Lot 001		
4	Block 0702, Lot 038; Block 0732,	RM-3	Fillmore Street Neighborhood
5	Lot 010		Commercial District
6	Block 0779, Lot 031	RM-4	Fillmore Street Neighborhood
7			Commercial District
8	Block 0780, Lots 035 and 036	NC-1	Fillmore Street Neighborhood
9			Commercial District
10	Block 0798, Lot 001	RH-3	Fillmore Street Neighborhood
11			Commercial District

12 Section 6. Effective Date. This Ordinance shall become effective 30 days from the
13 date of passage.

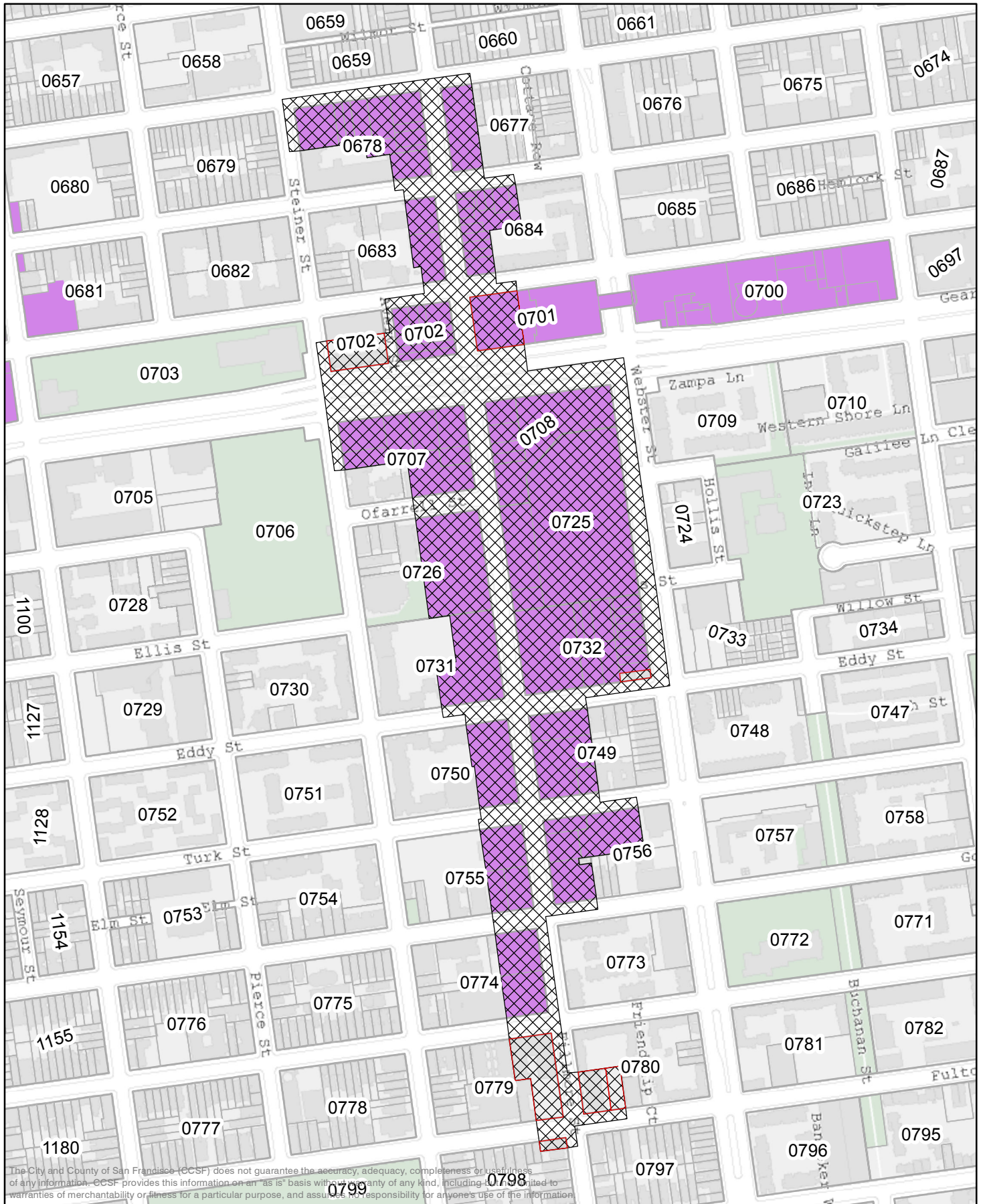
14
15 Section 7. This section is uncodified. In enacting this Ordinance, the Board intends to
16 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
17 punctuation, charts, diagrams, or any other constituent part of the Planning Code that are
18 explicitly shown in this legislation as additions, deletions, Board amendment additions, and
19 Board amendment deletions in accordance with the "Note" that appears under the official title
20 of the legislation.

21
22 APPROVED AS TO FORM:
23 DENNIS J. HERRERA, City Attorney

24 By: _____
25 JUDITH A. BOYAJIAN
Deputy City Attorney

Supervisor Olague
BOARD OF SUPERVISORS

Fillmore NCD Exhibit C



The City and County of San Francisco (CCSF) does not guarantee the accuracy, adequacy, completeness, or usefulness of any information. CCSF provides this information on an "as is" basis with no warranty of any kind, including but not limited to warranties of merchantability or fitness for a particular purpose, and assumes no responsibility for anyone's use of the information.

Exhibit D

263.20

(a) Intent. In order to encourage generous ground floor ceiling heights for commercial and other active uses, encourage additional light and air into ground floor spaces, allow for walk-up ground floor residential uses to be raised slightly from sidewalk level for privacy and usability of front stoops, and create better building frontage on the public street, up to an additional 5' of height is allowed along major streets in NCT districts, or in specific districts listed below, for buildings that feature either higher ground floor ceilings for non-residential uses or ground floor residential units (that have direct walk-up access from the sidewalk) raised up from sidewalk level.

(b) Applicability. The special height exception described in this section shall only apply to projects that meet all of the following criteria:

(1) project is located in a 30-X, 40-X or 50-X Height and Bulk District as designated on the Zoning Map;

(2) project is located in one of the following Districts:

(A) in an NCT district as designated on the Zoning Map;

(B) in the Upper Market Street, Inner Clement Street, Outer Clement Street, Irving Street, Taraval Street, Noriega Street, Judah Street, 24th Street- Noe Valley, Divisadero Street and Fillmore Street NCDs;

(C) on a NC-2 or NC-3 designated parcel fronting Mission Street, from Silver Avenue to the Daly City border;

(D) on a NC-2 designated parcel on Balboa Street between 2nd Avenue and 8th Avenue, and between 32nd Avenue and 39th Avenue;

(E) on a NC-1 designated parcel within the boundaries of Sargent Street to Orizaba Avenue to Lobos Street to Plymouth Avenue to Farallones Street to San Jose Avenue to Alemany Boulevard to 19th Avenue to Randolph Street to Monticello Street and back to Sargent Street; or

(F) on a NC-3 designated parcel fronting on Geary Boulevard from Masonic Avenue to 28th Avenue, except for parcels on the north side of Geary Boulevard between Palm Avenue and Parker Avenue;

(G) on a parcel zoned NC-1 ~~or NC-2~~ with a commercial use on the ground floor on Noriega, Irving, Taraval, or Judah Streets west of 19th Avenue;

~~(H) on a parcel zoned NC 1 or NC 2 with a commercial use on the ground floor on Irving Street west of 19th Avenue;~~

~~(I) on a parcel zoned NC 1 or NC 2 with a commercial use on the ground floor on Taraval Street west of 19th Avenue;~~

~~(J) on a parcel zoned NC 1 or NC 2 with a commercial use on the ground floor on Judah Street west of 19th Avenue;~~

(3) project features ground floor commercial space or other active use as defined by Section 145.1(b)(2) with clear ceiling heights in excess of ten feet from sidewalk grade, or in the case of residential uses, such walk-up residential units are raised up from sidewalk level;

(4) said ground floor commercial space, active use, or walk-up residential use is primarily oriented along a right-of-way wider than 40 feet;

(5) said ground floor commercial space or active use occupies at least 50% of the project's ground floor area; and

(6) except for projects located in NCT districts, the project sponsor has conclusively demonstrated that the additional 5' increment allowed through Section 263.20 would not add new shadow to any public open spaces.

(c) One additional foot of height, up to a total of five feet, shall be permitted above the designated height limit for each additional foot of ground floor clear ceiling height in excess of 10 feet from sidewalk grade, or in the case of residential units, for each foot the unit is raised above sidewalk grade.

607.1(f)

(2) NC-2, NCT-2, NC-S, RC, Broadway, Castro Street, Inner Clement Street, Outer Clement Street, Divisadero, Fillmore, Upper Fillmore Street, Inner Sunset, Haight Street, Hayes-Gough, Upper Market Street, North Beach, Ocean Avenue, Pacific Avenue, Polk Street, Sacramento Street, SoMa, Union Street, Valencia Street, 24th Street - Mission, 24th Street - Noe Valley, West Portal Avenue, Glen Park, Irving Street, Taraval Street, Noriega Street, and Judah Street Neighborhood Commercial Districts.

SEC. 702.3. NEIGHBORHOOD COMMERCIAL RESTRICTED USE SUBDISTRICTS.

In addition to the Neighborhood Commercial Use Districts established by Section [702.1](#) of this Code, certain Neighborhood Commercial Special Use Districts are established for the purpose of controlling the expansion of certain kinds of uses which if uncontrolled may adversely affect the character of certain Neighborhood Commercial Districts.

The purposes and provisions set forth in Sections 781.1 through ~~781.6-781.10~~, ~~and Sections 784 -786~~, and Sections ~~249.35-249.99~~ of this Code shall apply respectively within these districts. The boundaries of the districts are as shown on the [Zoning Map](#) as referred to in Section [105](#) of this Code, subject to the provisions of that Section.

Neighborhood Commercial Restricted Use Subdistricts	Section Number
Taraval Street Restaurant Subdistrict	§ 781.1
Irving Street Restaurant Subdistrict	§ 781.2
Ocean Avenue Fast Food Subdistrict	§ 781.3
Geary Boulevard Formula Retail Pet Supply Store and Formula Retail Eating and Drinking Subdistrict	§ 781.4
Mission Street Formula Retail Restaurant Subdistrict	§ 781.5
North Beach Financial Service, Limited Financial Service, and Business or Professional Service Subdistrict	§ 781.6
Chestnut Street Financial	§ 781.7
Haight Street Alcohol Restricted Use District	§ 781.9
Divisadero Street Alcohol Restricted Use District	§ 783
Lower Haight Street Alcohol Restricted Use District	§ 784
Excelsior Alcohol Special Use District	§ 785
Lower Haight Tobacco Paraphernalia Restricted Use District	§ 786
<i>Fringe Financial Service Restricted Use District</i>	§ 249.35
<i>Mission Alcohol Restricted Use District</i>	§ 249.60 (formerly 781.8)
<i>Third Street Alcohol Restricted Use District</i>	§ 249.62 (formerly 782)

SEC. 711. SMALL-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-2

ZONING CONTROL TABLE

No.	Zoning Category	§ References	NC-2 Controls
BUILDING STANDARDS			
711.13	Street Frontage	§ 145.1	Required §
No.	Zoning Category	§ References	NC-2
			Controls by Story
RETAIL SALES AND SERVICE			
711.54	Massage Establishment	§ 790.60 , § 1900 Health Code	C#
711.69B	Amusement Game Arcade (Mechanical Amusement Devices)	§ 790.04 - §790.4	

SPECIFIC PROVISIONS FOR NC-2 DISTRICTS

Article 7 Code Section	Other Code Section	Zoning Controls
§ 711.54	§ 790.60 , § 1900 <i>Health Code</i>	<i>MASSAGE ESTABLISHMENT</i> <i>Controls.</i> <i>Massage shall generally be subject to Conditional Use authorization. Certain exceptions to the Conditional Use requirement for massage are described in §790.60(c). When considering an application for a conditional use permit pursuant to this subsection, the Planning Commission shall consider, in addition to the criteria listed in Section 303(c), the additional criteria described in §303(o).</i>
§ 711.68	§ 249.35	FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT (FFSRUD) Boundaries: The FFSRUD and its ¼ mile buffer includes, but is not limited to, properties within: the Mission Alcoholic Beverage Special Use District the Haight Street Alcohol Restricted Use District; the Third Street Alcohol Restricted Use District; the Divisadero Street Alcohol Restricted Use District ; the North of Market Residential Special Use District and the Assessor's Blocks and Lots fronting on both sides of Mission Street from Silver Avenue to the Daly City borders as set forth in Special Use District Maps SU11 and SU12; and includes Small-Scale Neighborhood Commercial Districts within its boundaries. Controls: Within the FFSRUD and its ¼ mile buffer, fringe financial services are NP pursuant to Section 249.35. Outside the FFSRUD and its ¼ mile buffer, fringe financial services are P subject to the restrictions set forth in Subsection 249.35(c)(3).

SEC. 790.55. LIQUOR STORE.

A retail use which sells beer, wine, or distilled spirits to a customer in an open or closed container for consumption off the premises and which needs a State of California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-sale general) This classification shall not include retail uses that:

(1) are ~~both~~ (1) classified as a general grocery store use as set forth in Section [790.102](#)(a), or a specialty grocery store use as set forth in Section [790.102](#)(b), and (2) have a gross floor area devoted to alcoholic beverages that is within the accessory use limits set forth in Section [703.2](#)(b)(1)(C)(vi); or

(2) have ~~both~~ (1) a use size as defined in Section [790.130](#) of this Code of greater than 10,000 gross square feet and (2) a gross floor area devoted to alcoholic beverages that is within accessory use limits as set forth in Section [204.2](#) or [703.2](#)(b)(1)(c) of this Code, depending on the zoning district in which the use is located.

(3) For purposes of Planning Code Sections [249.5](#), [781.8](#), [781.9](#), [782](#), ~~783~~, and [784](#), the retail uses explicitly exempted from this definition as set forth above shall only apply to general grocery and specialty grocery stores that exceed 5,000s/f in size, ~~shall that do~~ not:

(1) sell any malt beverage with an alcohol content greater than 5.7% by volume; any wine with an alcohol content of greater than 15% by volume, except for "dinner wines" that have been aged two years or more and maintained in a corked bottle; or any distilled spirits in container sizes smaller than 600 ml;

(2) devote more than 15% of the gross square footage of the establishment to the display and sale of alcoholic beverages; and

(3) sell single servings of beer in container sizes 24 oz. or smaller.

Noriega and Irving Street NCDs

Correct the reference for Business Signs in Section 739.31 and 740.31 from ~~§ 607.1(e)2~~ to [§ 607.1\(f\)2](#)

810.20

20	Use Size [Nonresidential]	§ 890.130	P up to 5,000 sq. ft. C 5,000 sq. ft. & above § 121.4 Except for <i>full-service</i> R Restaurants
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811.20

20	Use Size <i>[Nonresidential]</i>	§ 890.130	P up to 2,500 sq. ft. C 2,501 to 5,000 sq. ft. Except for full-service R Restaurants - 5,000 sq. ft. § 121.4
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811.47b reference

§ 811.47b	§ 890.37	The other entertainment use must be in conjunction with an existing full- service R Restaurant
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SAN FRANCISCO PLANNING DEPARTMENT

Exhibit E

Certificate of Determination EXCLUSION/EXEMPTION FROM ENVIRONMENTAL REVIEW

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

Case No.: 2012.1087E
Project Title: **Board File No. 120814** (Establishing the Fillmore Street Neighborhood Commercial District)
Zoning: NC-1 (Neighborhood Commercial Cluster), NC-3 (Neighborhood Commercial, Moderate-Scale), RM-3 (Residential, Mixed Districts, Medium Density), RM-4 (Residential, Mixed Districts, High Density), and RH-3 (Residential, House Districts, Three-Family)
Height-Bulk: 40-X, 50-X, 65-A, 130-B, 160-F
Block/Lot/ Lot Size: Various
Project Sponsor: Supervisor Olague, District 5, San Francisco Board of Supervisors
Staff Contact: Heidi Kline – (415) 575-9043
 Heidi.Kline@sfgov.org

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PROJECT DESCRIPTION:

The proposed project is an ordinance that would amend San Francisco Planning Code by adding Section 744.1, establishing the Fillmore Street Neighborhood Commercial District (Fillmore Street NCD) on parcels along Fillmore Street between Bush and Fulton streets. The ordinance would also amend Sections 151.1, 263.20, and 607.1(f), to make conforming and other technical changes. Zoning Map Sheets ZN02 and ZN07 would be changed to reflect the rezoning of parcels to the Fillmore Street NCD.

[Continued on following page.]

EXEMPT STATUS:

General Rule Exclusion (State CEQA Guidelines, Section 15061(b)(3))

REMARKS:

Please see next page.

DETERMINATION:

I do hereby certify that the above determination has been made pursuant to State and Local requirements.

Bill Wycko
Environmental Review Officer

Date

cc: Aaron Starr, San Francisco Planning Dept.
Supervisor Olague

Virna Byrd, M.D.F

PROJECT DESCRIPTION (CONTINUED):

Section 744.1, the Fillmore Street NCD, would allow generally the same permitted uses and development standards as the NC-2 which is the current zoning designation for parcels within the proposed new special use district. The primary change would be to include the provision allowing an additional 5-foot height increase under certain circumstances as specified in Planning Code 263.20. Section 263.20 provides a 5-foot height exception for active ground floor uses in Neighborhood Commercial Transit (NCT) Districts, the Upper Market Street, Inner Clement, and Outer Clement NCDs, and certain NC-1, NC-2 and NC-3 parcels. In addition, the 5-foot height exception has been proposed for Divisadero, Glen Park and Fisherman's Wharf areas. The 5-foot special height exception is applicable to properties that contain ground-floor commercial, other active, or residential uses, where the ground-floor commercial space or active use occupies at least 50 percent of the project's ground floor area, and where the project sponsor has conclusively demonstrated that the additional 5-foot increment would not add new shadow to any public open space. Furthermore, Planning Code Section 263.20 specifies that 1 additional foot of height, up to a total of 5 feet, is permitted above the designated height limit for each additional foot of ground floor clear ceiling height in excess of 10 feet from sidewalk grade, or in the case of residential units, for each foot the unit is raised above sidewalk grade.

The 5-foot exception provided by Planning Code Section 263.20 is not sufficient to add another story but provides an incentive for developers to create lively ground-floor commercial spaces along NCD corridors. Older buildings along commercial streets in the 30-X, 40-X, and 50-X height districts are generally three or four stories with each story having a minimum of 12-foot clear ceiling heights, with spaces that are directly accessed from the street. The older residential buildings in these districts often have ground-floor units that are elevated several feet above the sidewalk level and include stoops to provide direct access to individual units. Newer buildings along commercial streets in the 30-X, 40-X and 50-X height districts, however, tend to have three, four or five 10-foot stories, and the residential buildings often contain a single ground-floor entrance lobby providing access to multiple dwelling units. These buildings generally lack visual interest and human scale and don't contribute to public life on the street. The intention of the 5-foot height exception is to encourage developers to incorporate the design elements of the older types of buildings into new commercial and residential development projects to offer more attractive uses that will better activate the public realm.

Figure 1 identifies the parcels proposed for the 5-foot height increase as part of the new Fillmore Street NCD under proposed Board of Supervisors Ordinance No.120814.

REMARKS:

California Environmental Quality Act (CEQA) State Guidelines Section 15061(b)(3) establishes the general rule that CEQA applies only to projects that have the potential to cause a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Land Use. The proposed project would rezone parcels on Fillmore Street between Bush and Fulton streets currently zoned NC-3, and several zoned NC-1, RM-3, RM-4, and RH-3, to Fillmore Street NCD. Parcels within the new NCD that are also in the 40-X and 50-X height and bulk district could be

developed with projects up to 5 feet taller than other non-NCD properties in that height and bulk designation, as long as taller ground-floor retail space is included in the building design. All of the parcels are within the 40-X and 50-X height and bulk district, except for those between Turk and Post streets. The parcels on this three-block length of Fillmore Street are within the 65-A, 130-B, and 160-F height and bulk districts. The Planning Department staff considers the 65-A, 130-B, and 160-F height and bulk districts to be a sufficient height to accommodate a taller ground-floor retail use. Therefore, an additional 5 feet of height is not needed to achieve the ground-floor retail goal.

The existing land use in the area covered by this legislation is generally ground-floor commercial uses with residential use on the upper floors, as well as multi-unit residential buildings. Most parcels are developed with a range of one- to eighteen-story buildings, though the majority of buildings are two- to four-story in height. All parcels affected by this legislation that would be eligible for the additional 5-foot height are within an area where the existing buildings generally range from one- to four-story in height and with a commercial use on the ground floor with residential use on the upper floors.

Housing development is encouraged in new buildings above the ground floor in all NCDs. Future commercial growth is directed to the ground floor in order to promote more continuous and active retail frontage. The residential density would generally remain the same as the NC-3 district currently permits the same 1 unit per 600 square feet as the proposed Fillmore Street NCD would. The residentially-zoned parcels would retain their current density in instances where it permits a higher density than 1 per 600 square feet. Therefore, there would not be any decrease in potential housing as a result of this rezoning.

A project could have a significant effect on land use if it would physically divide an established community; conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect; or have a substantial adverse impact on the existing character of the vicinity.

The proposed project would allow for slightly taller buildings to be constructed on a limited two-block portion of the proposed Fillmore Street NCD. However, this height would be consistent with other existing buildings in this area. The permitted land uses in this NCD would be similar to the existing NC-3 designation for the properties. Therefore, this rezoning would not be considered to cause a substantial adverse impact on the existing character of the NCD. Furthermore, the proposed project would not physically disrupt or divide an established community, or conflict with any land use plan, policy, or regulation that has been adopted for the purpose of avoiding or mitigating an environmental effect. For these reasons, the proposed project would not result in a significant effect on land use.

Visual Quality and Urban Design. The proposed project would increase maximum permitted building heights along a six-block portion of the Fillmore Street NCD. These parcels are located on Fillmore Street between Bush and Post streets and between Turk and Fulton streets. The proposed height exception would be minor, up to 5 feet, and would occur within a highly developed urban environment. The 5-foot height exception is not so great as to allow another story to be added to an existing building. The parcels that are subject to the proposed height increase are mostly adjacent to residential districts, zoned RM-3 (Low-Density Mixed Residential) and RM-4 (Residential House, One-Family), and all which are designated 40-X and 50-X. The development of individual NCD parcels to a height 5 feet above existing height allowances could be noticeable to immediate neighbors; however, in the dense urban character of development within and surrounding the NCDs, this minor increase in height would have correspondingly minor visual impacts.

In reviewing visual quality and urban design under CEQA generally, consideration of the existing context is required, and evaluation must be based on the impact on the existing environment. That some people may not find a given development project attractive does not mean that it creates a significant aesthetic environmental impact; projects must be judged in the context of the existing conditions. For the proposed height exception, the context is urban right-of-way that is already developed. Given the context and the minor allowable increase of up to 5 feet and the incremental nature of such development along an NCD, the proposed height exception would be consistent with the existing, developed environment, and its visual effects would not be unusual and would not create adverse aesthetic impacts on the environment. Furthermore, it would not be likely to result in a substantial, demonstrable negative aesthetic effect, or obstruct or degrade scenic views or vistas now observed from public areas. Thus, the proposed project would result in less-than-significant impacts on visual quality and urban design.

In addition, the increased height allowed by the proposed legislation would not directly or indirectly contribute to the generation of any obtrusive light or glare. For all the above reasons, proposed legislation would not result in a significant adverse effect on public views or aesthetics.

Historic Resources. The proposed special height exception could result in increased building heights within a potential historical district or affect known historical resources. The allowable increase in height, however, would be minor (up to 5 feet) and in and of itself would not result in a material impairment to a historic district or historic building. Projects taking advantage of the height exception could involve the reuse and remodeling of existing historical buildings, but such a minor height increase could be accomplished maintaining the general scale, design, and materials of the historical resources, thereby maintaining their historic context. Any development proposal taking advantage of the height exception would be subject to further review for a determination of whether the project would result in potential impacts to the environment, including historic resources. The proposed legislation therefore would not result in a significant effect on historical resources.

Noise and Air Quality. The proposed special height exception of up to 5 feet would potentially result in an incremental increase in construction activities or greater intensity of use at future development project sites, in that such development projects that would occur regardless of the proposed legislation could be up to 5 feet taller. Thus, the resulting increase in operational or construction noise would be minimal, and noise and air quality impacts would be less than significant.

Shadow. Planning Code Section 263.20(b)(6) specifies that in order for a project to be eligible to take advantage of the additional 5 feet in total height it must be shown that the additional 5-foot increment would not add any new shadow to a public open space. For this reason, the proposed legislation would not result in a significant impact with regard to shadow.

Light and Air. The 5-foot special height exception could result in slightly taller development projects that could potentially change or reduce that amount of light and air available to adjacent buildings. Any such changes could be undesirable for those individuals affected. Given the minor increase in height that would be permitted, it is anticipated that any changes in light and air would also be minor and would not affect a substantial number of people. Thus, the potential impact of the proposed legislation on light and air would not be significant.

Wind. The proposed legislation would allow a minor 5-foot increase in height for future development projects. The parcels affected by this legislation which would be eligible for an additional five-foot

height increase are within the 40-foot and 50-foot height district; thus, the maximum resulting building height would be 45 feet or 55 feet, respectively. In general, buildings up to 55 feet in height do not result in wind speeds that would exceed the hazard criterion of 26 miles per hour for a single hour of the year as established in the Planning Code Section 148. For this reason, the proposed legislation would not result in a significant impact with regard to wind.

Cumulative Impacts. The proposed 5-foot height exception could potentially result in a minimal increase in construction activities and greater intensity of use at individual future development project sites, in that such development projects that would occur regardless of the proposed legislation could be up to 5 feet taller. This increase in activities and intensity of use would not be considered significant. Thus, cumulative impacts would be less than significant.

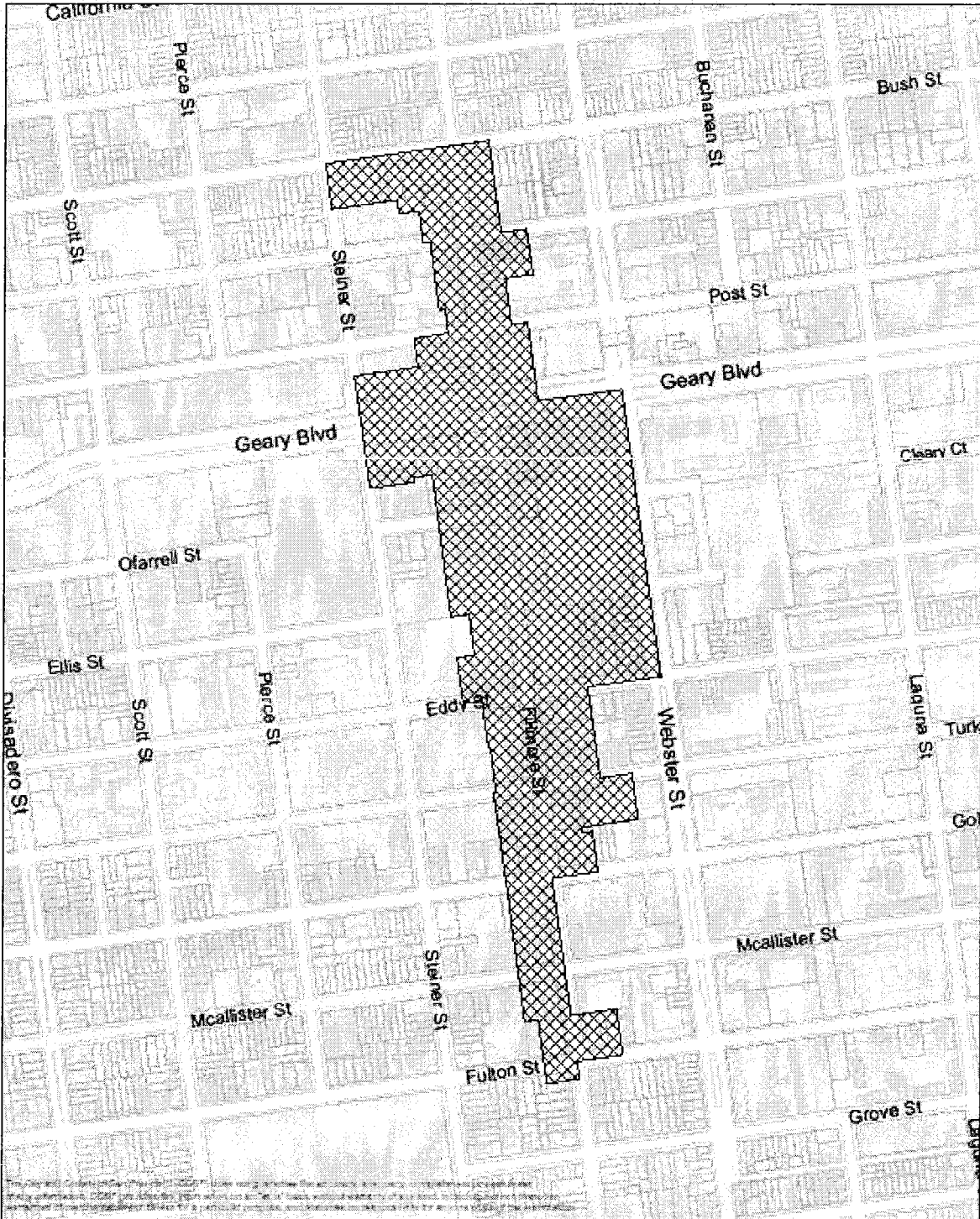
Neighborhood Concerns. A “Notification of Project Receiving Environmental Review” was mailed on October 3, 2012, to potentially interested neighborhood groups. No comments were received.

Conclusion. CEQA Guidelines Section 15061(b)(3) provides an exemption from environmental review where it can be seen with certainty that the proposed project would not have a significant impact on the environment. As noted above, there are no unusual circumstances surrounding the current proposal that would suggest a reasonable possibility of a significant effect. Since the proposed project would have no significant environmental effects, it is appropriately exempt from environmental review under the General Rule Exclusion (CEQA Guidelines Section 15061(b)(3)).

Attachment: Figure 1 - Map showing Parcels within the proposed Fillmore Street NCD

Figure 1 Map showing the Proposed Fillmore Street NCD

Fillmore NCD



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