



# SAN FRANCISCO PLANNING DEPARTMENT

## Executive Summary Conditional Use/Planned Unit Development Planning Code Amendment

HEARING DATE: OCTOBER 3, 2013

*Date:* September 26, 2013  
*Case No.:* 2013.0063CET  
*Project Address:* 555 Fulton Street  
*Zoning:* Hayes-Gough Neighborhood Commercial Transit (NCT) District  
Residential Transit-Oriented (RTO) District  
40-50-X Height and Bulk District  
Fulton Street Grocery Store Special Use District (SUD)  
*Block/Lot:* 0794/015, 028  
*Project Sponsor:* Jessica Zhou  
Fulton Street Ventures, LLC  
205 13<sup>th</sup> Street  
San Francisco, CA 94103  
*Staff Contact:* Kevin Guy – (415) 558-6163  
[kevin.guy@sfgov.org](mailto:kevin.guy@sfgov.org)  
*Recommendation:* Approval with Conditions

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### PROJECT DESCRIPTION

The proposal is to demolish an existing commercial/industrial building and construct a new five-story, mixed-use building containing approximately 139 dwelling units, 29,200 square feet of ground floor commercial uses (a grocery store), and 148 off-street parking spaces. The project sponsor is seeking approval of a Planned Unit Development, including a number of specific modifications from the requirements of the Planning Code, as discussed under 'Issues and Other Considerations' below. The requested approval would extend the performance period for a similar project that previously approved for the site in 2010 (Case No. 2005.1085C). The current project proposes minor revisions to the design and program of uses that were previously approved.

The Project Sponsor also proposes a Planning Code Text Amendment to allow formula retail uses within the Fulton Street Grocery Store Special Use District (Section 249.35A) with Conditional Use Authorization. Formula retail uses are currently prohibited within the Hayes-Gough NCT District. The Amendment also proposes to extend the term of the Fulton Street Grocery Store Special Use District (SUD) for an additional five years, and would establish specific sign controls for the grocery store use.

### SITE DESCRIPTION AND PRESENT USE

The project site is bounded by Fulton, Laguna, Octavia, and Birch Streets, Assessor's Block 0794, Lots 015 and 028, within the Hayes-Gough NCT District, the Residential Transit-Oriented District, the 40-50-X

Height and Bulk District, and the Fulton Street Grocery Store Special Use District (SUD). The site measures 44,250 square feet, and is nearly rectangular, with the exception of a separate parcel located at the northeast corner of Fulton and Octavia Streets. The site is currently developed with a two-story commercial/industrial building that measures approximately 19,620 square feet. The western portion of the site is a surface parking area, while the eastern portion of the site consists of surface parking and loading docks for the building.

## **SURROUNDING PROPERTIES AND NEIGHBORHOOD**

The area surrounding the project site primarily consists of residential buildings of two to four stories in height. Ground floor retail and restaurant uses are found along Hayes Street two blocks south of the project site, while other isolated commercial establishments are scattered throughout the vicinity. The Civic Center district begins three blocks to the east of the project site, and includes various government buildings, museums, libraries, and performance spaces. Open spaces in the vicinity include Jefferson Square and Hayward Playground to the north, Patricia's Green and Koshland Park to the south, Buchanan Street Mall and Alamo Square to the west, and Civic Center Plaza to the east.

## **ENVIRONMENTAL REVIEW**

On March 1, 2010, the Planning Department published an Initial Study/Preliminary Mitigated Negative Declaration (MND) pursuant to the California Environmental Quality Act (CEQA) for the previous project on the site (Case No. 2005.1085E). The Preliminary MND analyzed potential environmental impacts of the proposed development, and proposed specific mitigation and improvement measures to avoid potentially significant environmental effects in the areas of Cultural and Paleontological Resources, Noise, Air Quality, and Hazardous Materials. At the hearing on May 13, 2010, the Planning Commission upheld the Preliminary MND and approved the issuance of the Final Mitigated Negative Declaration (Motion No. 18082).

Since the MND was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the MND due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the MND.

## **HEARING NOTIFICATION**

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	September 13, 2013	September 13, 2013	20 days
Posted Notice	20 days	September 13, 2013	September 13, 2013	20 days
Mailed Notice	20 days	September 13, 2013	September 12, 2013	21 days

The proposal requires a Section 312-neighborhood notification, which was conducted in conjunction with the conditional use authorization process.

## PUBLIC COMMENT

Staff has received letters in support of the Project from several organizations, as well as a petition containing 603 signatures (an excerpt is included as an attachment). These letters applaud the employment and housing opportunities that would be created by the Project, and emphasize the need for an affordable grocery store tenant. Staff has also received two letters in opposition to the project from the Hayes Valley Neighborhood Association, which express opposition to the proposed Planning Code Amendment to allow a formula retail grocery store use.

## ISSUES AND OTHER CONSIDERATIONS

- **Special Use District Extension:** In 2008, the Fulton Street Grocery Store SUD was adopted to enable consideration of a mixed-use project to include a grocery store on the Project Site. The SUD applies only to projects that include a grocery store measuring a minimum of 15,000 square feet, and residential uses meeting a minimum density of one dwelling unit per 600 square feet of lot area. Although the Residential Transit-Oriented District applies to the majority of the project site, a project meeting the cited criteria is subject to the controls of the Hayes-Gough NCT, thereby enabling a grocery store proposal. The SUD places further limitations on the type, size, and amount of parking for other commercial uses beyond a grocery store. The SUD became effective on April 3, 2008, with a five-year sunset period. The SUD has since expired, and the Project Sponsor is requesting that the Board of Supervisors approve a Planning Code Amendment to extend the term of the SUD for an additional five years.
- **Formula Retail Uses:** As part of the Planning Code Amendment, the Project Sponsor is proposing that formula retail grocery store uses be allowed within SUD with Conditional Use Authorization. Formula retail uses are currently prohibited within the Hayes-Gough NCT District. No specific formula retail tenant is being proposed at this time. Should this amendment be approved by the Board of Supervisors, a specific formula retail grocery store tenant would need to seek separate Conditional Use Authorization in the future. The proposed amendment would broaden the types of grocery store tenants that could seek to operate at this location, in an area that is currently underserved by such a use.
- **Signage Controls.** The Project Sponsor has voluntarily agreed to incorporate additional signage controls for the grocery store use which are more restrictive than the existing controls which would apply to the site. These restrictions are intended to restrain the grocery store signage to respect the surrounding residential context of the immediate area. For example, existing sign regulations would allow wall signs of up to 100 square feet each on the Fulton, Laguna, and Birch Street frontages of the grocery store use. The proposed sign controls would allow wall signs of up to 40 square feet each on the Fulton and Laguna Street frontages of the grocery store use, with no wall signs permitted on the Birch Street frontage. The proposed restrictions would also prohibit directly-illuminated signs, but would allow indirectly-illuminated or non-illuminated signs.
- **Project Design:** The project site is located in an area that is eclectic in terms of development scale and architectural character, with no prevailing style establishing a dominant visual pattern for the immediate neighborhood. The scale of development also varies greatly in the vicinity. Development to the north and west was constructed in the mid- to late-20th century as part of the Western

Addition Redevelopment area, and are comprised of large, linear multi-unit apartment buildings situated across entire blocks. The development pattern to the south is characterized by a finer-grained pattern of individual buildings situated on narrow lots, dating from the late 19th and early 20th Century.

The proposed project is somewhat taller than the other buildings in the vicinity, and occupies a large lot. The mass and scale of the project is broken down by an alternating rhythm of bays and voids, changes in fenestration patterns across each elevation, and a procession of recesses that divide the larger building into smaller modules. The Department is supportive of the program of uses and design of the project.

It should be noted that, in approving the previous project on the site, the Commission added conditions of approval to revise several aspects of the site plan, including the deletion of a vehicular drop-off along Laguna Street and a reevaluation of the location and configuration of the entry court at the westerly end of the site. The current iteration of the project incorporates these modifications, creating a generous public plaza near the Laguna Street entry to the grocery store which serves as an extension of the public realm. The streetscape along the entire project frontage would receive substantial enhancements in accordance with the Better Streets Plan, which was not adopted at the time of the previous approval. These enhancements include street trees, extensive landscaping, continuous permeable paver strips along, textured paving and planting pockets along Birch Street, and a bulb-out at the corner of Laguna and Fulton Streets. Department staff and other appropriate agencies will coordinate with the Project Sponsor to refine the details of required streetscape improvements during the building permit review process.

- **Planned Unit Development Modifications:** The project does not strictly conform to several aspects of the Planning Code. As part of the Planned Unit Development (PUD) process, the Commission may grant modifications from certain requirements of the Planning Code for projects that exhibit outstanding overall design and are complementary to the design and values of the surrounding area. The project requests modifications from regulations related to rear yard, dwelling unit exposure, curb cuts locations, and vehicular entry widths. Staff believes that, given the overall quality of the design and the desirability of the program of uses in the project, these modifications can be supported.

## REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant Conditional Use authorization, including a Planned Unit Development with the requested modifications from the requirements of the Planning Code. In addition, the Board of Supervisors would need to approve the requested extension of the term of the Fulton Street Grocery Store Special Use District. The Commission must also adopt the FMND (Case No. 2005.1085E) for the Project that was finalized on May 13, 2010 by Motion No. 18082, and adopt the MMRP prepared for the Project, attached as "EXHIBIT C" to the draft Conditional Use Authorization Motion.

## BASIS FOR RECOMMENDATION

- The project would add 139 dwelling units to the City's housing stock, in a walkable and transit-rich area suited for dense, mixed-use development.
- Residents would be able to walk or utilize transit to commute and satisfy convenience needs without reliance on the private automobile.
- The project includes a mix of studio, one-bedroom, two-bedroom, and three-bedroom units to serve a diversity of household sizes and people with varied housing needs.
- The proposed grocery store will expand the spectrum of retail goods and services available in the area.
- The project will enhance the public realm with the creation of a publicly-accessible plaza on the Laguna Street frontage, as well as extensive streetscape enhancement along the entire project frontage.
- The project is necessary and desirable, is compatible with the surrounding neighborhood, and would not be detrimental to persons or adjacent properties in the vicinity.

<b>RECOMMENDATION:</b>	<b>Approval with Conditions</b>
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**Attachments:**

Draft Conditional Use Authorization Motion, including Mitigation, Monitoring and Reporting Program  
Draft Resolution and Planning Code Amendment

Mitigated Negative Declaration, available on-line at:

<http://ec2-50-17-237-182.compute-1.amazonaws.com/docs/Commissions/CPC/2005.1085E.pdf>

Block Book Map

Sanborn Map

Aerial Photograph

Zoning Map

Correspondence Regarding Project

Residential Pipeline

Inclusionary Housing Affidavit

Project Sponsor Submittal and Project Plans

Attachment Checklist

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Executive Summary   | <input checked="" type="checkbox"/> Project sponsor submittal   |
| <input checked="" type="checkbox"/> Draft Motion        | Drawings: <u>Existing Conditions</u>  |
| <input type="checkbox"/> Environmental Determination    | <input checked="" type="checkbox"/> Check for legibility  |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u>   |
| <input checked="" type="checkbox"/> Height & Bulk Map   | <input checked="" type="checkbox"/> Check for legibility  |
| <input checked="" type="checkbox"/> Parcel Map          | 3-D Renderings (new construction or significant addition)   |
| <input checked="" type="checkbox"/> Sanborn Map         | <input checked="" type="checkbox"/> Check for legibility  |
| <input checked="" type="checkbox"/> Aerial Photo        | <input type="checkbox"/> Wireless Telecommunications Materials  |
| <input checked="" type="checkbox"/> Context Photos      | <input type="checkbox"/> Health Dept. review of RF levels   |
| <input checked="" type="checkbox"/> Site Photos         | <input type="checkbox"/> RF Report  |
|   | <input type="checkbox"/> Community Meeting Notice   |
|   | <input checked="" type="checkbox"/> Housing Documents   |
|   | <input checked="" type="checkbox"/> Inclusionary Affordable Housing Program: Affidavit for Compliance |
|   | <input checked="" type="checkbox"/> Residential Pipeline  |

Exhibits above marked with an "X" are included in this packet

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Planner's Initials



# SAN FRANCISCO PLANNING DEPARTMENT

*Subject to: (Select only if applicable)*

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Affordable Housing (Sec. 415) | <input checked="" type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 413)  | <input type="checkbox"/> Child Care Requirement (Sec. 414)            |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412)             | <input checked="" type="checkbox"/> Other                             |

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## Planning Commission Draft Motion Conditional Use Authorization/ Planned Unit Development

HEARING DATE: OCTOBER 3, 2013

*Date:* September 26, 2013  
*Case No.:* **2013.0063CET**  
*Project Address:* **555 Fulton Street**  
*Zoning:* Hayes-Gough Neighborhood Commercial Transit (NCT) District  
Residential Transit-Oriented (RTO) District  
40-50-X Height and Bulk District  
Fulton Street Grocery Store Special Use District (SUD)  
*Block/Lot:* 0794/015, 028  
*Project Sponsor:* Jessica Zhou  
Fulton Street Ventures, LLC  
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ADOPTING FINDINGS RELATED TO THE EXTENSION OF THE PERFORMANCE PERIOD FOR A PREVIOUSLY-APPROVED CONDITIONAL USE AUTHORIZATION TO ALLOW DEVELOPMENT ON A LOT EXCEEDING 10,000 SQUARE FEET, TO ALLOW A COMMERCIAL USE SIZE EXCEEDING 3,000 SQUARE FEET, TO ALLOW DEVELOPMENT ABOVE THE 40-FOOT BASE HEIGHT LIMIT UP TO 50 FEET, TO ALLOW ADDITIONAL OFF-STREET ACCESSORY PARKING FOR COMMERCIAL USES, AND TO APPROVE A PLANNED UNIT DEVELOPMENT, WITH SPECIFIC MODIFICATIONS TO PLANNING CODE REGULATIONS REGARDING REAR YARD, DWELLING UNIT EXPOSURE, CURB-CUT LOCATIONS, AND VEHICULAR ENTRY WIDTH, PURSUANT TO SECTIONS 303 AND 304 OF THE PLANNING CODE. THE PROPOSAL IS TO DEMOLISH AN EXISTING OFFICE/INDUSTRIAL BUILDING AND CONSTRUCT A NEW FIVE-STORY, MIXED-USE BUILDING CONTAINING APPROXIMATELY 139 DWELLING UNITS, 29,200 SQUARE FEET OF GROUND FLOOR COMMERCIAL USES (A GROCERY STORE), AND 148 OFF-

STREET PARKING SPACES, LOCATED AT 555 FULTON STREET, LOTS 015 AND 028 IN ASSESSOR'S BLOCK 0794, WITHIN THE HAYES-GOUGH NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT, THE RESIDENTIAL TRANSIT-ORIENTED DISTRICT, THE 40-50-X HEIGHT AND BULK DISTRICT, AND THE FULTON STREET GROCERY STORE SPECIAL USE DISTRICT. THE CURRENT PROPOSAL REQUESTS AN EXTENSION OF THE TERM OF THE PREVIOUS ENTITLEMENTS, AND ALSO INCLUDES MINOR REVISIONS TO THE DESIGN AND PROGRAM OF USES THAT WERE PREVIOUSLY APPROVED, AND ADOPTING A FINAL MITIGATED NEGATIVE DECLARATION AND A MITIGATION MONITORING AND REPORTING PROGRAM.

## PREAMBLE

On November 21, 2005, David Silverman, acting on behalf of the Trust for the Children of Henry Wong, ("Previous Project Sponsor") submitted an Environmental Evaluation Application with the Planning Department ("Department"), Case No. 2005.1085E. A Notification of Project Receiving Environmental Review was sent on December 8, 2006 to owners of properties within 300 feet, adjacent tenants, and other potentially interested parties.

On August 29, 2008, the Previous Project Sponsor filed an application with the Planning Department requesting, under Sections 303 and 304, Conditional Use Authorization to allow a Planned Unit Development ("PUD"), to allow development on a lot greater than 10,000 square feet, allow a non-residential use size greater than 3,000 square feet, and to allow off-street parking for residential and commercial uses beyond the amount principally permitted by the Planning Code, for a development on a 44,250 square-foot site (Lots 015 and 028 in Assessor's Block 0794) at 555 Fulton Street, south side between Laguna and Octavia Streets ("Project Site"). The project proposed to demolish the existing office/industrial building and construct a new five-story building containing 143 dwelling units, a 21,945 square-foot grocery store, and 217 off-street parking spaces. The application was subsequently amended to request specific modifications to Planning Code regulations regarding off-street parking, rear yard, open space, dwelling unit exposure, height limits for narrow streets, and curb-cuts on streets with bicycle lanes, and to modify the project to propose 136 dwelling units, a 32,800 square-foot grocery store, and 205 off-street parking spaces (Case No. 2005.1085C; collectively, "Previous Project").

On October 18, 2006, the Previous Project Sponsor submitted a request for review of a proposed development on the Project Site exceeding 40 feet in height, pursuant to Planning Code Section ("Section") 295, analyzing the potential impacts of the development to properties under the jurisdiction of the Department of Recreation and Parks (Case No. 2005.1085K). Department staff prepared a shadow fan depicting the potential shadow cast by the development and concluded that the Previous Project would have no impact to properties subject to Section 295.

On March 3, 2010, a Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the Previous Project was prepared and published for public review.

The Draft IS/MND was available for public comment until March 23, 2010.

On March 22, 2010, an appeal of the MND was filed with the Department.

On May 13, 2010, the Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use/Planned Unit Development Application No. 2005.1085C and the Appeal of the MND, 2005.1085E.

On May 13, 2010, the Commission upheld the PMND and approved the issuance of the Final Mitigated Negative Declaration (FMND) as prepared by the Department in compliance with CEQA, the State CEQA Guidelines and Chapter 31 (Motion No. 18082). The Commission reviewed and considered the Final MND and found that the contents of said report and the procedures through which the Final MND was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) ("CEQA"), 14 California Code of Regulations Sections 15000 et seq. ("the CEQA Guidelines"), and Chapter 31 of the San Francisco Administrative Code ("Chapter 31").

The Commission found the Final MND was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Commission, and that the summary of comments and responses contained no significant revisions to the Draft IS/MND, and approved the Final MND for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31.

Since the FMND was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the FMND due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the FMND.

The Planning Department, Jonas Ionin, is the custodian of records, located in the File for Case No. 2005.1085E, at 1650 Mission Street, Fourth Floor, San Francisco, California.

Department staff prepared a Mitigation Monitoring and Reporting program ("MMRP"), which material was made available to the public and this Commission for this Commission's review, consideration and action.

On May 13, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2005.1085C and adopted Motion No. 18083, approving the Previous Project with modifications to limit the total amount of off-street parking to a maximum of 148 spaces.

On January 16, 2013, Patrice Fambrini, acting on behalf of Fulton Street Ventures, LLC ("Project Sponsor") filed an application with the Planning Department requesting an extension of the performance period for the Previous Project, and proposing minor revisions to the design and program of uses that were previously approved. The application proposes to demolish an existing office/industrial building and construct a new five-story, mixed-use building containing approximately 139 dwelling units, 29,200 square feet of ground floor commercial uses (a grocery store), and 148 off-street parking spaces, located at 555 Fulton street, Lots 015 and 028 in Assessor's Block 0794, within the Hayes-Gough Neighborhood Commercial Transit District, the Residential Transit-Oriented District, the 40-50-X Height and Bulk

District, and the Fulton Street Grocery Store Special Use District (collectively, "Project", Case No. 2013.0063C).

On January 16, 2013, the Project Sponsor filed an application with the Planning Department requesting a Planning Code Amendment to allow formula retail uses within the Fulton Street Grocery Store Special Use District (Section 249.35A) with Conditional Use Authorization. Formula retail uses are currently prohibited within the Hayes-Gough NCT District. The Amendment also proposes to extend the term of the Fulton Street Grocery Store Special Use District (SUD) for an additional five years. This SUD expired on April 3, 2013 (Case No. 2013.0063T).

On October 3, 2013, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0063CET.

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.

**MOVED**, that the Commission hereby authorizes the Conditional Use requested in Application No. 2013.0063CET, subject to the conditions contained in "EXHIBIT A" of this motion, and adopts the FMND (Case No. 2005.1085E) and MMRP for the Project that were finalized on May 13, 2010 by Motion No. 18082, based on the following findings:

## FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project site is bounded by Fulton, Laguna, Octavia, and Birch Streets, Assessor's Block 0794, Lots 015 and 028, within the Hayes-Gough NCT District, the Residential Transit-Oriented District, the 40-50-X Height and Bulk District, and the Fulton Street Grocery Store Special Use District (SUD). The site measures 44,250 square feet, and is nearly rectangular, with the exception of a separate parcel located at the northeast corner of Fulton and Octavia Streets. The site is currently developed with a two-story commercial/industrial building that measures approximately 19,620 square feet. The western portion of the site is a surface parking area, while the eastern portion of the site consists of surface parking and loading docks for the building.
3. **Surrounding Properties and Neighborhood.** The area surrounding the project site primarily consists of residential buildings of two to four stories in height. Ground floor retail and restaurant uses are found along Hayes Street two blocks south of the project site, while other isolated commercial establishments are scattered throughout the vicinity. The Civic Center district begins three blocks to the east of the project site, and includes various government buildings, museums, libraries, and performance spaces. Open spaces in the vicinity include

Jefferson Square and Hayward Playground to the north, Patricia's Green and Koshland Park to the south, Buchanan Street Mall and Alamo Square to the west, and Civic Center Plaza to the east.

4. **Project Description.** The proposal is to demolish an existing commercial/industrial building and construct a new five-story, mixed-use building containing approximately 139 dwelling units, 29,200 square feet of ground floor commercial uses (a grocery store), and 148 off-street parking spaces. The project sponsor is seeking approval of a Planned Unit Development, including a number of specific modifications from the requirements of the Planning Code, as discussed herein. The requested approval would extend the performance period for the Previous Project (Case No. 2005.1085C), and also proposes minor revisions to the design and program of uses that were previously approved.
5. **Public Comment.** Staff has received letters in support of the Project from several organizations, as well as a petition containing 603 signatures (an excerpt is included as an attachment). These letters applaud the employment and housing opportunities that would be created by the Project, and emphasize the need for an affordable grocery store tenant. Staff has also received two letters in opposition to the project from the Hayes Valley Neighborhood Association, which express opposition to the proposed Planning Code Amendment to allow a formula retail grocery store use.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
  - A. **Use and Density.** The regulations of the Fulton Street Grocery Store SUD (Section 249.35A) apply to projects that include a grocery store measuring a minimum of 15,000 square feet, and residential uses meeting a minimum density of one dwelling unit per 600 square feet of lot area. Although the Residential Transit-Oriented District applies to the majority of the project site, a project meeting the cited criteria is subject to the controls of the Hayes-Gough NCT, thereby enabling a grocery store proposal. The SUD places further limitations on the type, size, and amount of parking of other commercial uses beyond a grocery store. The Hayes-Gough NCT allows grocery stores (categorized as "Other Retail Sales and Service", per Sections 720.40 and 790.102) as a principally permitted use on the first story, and residential uses are principally permitted at all stories (Section 720.90). The NCT sets no specific limits on residential density (Section 720.91). The initial term of the SUD expired on April 3, 2013. However, the Project Sponsor has filed an application for a Planning Code Amendment to extend the term of the SUD.

*The Project proposes a ground floor grocery store measuring 29,200 square feet. The Project also proposes a total of 139 dwelling units for the subject property, at a density of one dwelling unit per each 318 square feet of the Project Site. The Project meets the specified SUD criteria for providing a grocery store and a minimum residential density, and is therefore subject to the use controls of the Hayes-Gough NCT. The Project conforms to the use and density regulations of both the Fulton Street Grocery Store SUD and the Hayes-Gough NCT.*

- B. **Height and Bulk.** The subject property is located within a 40-50-X Height and Bulk District. Pursuant to Section 270, projects within "-X" Bulk Districts are not subject to specific bulk controls. Pursuant to Section 263.22, projects within this District that comply with the criteria of the Fulton Street Grocery Store SUD may seek Conditional Use Authorization for a height exception above the 40-foot base height limit up to a maximum of 50 feet. Pursuant to Section 263.20, projects within NCT Districts and within 40-X or 50-X Height and Bulk Districts are allowed an additional five feet of height if the project includes active ground floor commercial uses with elevated ceilings taller than 10 feet, and/or walk-up residential units that are elevated from the sidewalk. Pursuant to Section 261.1, upper portions of buildings that abut the northerly side of narrow streets, must be set back 10 feet from the property line above a height equivalent to 1.25 times the width of the abutting narrow street. This additional height restriction applies to the portion of the narrow street frontage that is located 60 feet away from an intersection with a street wider than 40 feet.

*The Project complies with the criteria of the Fulton Street Grocery Store SUD, and is therefore requesting Conditional Use Authorization to reach a height of 50 feet. In addition, the Project is eligible for an additional five-foot increment of height, because the ceiling of the grocery store reaches a height of approximately 16 feet, and the store occupies more than 50% of the ground floor of the project.*

*The Project is situated along the northerly side of Birch Street, which qualifies as a "Narrow Street", pursuant to Section 261.1. Birch Street measures 35 feet in width, therefore, the additional height limits of Section 261.1 apply above a height of 43.75 feet, for the segment of the frontage located 60 feet away from Laguna and Octavia Streets. The fifth floor of the Project is set back 10 feet from the property line along the applicable frontage, and therefore complies with Section 261.1.*

- C. **Floor Area Ratio.** In the Hayes-Gough NCT District, Section 124 allows a Floor Area Ratio (FAR) of up to 3.0. The project site has an area of 44,250 square feet, therefore the allowable FAR would permit a building of up to 132,750 square feet of Gross Floor Area as defined in Section 102.9.

*The Project would measure approximately 251,318 square feet. Pursuant to Section 124(b), within NC Districts, the cited Floor Area Ratio limits do not apply to residential uses. Subtracting the area of the residential uses, approximately 105,266 square feet of Gross Floor Area within the Project would be subject to the allowable FAR. The Project therefore complies with the maximum allowable FAR.*

- D. **Rear Yard.** Section 134(a)(1) of the Planning Code requires a rear yard equal to 25 percent of the lot depth to be provided at every residential level.

*At the second level and above, the Project is divided into two distinct masses fronting the length of Fulton and Birch Streets. These masses are separated by a central courtyard and are linked by an interior corridor connection that traverses this void at each level of the Project. The configuration of this courtyard does not meet the requirements for a rear yard, and thus the Project requires a modification of the rear yard requirement through the PUD process. Compliance with the PUD criteria is discussed under Item #11 .*

*Section 134(e)(1) identifies a process whereby the Zoning Administrator may reduce the rear yard requirements for a project within NC Districts. Because the Project is seeking a rear yard modification through the PUD, the process described by Section 134(e)(1) does not apply. It should be noted, however, that the project complies with the specified criteria of Section 134(e)(1), as follows:*

- i. *Residential uses are included in the new or expanding development and a comparable amount of usable open space is provided elsewhere on the lot or within the development where it is more accessible to the residents of the development.*
- ii. *The proposed new or expanding structure will not significantly impede the access of light and air to and views from adjacent properties.*

*A code-complying rear yard would provide an open area of approximately 10,250 square feet. Common open spaces are provided that total approximately 10,995 square feet. In addition, fifteen of the units at the second and fifth floors have access to private decks. Therefore, the open space within the Project exceeds the amount of open area that would be provided by a Code-complying rear yard. It should be noted, however, that not all of these open spaces meet the exposure and dimensional requirements for usable open space specified in Section 135.*

*The Project occupies nearly the entire block bounded by Fulton, Laguna, Birch, and Octavia Streets. Therefore, providing a Code-complying rear yard for the Project would result in a configuration that does not reflect the traditional San Francisco development pattern, with buildings located at or near front property lines, creating an urban streetscape framing an interior core of mid-block open space. By using a courtyard, the project restores a traditional pattern of mid-block open space within the project site.*

- E. **Usable Open Space.** Section 135 requires that a minimum of 60 square feet of private usable open space, or 79.8 square feet of common usable open space be provided for dwelling units within the Hayes-Gough NCT District. This Section specifies that the area counting as usable open space must meet minimum requirements for area, horizontal dimensions, and exposure.

*The Project proposes private decks for seven of the fifth floor units that face Birch Street. The Project also proposes private decks for eight of the second-floor units, however, these decks do not comply with the exposure requirements of Section 135 and cannot be credited as usable open space. Therefore, the Project would need to provide a total of 10,534 square feet of common open space to serve 132 dwelling units that do not have complying private decks. The Project proposes 10,995 square feet of common open space on the roof and at the second floor. The Project therefore complies with the requirements of Section 135.*

- F. **Streetscape and Pedestrian Improvements.** Section 138.1 requires that the Project include streetscape and pedestrian improvements appropriate to the site in accordance with the Better Streets Plan, as well as the planting of street trees.

*The conceptual plans for the Project show street trees, extensive landscaping, and continuous permeable paver strips along the Project frontage. In addition, the plans show textured paving and*

*planting pockets along Birch Street, as well as a bulb-out at the corner of Laguna and Fulton Streets. Staff from the Planning Department and other appropriate agencies will coordinate with the Project Sponsor to refine the details of required streetscape improvements during the building permit review to ensure compliance with Section 138.1.*

- G. **Dwelling Unit Exposure.** Section 140 of the Planning Code requires that at least one room of all dwelling units face onto a public street, a rear yard, or other open area that meets minimum requirements for area and horizontal dimensions.

*The dwelling units are arranged along two separate double-loaded corridors. The units that face onto Fulton, Laguna, Octavia, and Birch Streets comply with the requirements of Section 140. Some units face only onto the central courtyard. Section 140 specifies that an open area (such as the courtyard) must have minimum horizontal dimensions of 25 feet at the lowest floor containing a dwelling unit and floor immediately above, with an increase of five feet in horizontal dimensions for each subsequent floor above. According to this methodology, the open area above the courtyard would need to measure at least 30 feet in horizontal dimensions at the 4th floor, and 35 feet at the 5th floor of the Project.*

*The central open area of the courtyard measures approximately 25 feet in width for the majority of the length of the Project, however, this dimension narrows where bay windows and other changes in plane occur. The courtyard narrows to approximately 10 feet in width at the easterly end of the Project. Therefore, the courtyard does not provide the dimensions required by Section 140(a)(2). In addition, there is a unit facing onto the narrow portion of the courtyard on each of floors two thorough five that fails to meet the exposure requirements. The Project therefore requires a modification of the exposure requirements through the PUD process. Compliance with the PUD criteria is discussed under Item #11.*

- H. **Active Street Frontages.** Section 145.1 requires active uses to be located at the ground-floor of the Project, with the exception of space allow for parking, building egress, and access to mechanical systems. Active uses may include commercial uses with transparency along the sidewalk, walk-up residential units, and spaces accessory to residential uses.

*The frontages of the Project are occupied by several types of active spaces, including the grocery store use, a gymnasium for residents, a public entry plaza at the corner of Birch and Laguna Streets, and walk-up townhome units at the corner of Birch and Octavia Streets. The Project minimizes the proportion of frontage dedicated to vehicular access, building ingress, and lobbies. Therefore, the Project complies with the active street frontage requirements of Section 145.1.*

- I. **Garage Entry Width.** Section 145.1 limits the maximum width of parking and loading entrances to 1/3 the width of a given street frontage of a building, or 20 feet, whichever is less.

*Along the Fulton Street frontage, the aggregate width of the garage entry and adjacent commercial loading bay measures approximately 40 feet. Along the Octavia Street frontage, the width of the garage entry measures approximately 25 feet. Therefore, the loading and vehicular entry widths on*

*both frontages exceeds the maximum 20-foot width specified by Section 145.1. It should be noted that, in proportion to the overall size of the Project frontage, the amount of frontage dedicated to loading and vehicular entries is relatively small. The Project requires a modification of the requirements of this Section through the PUD process. Compliance with the PUD criteria is discussed under Item #11.*

- J. **Off-Street Parking and Car Sharing.** Section 151.1 establishes the maximum amount of off-street parking that is permitted as accessory for uses within NCT Districts. Pursuant to these regulations, the Project would be principally permitted 66 off-street parking spaces to serve the commercial use, and 70 parking spaces to serve the residential use. Through Conditional Use authorization and subject to specific criteria, this Section allows this Project to seek up to 91 spaces to serve the commercial use, and 104 spaces to serve the residential use. Section 166 requires that three car-share parking spaces be provided for the Project.

*The Project includes a total of 148 off-street parking spaces (77 commercial spaces, 68 residential spaces, and three car share spaces). The Project complies with the principally permitted amount of residential parking specified by Section 151.1, and provides the three car-share parking spaces required by Section 166. However, the Project exceeds the amount of principally-permitted commercial parking specified by Section 151.1. The Project Sponsor is requesting Conditional Use to allow additional accessory off-street parking for the commercial use. Conformance with the specified criteria of Section 151.1 is discussed further under Item #10. It should be noted that the total quantity of parking proposed is consistent with the quantity of parking approved for the Previous Project.*

- K. **Off-Street Loading.** Section 152 provides a schedule of required off-street freight loading spaces for all uses in districts other than C-3 or South of Market. Pursuant to this Section, residential uses measuring between 100,001 to 200,000 square feet require one off-street loading space. In addition, retail uses measuring between 10,001 to 60,000 square feet require one off-street loading space. The Project therefore requires two off-street loading spaces.

*The Project provides one commercial loading space and one residential loading space, both of which meet the dimension requirements of Section 154. The Project therefore complies with the off-street loading requirements.*

- L. **Curb Cuts.** Section 155(r)(4) prohibits the creation or use of curb cuts accessing off-street parking or loading on streets in NCT Districts that contain official City bicycle routes or bicycle lanes. A striped bicycle lane exists along the Fulton Street frontage of the Project Site, and a shared bicycle route exists along the Octavia Street frontage of the Project Site.

*The Project proposes a curb cut accessing the commercial parking on the Fulton Street frontage, and a curb cut accessing the residential parking on the Octavia Street frontage. These curb cuts do not conform with the prohibitions of Section 155(r)(4), therefore, the Project Sponsor is requesting a modification of these regulations through the PUD process. Conformance with the PUD criteria is discussed under item #11.*

- J. **Dwelling Unit Mix.** Section 207.6 requires that, for projects creating five or more dwelling units within the Hayes-Gough NCT, a minimum of 40 percent of the dwelling units contain at least two bedrooms.

*The Project proposes a total of 139 dwelling units. 63 of these units contain two bedrooms, and 3 of these units contain three bedrooms, constituting 47 percent of the overall dwelling units. The Project complies with the dwelling unit mix requirements.*

- K. **Inclusionary Affordable Housing Program.** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, these requirements apply to projects that consist of ten or more units, where the first application (EE or BPA) was applied for before July 18, 2006. Pursuant to Planning Code Section 415.5 and 415.6, the Project is meeting the Inclusionary Affordable Housing Program requirement through the On-site Affordable Housing Alternative by providing 12% of the proposed dwelling units as affordable.

*The Project Sponsor has demonstrated that it is eligible for the On-Site Affordable Housing Alternative under Planning Code Section 415.5 and 415.6, and has submitted 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program by providing the affordable housing on-site instead of through payment of the Affordable Housing Fee. In order for the Project Sponsor to be eligible for the On-Site Affordable Housing Alternative, the Project Sponsor must submit an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to the Planning Department stating that any affordable units designated as on-site units shall be sold as ownership units and will remain as ownership units for the life of the project. The Project Sponsor submitted such Affidavit on September 1, 2013. The EE application was submitted on November 21, 2005. 17 units (3 studio, 6 one-bedroom, and 8 two-bedroom) of the 139 units provided will be affordable units. If the Project becomes ineligible to meet its Inclusionary Affordable Housing Program obligation through the On-site Affordable Housing Alternative, it must pay the Affordable Housing Fee with interest, if applicable.*

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use authorization. Projects that proposed a Planned Unit Development through the Conditional Use authorization process must meet these criteria, in addition to the PUD criteria of Section 304, discussed under Item #11. On balance, the project complies with the criteria of Section 303, in that:

- a. The proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.

*The Project will add significant housing opportunities at a density suitable for an urban context that is well served by public transit. In addition, the project will add a new grocery store that will provide employment opportunities, and will serve the residents of the Project and the larger neighborhood. By*

*targeting infill, mixed-use development at such locations, residents of the Project will be able to walk, bicycle, or take transit to commute, shop, and meet other needs without reliance on private automobile use. The grocery store will create a vibrant focal point in an area that is predominantly characterized by residential uses, activating the streetscape and creating visual interest for pedestrians.*

*The existing development in the area surrounding the Project site is varied in scale and intensity. The Project is somewhat taller than the other buildings in the vicinity, and occupies a relatively large lot. However, the building expresses an alternating rhythm of bays and voids that creates texture and further breaks down the massing of the building. Each elevation exhibits a procession of recesses that divide the larger building into smaller modules. The fenestration pattern changes at each module to create greater diversity in the texture of the Project.*

*The Project, as proposed, is necessary and desirable for, and is compatible with the neighborhood.*

- b. The use or feature as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or injurious to property, improvements, or potential development in the vicinity, with respect to aspects including, but not limited to the following:

- i. The nature of the proposed site, including its size and shape, and the proposed size, shape, and arrangement of structures.

*The Project site is a regularly-shaped lot that is adequately sized to accommodate the development. In lieu of providing a Code-complying rear yard, the Project is arranged around a central courtyard that establishes a pattern of mid-block open space that is currently lacking on the subject block. Existing development in the vicinity varies in size and intensity, and the Project is generally compatible with the eclectic character of the area. The building is designed with recesses and varying fenestration patterns to reduce the apparent scale of the Project. The shape and size of development on the subject property will not be detrimental to persons or adjacent properties in the vicinity.*

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading and of proposed alternatives to off-street parking, including provisions of car-share parking spaces, as defined in Section 166.

*The MND prepared for the project found that the project would not result in significant transportation and circulation impacts. The Project Site is located within an urban context, where convenience goods and services are available within walking distance. Residents of the project will be able to walk to such services in the vicinity, as well as the on-site grocery store. In addition, the area is served by ample public transit, so that residents do not need to solely rely on private automobile transportation. Improvement Measures have been incorporated into the MND to avoid traffic congestion and during construction of the Project and to encourage transit ridership by residents and grocery store employees.*

*The Project provides two off-street loading spaces, in conformance with the Planning Code requirements.*

*The Project includes a total of 148 off-street parking spaces (77 commercial spaces, 68 residential spaces, and three car share spaces). The Project complies with the principally permitted amount of residential parking specified by Section 151.1, and provides the car-share parking spaces required by Section 166. However, the Project exceeds the amount of principally-permitted commercial parking specified by Section 151.1. The Project Sponsor is requesting Conditional Use to allow additional accessory off-street parking for the commercial use. Conformance with the specified criteria of Section 151.1 is discussed further under Item #10. It should be noted that the total quantity of parking proposed is consistent with the quantity of parking approved for the Previous Project.*

*As proposed, the traffic patterns, off-street loading, and the quantity of off-street parking will not be detrimental to persons or adjacent properties in the vicinity.*

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust, and odor.

*The Project includes residential and commercial uses that are typical of the Market and Octavia Plan area, and should not introduce operational noises or odors that are detrimental, excessive, or atypical for the area. While some temporary increase in noise can be expected during construction, this noise is limited in duration and will be regulated by the San Francisco Noise Ordinance which prohibits excessive noise levels from construction activity and limits the permitted hours of work. The Project Sponsor will be required to submit a Dust Control Plan to the Department of Public Health that specifies how airborne dust will be attenuated during construction. The requirements of this plan will ensure that demolition, excavation, and construction activities do not generate significant airborne dust. The building will not utilize mirrored glass or other highly reflective materials, therefore, the Project is not expected to cause offensive amounts of glare.*

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting, and signs.

*The Project provides open space in the form of private decks at the second and fifth story, common decks at the second and fifth story, and an open plaza at the entry of the grocery store. The conceptual plans show extensive landscaping and public realm improvements along the entire Project frontage, including a bulb-out at the corner of Fulton and Laguna Streets, as well as enhanced paving and planting pockets on Birch Street. The proposed off-street loading spaces comply with the requirements of the Planning Code. Conditions of approval require that, as the Project proceeds through the review of building permits, the Project Sponsor will continue to work the Planning staff to refine details of project massing, lighting, signage, materials, street trees, and other aspects of the design.*

- c. Such use or feature as proposed will comply with the applicable provisions of this Code and will not adversely affect the General Plan.

*The Project generally complies with the applicable sections of the Code, with certain exceptions. The residential and commercial uses contemplated for the Project, and the proposed density are permitted within the Hayes-Gough NCT District and the Fulton Street Grocery Store SUD. The Project seeks a number of modifications to the requirements of the Planning Code through the PUD process. The purpose of the PUD process is to allow well-designed development on larger sites to request modifications from the strict requirements of the Planning Code, provided that the project generally meets the intent of these Planning Code requirements and will not adversely affect the General Plan. The requested modifications, and compliance with the PUD criteria are discussed under Item #11.*

*Considered as a whole, the Project would add housing and commercial goods and services to create a vibrant, active mixed-use node. The Project Site is well-served by transit and commercial services, allowing residents to commute, shop, and reach amenities by walking, transit, and bicycling. The Project includes a mix of unit types, including 21 studio units, 51 one-bedroom units, 64 two-bedroom units, and three three-bedroom units. This mix of units will ensure that the Project will serve a diversity of household sizes and people with varied housing needs. The Project conforms with multiple goals and policies of the General Plan, as described in further detail in Item #13.*

8. **Planning Code Section 121.1** establishes criteria for the Planning Commission to consider when reviewing applications for projects within the Hayes-Gough NCT on lots that exceed 10,000 square feet, through the Conditional Use authorization process. On balance, the project complies with said criteria in that:

- a. The mass and facade of the proposed structure are compatible with the existing scale of the district.

*The existing development in the area surrounding the Project site is varied in scale and intensity. The Project is somewhat taller than the other buildings in the vicinity, and occupies a relatively large lot. However, the Project uses offsetting planes, deep recesses, and changes in fenestration patterns to divide the elevations into discrete modules. The design of the Project is suitable at a conceptual level, and the details of the project will be further refined and developed throughout the building permit review process.*

- b. The facade of the proposed structure is compatible with the design features of adjacent facades that contribute to the positive visual qualities of the district.

*Existing buildings in the area exhibit an eclectic architectural character, with no prevailing style establishing a dominant visual pattern for the neighborhood. The scale of development also varies greatly in the vicinity. Existing development to the north and west of the Project Site was constructed in the mid- to late-20th century as part of the Western Addition Redevelopment area, and are*

*comprised of large, linear multi-unit apartment buildings arranged in a "campus" across an entire block. Existing development to the south was primarily constructed in the late 19th and early 20th Century in a finer-grained pattern of individual buildings situated on narrow lots.*

*While no single architectural style or development pattern predominates, the Project reflects the disparate elements of this context while establishing its own contemporary language. Although the Project occupies a relatively large lot, the building is articulated as a series of smaller buildings across the site, separated by a procession of deep voids. Within an overall architectural vocabulary, variations in fenestration patterns throughout the Project reinforce this articulation. The building therefore relates to the larger scale and forms of the newer developments in the area, while also breaking down massing to acknowledge the narrower lot pattern of older development to the south.*

9. **Planning Code Section 121.2** establishes criteria for the Planning Commission to consider when reviewing applications for non-residential uses within the Hayes-Gough NCT that exceed 3,000 square feet, through the Conditional Use authorization process. On balance, the proposed grocery store complies with said criteria in that:

- a. The intensity of activity in the district is not such that allowing the larger use will be likely to foreclose the location of other needed neighborhood-serving uses in the area.

*Small-scale, neighborhood-serving retail and restaurant uses are located along Hayes Street to the south, as well as at scattered locations in the area. However, there are no full-service grocery stores in the immediate vicinity that provide a wide spectrum of food products, personal items, and household goods. The grocery store is expected to complement and expand the retail offering that exist in the neighborhood, allowing residents to fulfill a wider variety of shopping needs within close proximity.*

- b. The proposed use will serve the neighborhood, in whole or in significant part, and the nature of the use requires a larger size in order to function.

*The Fulton Street Grocery Store SUD was established with the specific purpose of "consideration of a neighborhood-serving grocery store of moderate size in a location accessible to the Hayes Valley and Western Addition neighborhoods." The size of the proposed grocery store is necessary in order to offer patrons a wide selection of goods that may not be readily available in the area. The store is not excessively sized to an excessive degree that would draw patrons from a broad area and overwhelm the character of the surrounding neighborhood.*

- c. The building in which the use is to be located is designed in discrete elements which respect the scale of development in the district.

*As discussed under Item #7 and #8 above, a number of aspects of the design help to divide the building into smaller, discrete elements, such as alternating rhythms of projections and voids, deep recesses, and changes in fenestration patterns across each elevation.*

10. **Planning Code Section 151.1(f)** establishes criteria for the Planning Commission to consider when reviewing applications for off-street parking that exceeds the principally permitted amount within an NCT District. On balance, the project complies with the said criteria in that:

- a. Parking for all uses
  - i. Vehicle movement on or around the project does not unduly impact pedestrian spaces or movement, transit service, bicycle movement, or the overall traffic movement in the district.

*The Project Sponsor proposes a quantity of commercial parking (77 spaces) that exceeds the principally permitted amount specified in Section 151.1 (66 spaces). The MND prepared for the project does not identify transportation or circulation impacts that rise to the level of a significant impact under CEQA. ). By the nature of the use, the grocery store merits additional parking beyond that which is principally permitted by Section 151.1. The increment of additional parking proposed is not substantially higher than the principally-permitted quantity of parking, and should not unduly impact pedestrian, transit, or bicycle movement. Conditions of approval have been added requiring the provision of parking spaces for transient, short term use (such as carshare vehicles or taxis), as well the operation of a delivery or shuttle service.*

- ii. Accommodating excess accessory parking does not degrade the overall urban design quality of the project proposal.
  - iii. All above-grade parking is architecturally screened and, where appropriate, lined with active uses according to the standards of Section 145.1, and the project sponsor is not requesting any exceptions or variances requiring such treatments elsewhere in this Code.
  - iv. Excess accessory parking does not diminish the quality and viability of existing or planned streetscape enhancements.

*The additional off-street parking requested by the Project Sponsor is located within an underground garage, and is not readily visible from the public right-of-way.*

b. Parking for Non-Residential Uses

- i. Projects that provide more than 10 spaces for non-residential uses must dedicate 5% of these spaces, rounded down to the nearest whole number, to short-term, transient use by vehicles from certified car sharing organizations per Section 166, vanpool, rideshare, taxis, or other co-operative auto programs. These spaces shall not be used for long-term storage nor satisfy the requirement of Section 166, but rather to park them during trips to commercial uses. These spaces may be used by shuttle or delivery vehicles used to satisfy subsection (B).

*A condition of approval has been added requiring that 5% of the commercial parking spaces will be dedicated to transient use by co-operative auto programs, and that such spaces will be indicated on plans associated with the building permit.*

- ii. Retail uses larger than 20,000 square feet, including but not limited to grocery, hardware, furniture, consumer electronics, greenhouse or nursery, and appliance stores, which sell merchandise that is bulky or difficult to carry by hand or by public transit, shall offer, at minimal or no charge to its customers, door-to-door delivery service and/or shuttle service. This is encouraged, but not required, for retail uses less than 20,000 square feet.

*The proposed grocery store measures 32,800 square feet, and is therefore subject to this requirement. A condition of approval has been added requiring that the grocery store offer delivery and/or shuttle service.*

- iii. Parking shall be limited to short-term use only.
- iv. Parking shall be available to the general public at times when such parking is not needed to serve the use or uses to which it is accessory.

*A condition of approval has been added requiring that parking be limited to short-term use only, and be available to the general public outside of the hours of operation for the grocery store.*

11. **Planned Unit Development.** Section 304 establishes criteria and limitations for the authorization of PUD's over and above those applicable to Conditional Uses in general and contained in Section 303 and elsewhere in the Code. In cases of projects that exhibit outstanding overall design and are complementary to the design and values of the surrounding area, such projects may merit modification of certain Code requirements. On balance, the Project complies with said criteria in that it:

- A. Affirmatively promotes applicable objectives and policies of the General Plan;

*See discussion under Item #13.*

- B. Provides off-street parking adequate for the occupancy proposed.

*The Project contains the principally permitted quantity of residential parking specified by Section 151.1. The Project contains a small increment of additional commercial parking beyond the principally permitted quantity specified by Section 151.1. However, by the nature of the use, the grocery store merits this additional increment of parking. In addition, the Project provides three spaces for car-share vehicles, and the grocery store will offer shuttle or delivery service for patrons who do not travel by private automobile. The Project is located in a walkable, transit-rich context along several designate bicycle corridors. The quantity of parking proposed is appropriate for the Project, and residents and visitors to the Project will be able to choose from a variety of transportation options.*

- C. Provides open space usable by the occupants and, where appropriate, by the general public, at least equal to the open space required by this Code;

*The project includes common open spaces which total 10,995 square feet, as well as private decks for individual units on the second and fifth floors. The project also includes a public entry plaza adjacent to the grocery store entrance, as well as pedestrian-oriented streetscape improvements which enhance the public realm along the entire Project frontage.*

- D. Be limited in dwelling unit density to less than the density that would be allowed by Article 2 of the Code for a district permitting a greater density, so that the Planned Unit Development will not be substantially equivalent to a reclassification of property.

*As discussed under Item #6A, the Project complies with the specific density provisions of the Fulton Street Grocery Store SUD and the Hayes-Gough NCT. The PUD will not be substantially equivalent to a reclassification of property.*

- E. Under no circumstances be excepted from any height limit established by Article 2.5 of this Code, unless such exception is explicitly authorized by the terms of this Code. In the absence of such an explicit authorization, exceptions from the provisions of this Code with respect to height shall be confined to minor deviations from the provisions for measurement of height in Sections 260 and 261 of this Code, and no such deviation shall depart from the purposes or intent of those sections.

*As discussed under Item #6B, the Project complies with all relevant height limitations of the Planning Code, and does not request any deviations from the height measurement provisions of Sections 260 and 261.*

12. **Planned Unit Development Modifications.** The Project Sponsor requests a number of modifications from the requirements of the Planning Code. These modifications are listed below, along with a reference to the relevant discussion for each modification. Where indicated, certain requested PUD modifications are not granted by this approval, and conditions have been added such that the Project will comply with the applicable provisions of the Planning Code.

- i. *Rear Yard Configuration: Item #6D*
- ii. *Dwelling Unit Exposure: Item #6F*
- iii. *Vehicular Entry Widths: Item #6I-*
- iv. *Curb Cut Locations: Item #6L*

13. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

## **COMMERCE AND INDUSTRY ELEMENT:**

### **Objectives and Policies**

#### **OBJECTIVE 6**

**MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.**

##### **Policy 6.4:**

Encourage the location of neighborhood shopping areas throughout the city so that essential retail goods and personal services are accessible to all residents.

##### **Policy 6.10:**

Promote neighborhood commercial revitalization, including community-based and other economic development efforts where feasible.

*The Project would replace an existing office/industrial building and surface parking areas with an intense, mixed-use development suited to an urban context. The Project includes 139 dwelling units. Residents of these units would shop for goods and services in the area, bolstering the viability of the existing businesses. In addition, the Project would provide a 29,200 square-foot grocery store in an area that is currently underserved by such a use. The presence of the ground floor commercial space will contribute to the economic vitality of the area, fulfill shopping needs for residents, and will activate the streetscape.*

## **HOUSING ELEMENT:**

### **Objectives and Policies**

#### **OBJECTIVE 1**

**TO PROVIDE NEW HOUSING, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE HOUSING CREATED BY EMPLOYMENT DEMAND.**

##### **Policy 1.1:**

Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing, and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are affordable to lower income households.

##### **Policy 1.3**

Identify opportunities for housing and mixed-use districts near downtown and former industrial portions of the City.

**Policy 1.4:**

Locate in-fill housing on appropriate sites in established residential neighborhoods.

*The Project will add residential units to an area that is well-served by transit, services, and shopping opportunities. The site is suited for dense, mixed-use development, where residents can commute and satisfy convenience needs without frequent use of a private automobile. The Project Site is located within walking distance of the employment cluster of the Civic Center, and is in an area with abundant transit options routes that travel to the South of Market and Downtown Core areas. The Project includes a mix of studio, one-bedroom, two-bedroom, and three-bedroom units in a range of sizes, to provide housing opportunities for various household types and socioeconomic groups within the neighborhood.*

**MARKET AND OCTAVIA PLAN:  
Objectives and Policies**

**OBJECTIVE 1.1**

**CREATE A LAND USE PLAN THAT EMBRACES THE MARKET AND OCTAVIA NEIGHBORHOOD'S POTENTIAL AS A MIXED-USE URBAN NEIGHBORHOOD.**

**Policy 1.1.2:**

Concentrate more intense uses and activities in those areas best served by transit and most accessible on foot.

**Policy 1.1.3:**

Encourage housing and retail infill to support the vitality of the Hayes-Gough, Upper Market, and Valencia Neighborhood Commercial Districts.

*The Project Site is situated in an area that is well-served by transit, and has amenities and convenience goods and services within walking distance. The grocery store will diversify the mix of retail offerings in the area, and will serve as a complement to the small-scale retail uses along Hayes Street to the south.*

**OBJECTIVE 2.2**

**ENCOURAGE CONSTRUCTION OF RESIDENTIAL INFILL THROUGHOUT THE PLAN AREA.**

**Policy 2.2.2:**

Ensure a mix of unit sizes is built in new development and is maintained in existing housing stock.

**Policy 2.2.4:**

Encourage new housing above ground-floor commercial uses in new development and in expansion of existing commercial buildings.

*The Project is a mixed-use infill development that includes a variety of dwelling unit types, including studios, one-bedroom, two-bedroom, and three-bedroom units. The residential uses are situated over a grocery store, providing convenient access to retail goods for residents of the proposed project and the surrounding neighborhood.*

14. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

*The new residents in the Project will patronize area businesses, bolstering the viability of surrounding commercial establishments. In addition, the Project would include a grocery store to provide goods and services to residents in the area, contribute to the economic vitality of the area, and will define and activate the streetscape.*

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

*The project will not diminish existing housing stock, and will add dwelling units in a manner that enhances the vitality of the neighborhood.*

- C. That the City's supply of affordable housing be preserved and enhanced,

*The Project shall be required to comply with the requirements of Planning Code Section 415 regarding the Residential Affordable Housing Program.*

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

*A wide variety of goods and services are available within walking distance of the Project Site without reliance on private automobile use. In addition, the area is well served by public transit, providing connections to all areas of the City and to the larger regional transportation network.*

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

*The Project does not propose any office development. Several office and industrial tenants would be displaced by the demolition of the existing building. However, the Project will include a grocery store that will provide employment opportunities for area residents.*

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

*The Project is designed and will be constructed to conform to the structural and seismic safety requirements of the City Building Code.*

- G. That landmarks and historic buildings be preserved.

*The existing building that would be demolished by the Project is not considered to be a historic resource. While the architecture of the Project is contemporary, the massing and exterior treatment has been designed in a manner that will not adversely affect off-site historic resources.*

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

*The Project will not cast shadows or impede views for parks and open spaces in the area, nor have any negative impact on existing public parks and open spaces.*

15. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
16. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

## **DECISION**

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2013.0063CET** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated October 3, 2013, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

**FURTHERMORE**, the Commission hereby adopts the FMND (Case No. 2005.1085E) for the Project that was finalized on May 13, 2010 by Motion No. 18082, and adopts the MMRP prepared for the Project, attached hereto as "EXHIBIT C", which is incorporated by reference as thought fully set forth. Since the FMND was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the FMND due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the FMND.

**APPEAL AND EFFECTIVE DATE OF MOTION:** Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. XXXXX. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on October 3, 2013.

Jonas P. Ionin  
Acting Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: October 3, 2013

# **EXHIBIT A**

## **AUTHORIZATION**

This authorization is for a conditional use to allow development on a lot exceeding 10,000 square feet, to allow a commercial use size exceeding 3,000 square feet, to allow development above the 40-foot base height limit up to 50 feet, to allow additional off-street accessory parking for commercial uses, and to approve a Planned Unit Development, with specific modifications to Planning Code regulations regarding rear yard, dwelling unit exposure, curb-cut locations, and vehicular entry width, pursuant to Planning Code Sections 303 and 304. The proposal is to demolish an existing office/industrial building and construct a new five-story, mixed-use building containing approximately 139 dwelling units, 29,200 square feet of ground floor commercial uses (a grocery store), and 148 off-street parking spaces located at 555 Fulton Street, Block 0794, Lots 015 and 028, within the Hayes-Gough Neighborhood Commercial Transit District, the Residential Transit-Oriented District, the Fulton Street Grocery Store Special Use District, and the 40-50-X Height and Bulk District; in general conformance with plans, dated October 3, 2013, and stamped "EXHIBIT B" included in the docket for Case No. 2013.0063C and subject to conditions of approval reviewed and approved by the Commission on October 3, 2013 under Motion No XXXXXX. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

## **RECORDATION OF CONDITIONS OF APPROVAL**

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on October 3, 2013 under Motion No XXXXXX.

## **PRINTING OF CONDITIONS OF APPROVAL ON PLANS**

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. XXXXXX shall be reproduced on the Index Sheet of construction plans submitted with the site or building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

## **SEVERABILITY**

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

## **CHANGES AND MODIFICATIONS**

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

## **Conditions of Approval, Compliance, Monitoring, and Reporting**

### **PERFORMANCE**

**Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the date that the Planning Code text amendment become effective. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Diligent Pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since the date that the Planning Code text amendment(s) and/or Zoning Map amendment(s) became effective.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Additional Project Authorization.** The Project Sponsor must obtain a Planning Code Amendment to extend the term of the Fulton Street Grocery Story Special Use District (Section 249.35A). The conditions set forth below are additional conditions required in connection with the Project. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Mitigation Measures.** Mitigation measures described in the MMRP attached as Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor. Their implementation is a condition of project approval.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## DESIGN – COMPLIANCE AT PLAN STAGE

**Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

**Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

**Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

**Lighting Plan.** The Project Sponsor shall submit an exterior lighting plan to the Planning Department prior to Planning Department approval of the building / site permit application.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

**Streetscape Plan.** Pursuant to Planning Code Section 138.1, the Project Sponsor shall continue to work with Planning Department staff, in consultation with other City agencies, to refine the design and programming of the Streetscape Plan so that the plan generally meets the standards of the Better Streets Plan and all applicable City standards. The Project Sponsor shall complete final design of all required street improvements, including procurement of relevant City permits, prior to issuance of first architectural addenda, and shall complete construction of all required street improvements prior to issuance of first temporary certificate of occupancy.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sfplanning.org](http://www.sfplanning.org)*

**Signage.** The Project Sponsor shall develop a signage program for the Project which shall be subject to review and approval by Planning Department staff before submitting any building permits for construction of the Project. All subsequent sign permits shall conform to the approved signage program. Once approved by the Department, the signage program/plan information shall be submitted and approved as part of the site permit for the Project. All exterior signage shall be designed to complement, not compete with, the existing architectural character and architectural features of the building.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sfplanning.org](http://www.sfplanning.org)*

**Transformer Vault.** The location of individual project PG&E Transformer Vault installations has significant effects to San Francisco streetscapes when improperly located. However, they may not have any impact if they are installed in preferred locations. Therefore, the Planning Department recommends the following preference schedule in locating new transformer vaults, in order of most to least desirable:

1. On-site, in a basement area accessed via a garage or other access point without use of separate doors on a ground floor façade facing a public right-of-way;
2. On-site, in a driveway, underground;
3. On-site, above ground, screened from view, other than a ground floor façade facing a public right-of-way;
4. Public right-of-way, underground, under sidewalks with a minimum width of 12 feet, avoiding effects on streetscape elements, such as street trees; and based on Better Streets Plan guidelines;
5. Public right-of-way, underground; and based on Better Streets Plan guidelines;
6. Public right-of-way, above ground, screened from view; and based on Better Streets Plan guidelines;
7. On-site, in a ground floor façade (the least desirable location).

Unless otherwise specified by the Planning Department, Department of Public Work's Bureau of Street Use and Mapping (DPW BSM) should use this preference schedule for all new transformer vault installation requests.

*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>*

**Overhead Wiring.** The Property owner will allow MUNI to install eyebolts in the building adjacent to its electric streetcar line to support its overhead wire system if requested by MUNI or MTA.

*For information about compliance, contact San Francisco Municipal Railway (Muni), San Francisco Municipal Transit Agency (SFMTA), at 415-701-4500, [www.sfmta.org](http://www.sfmta.org)*

**Street Trees.** Pursuant to Planning Code Section 138.1 (formerly 143), the Project Sponsor shall submit a site plan to the Planning Department prior to Planning approval of the building permit application indicating that street trees, at a ratio of one street tree of an approved species for every 20 feet of street frontage along public or private streets bounding the Project, with any remaining fraction of 10 feet or more of frontage requiring an extra tree, shall be provided. The street trees shall be evenly spaced along the street frontage except where proposed driveways or other street obstructions do not permit. The exact location, size and species of tree shall be as approved by the Department of Public Works (DPW). In any case in which DPW cannot grant approval for installation of a tree in the public right-of-way, on the basis of inadequate sidewalk width, interference with utilities or other reasons regarding the public welfare, and where installation of such tree on the lot itself is also impractical, the requirements of this Section 428 may be modified or waived by the Zoning Administrator to the extent necessary.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

## PARKING AND TRAFFIC

**Parking for Affordable Units.** All off-street parking spaces shall be made available to Project residents only as a separate “add-on” option for purchase or rent and shall not be bundled with any Project dwelling unit for the life of the dwelling units. The required parking spaces may be made available to residents within a quarter mile of the project. All affordable dwelling units pursuant to Planning Code Section 415 shall have equal access to use of the parking as the market rate units, with parking spaces priced commensurate with the affordability of the dwelling unit. Each unit within the Project shall have the first right of refusal to rent or purchase a parking space until the number of residential parking spaces are no longer available. No conditions may be placed on the purchase or rental of dwelling units, nor may homeowner’s rules be established, which prevent or preclude the separation of parking spaces from dwelling units.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Car Share.** Pursuant to Planning Code Section 166, no fewer than three car share space shall be made available, at no cost, to a certified car share organization for the purposes of providing car share services for its service subscribers.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Commercial Parking for Co-Operative Auto Programs.** Pursuant to Section 151.1, 5% of the commercial parking spaces shall be dedicated to short-term, transient use by car-share vehicles, vanpool, rideshare, taxis, or other co-operative vehicle programs. These spaces may be used by shuttle or delivery vehicles used to satisfy condition #XX. The locations of the spaces required by this condition shall be indicated on plans for the site and building permits.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Shuttle or Delivery Service.** Pursuant to Section 151.1, the grocery store shall offer, at minimal or no charge to its customers, door-to-door delivery or shuttle service.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Short-Term Use.** Pursuant to Section 151., all commercial parking spaces shall be limited to short-term use only, and shall be available to the general public when such commercial parking spaces are not needed to serve the grocery store.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Bicycle Parking.** Pursuant to Planning Code Sections 155.1 and 155.2, the Project shall provide no fewer than 117 bicycle parking spaces (110 Class 1 spaces and 7 Class 2 spaces) for the residential portion of the Project. For the commercial portion of the Project, one Class 1 space shall be provided for each 7,500 square feet of occupied floor area, and one Class 2 space shall be provided for each 2,500 square feet of occupied floor area. All bicycle parking shall comply with the standards of Section 155.1.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Showers and Clothes Lockers.** Pursuant to Planning Code Section 155.4, the Project shall provide no fewer than one shower and six clothes lockers.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org).*

**Parking Maximum.** Pursuant to Planning Code Section 151.1, the Project shall provide no more than 77 commercial off-street parking spaces and 68 residential off-street parking spaces.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Off-street Loading.** Pursuant to Planning Code Section 152, the Project will provide two off-street loading spaces.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## PROVISIONS

**First Source Hiring.** The Project shall adhere to the requirements of the First Source Hiring Construction and End-Use Employment Program approved by the First Source Hiring Administrator, pursuant to Section 83.4(m) of the Administrative Code. The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.

*For information about compliance, contact the First Source Hiring Manager at 415-581-2335, [www.onestopSF.org](http://www.onestopSF.org)*

**Transit Impact Development Fee.** Pursuant to Planning Code Section 411 (formerly Chapter 38 of the Administrative Code), the Project Sponsor shall pay the Transit Impact Development Fee (TIDF) as required by and based on drawings submitted with the Building Permit Application. Prior to the issuance of a temporary certificate of occupancy, the Project Sponsor shall provide the Planning Director with certification that the fee has been paid.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

### Inclusionary Affordable Housing Program.

1. **Number of Required Units.** Pursuant to Planning Code Section 415.6, the Project is required to provide 12% of the proposed dwelling units as affordable to qualifying households. The Project contains 139 units; therefore, 17 affordable units are required. The Project Sponsor will fulfill this requirement by providing the 17 affordable units on-site. If the number of market-rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing ("MOH").

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

2. **Unit Mix.** The Project contains 21 studios, 51 one-bedroom, 64 two-bedroom, and 3 three-bedroom units; therefore, the required affordable unit mix is 3 studios, 6 one-bedroom, and 8 two-bedroom units. If the market-rate unit mix changes, the affordable unit mix will be modified accordingly with written approval from Planning Department staff in consultation with MOH.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

3. **Unit Location.** The affordable units shall be designated on a reduced set of plans recorded as a Notice of Special Restrictions on the property prior to the issuance of the first construction permit.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

4. **Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than twelve percent (12%) of the each phase's total number of dwelling units as on-site affordable units

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

5. **Duration.** Under Planning Code Section 415.8, all units constructed pursuant to Section 415.6, must remain affordable to qualifying households for the life of the project.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

6. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the MOH at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing's websites, including on the internet at:

<http://sf-planning.org/Modules>ShowDocument.aspx?documentid=4451>.

As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

- a. The affordable unit(s) shall be designated on the building plans prior to the issuance of the first construction permit by the Department of Building Inspection ("DBI"). The affordable unit(s) shall (1) reflect the unit size mix in number of bedrooms of the market rate units, (2) be constructed, completed, ready for occupancy and marketed no later than the market rate units, and (3) be evenly distributed throughout the building; and (4) be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project. The interior features in affordable units should be the same as those of the market units in the principal project, but need not be the same make, model or type of such item as long they are of good and new quality and are consistent with then-current standards for new housing. Other specific standards for on-site units are outlined in the Procedures Manual.
- b. If the units in the building are offered for sale, the affordable unit(s) shall be sold to first time home buyer households, as defined in the Procedures Manual, whose gross annual income adjusted for household size does not exceed an average of ninety (90) percent of Area Median Income under the income table called "Maximum Income by Household Size" derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco. The initial sales price of such units shall be calculated according to the Procedures Manual. Limitations on (i) reselling; (ii) renting; (iii) recouping capital improvements; (iv) refinancing; and (v) procedures for inheritance apply and are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.

- c. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOH shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOH at least six months prior to the beginning of marketing for any unit in the building.
- d. Required parking spaces shall be made available to initial buyers or renters of affordable units according to the Procedures Manual.
- e. Prior to the issuance of the first construction permit by DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that contains these conditions of approval and a reduced set of plans that identify the affordable units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to the MOH or its successor.
- f. The Project Sponsor has demonstrated that it is eligible for the On-site Affordable Housing Alternative under Planning Code Section 415.6 instead of payment of the Affordable Housing Fee, and has submitted the *Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415*, to the Planning Department stating that any affordable units designated as on-site units shall be sold as ownership units and will remain as ownership units for the life of the Project.
- g. If the Project Sponsor fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Section 415 et seq. shall constitute cause for the City to record a lien against the development project and pursue any and all available remedies at law.
- h. If the Project becomes ineligible at any time for the On-site Affordable Housing Alternative, the Project Sponsor or its successor shall pay the Affordable Housing Fee prior to issuance of the first construction permit or may seek a fee deferral as permitted under Ordinances 0107-10 and 0108-10. If the Project becomes ineligible after issuance of its first construction permit, the Project Sponsor shall notify the Department and MOH and pay interest on the Affordable Housing Fee at a rate equal to the Development Fee Deferral Surcharge Rate in Section 107A.13.3.2 of the San Francisco Building Code and penalties if applicable.

**Market Octavia Affordable Housing Fee.** Pursuant to Planning Code Section 416 (formerly 315.4), the Project Sponsor shall comply with the Market Octavia Affordable Housing requirements through payment of the Market Octavia Affordable Housing Fee in full to the Treasurer, prior to the issuance by Department of Building Inspection of the first certificate of occupancy for the development project.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sfplanning.org](http://www.sfplanning.org)*

**Market Octavia Community Improvements Fund.** Pursuant to Planning Code Section 421 (formerly 326), the Project Sponsor shall comply with the Market Octavia Community Improvements Fund provisions through payment of an Impact Fee in full to the Treasurer, or the execution of a Waiver Agreement, or an In-Kind agreement approved as described per Planning Code Section 421 (formerly 326) prior to the issuance by Department of Building Inspection of the construction document for the development project.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

## **MONITORING - AFTER ENTITLEMENT**

**Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## **OPERATION**

**Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>*

**Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>*

**Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sfplanning.org](http://www.sfplanning.org)*

# EXHIBIT C

## MITIGATION MONITORING AND REPORTING PROGRAM

File No. Project Title: 2013.0063CET  
555 Fulton Street Retail-Residential Project

Page 1

Mitigation Measures Agreed to by Project Sponsor	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<b>MITIGATION MEASURE M-CP-1</b> <b>Archeology (Monitoring)</b>				
<p>Based on the reasonable potential that archeological resources may be present within the project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources. The project sponsor shall retain the services of a qualified archeological consultant having expertise in California prehistoric and urban historical archeology. The archeological consultant shall undertake an archeological monitoring program. All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Archeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of four weeks. At the direction of the ERO, the suspension of construction can be extended beyond four weeks only if such a suspension is the only feasible means to reduce to a less-than-significant level potential effects on a significant archeological resource as defined in CEQA Guidelines Sect. 15064.5 (a)(c).</p>	<p>Project sponsor/ archeological consultant at the direction of the Environmental Review Officer (ERO).</p>	<p>Prior to soil-disturbing activities.</p>	<p>Archeological consultant shall report to the ERO.</p>	<p>During excavation, demolition and construction. Considered complete upon receipt of final monitoring report at completion of construction.</p>
<p><i>Archeological Monitoring Program (AMP).</i> The archeological monitoring program shall minimally include the following provisions:</p> <ul style="list-style-type: none"> <li>The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the AMP reasonably prior to any project-related soils disturbing activities commencing. The ERO in consultation with the archeological consultant shall determine what project activities shall be archeologically monitored. In most cases, any soil-disturbing activities,</li> </ul>	<p>Project sponsor/ archeological consultant./ archeological monitor/ contractor(s), at the direction of the</p>	<p>Monitor throughout all soil-disturbing activities.</p>	<p>Project sponsor/ archeological consultant./ archeological monitor/ Contractor(s), and the ERO. Monitor</p>	<p>During excavation, demolition and construction. Considered complete upon receipt of final</p>

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## MITIGATION MONITORING AND REPORTING PROGRAM

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Mitigation Measures Agreed to by Project Sponsor	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archeological monitoring because of the risk these activities pose to potential archaeological resources and to their depositional context;</p> <ul style="list-style-type: none"> <li>• The archeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), of how to identify the evidence of the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archeological resource;</li> <li>• The archeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archeological consultant and the ERO until the ERO has, in consultation with the archeological consultant, determined that project construction activities could have no effects on significant archeological deposits;</li> <li>• The archeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis;</li> <li>• If an intact archeological deposit is encountered, all soils disturbing activities in the vicinity of the deposit shall cease. The archeological monitor shall be empowered temporarily to redirect demolition/excavation/pile driving/construction crews and heavy equipment until the deposit is evaluated. If in the case of pile driving activity (foundation, shoring, etc.), the archeological monitor has cause to believe that the pile driving activity may affect an archeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO.</li> </ul>	ERO.		throughout all soils-disturbing activities.	monitoring report at completion of construction.

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## MITIGATION MONITORING AND REPORTING PROGRAM

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The archeological consultant shall immediately notify the ERO of the encountered archeological deposit. The archeological consultant shall, after making a reasonable effort to assess the identity, integrity, and significance of the encountered archeological deposit, present the findings of this assessment to the ERO.				
If the ERO in consultation with the archeological consultant determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the project sponsor either:  A) The proposed project shall be re-designed so as to avoid any adverse effect on the significant archeological resource; or  B) An archeological data recovery program shall be implemented, unless the ERO determines that the archeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.	Project sponsor	If a significant archeological resource is present	Project sponsor/ archeological consultant/ archeological monitor/ contractor(s), and the ERO. Monitor throughout all soils-disturbing activities.	During excavation, demolition and construction. Considered complete upon receipt of final monitoring report at completion of construction.
If an archeological data recovery program is required by the ERO, the archeological data recovery program shall be conducted in accord with an archeological data recovery plan (ADRP). The project archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the ADRP. The archeological consultant shall prepare a draft ADRP that shall be submitted to the ERO for review and approval. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable	Archeological consultant at the direction of the ERO	If there is a determination that an ADRP program is required	Project sponsor/ archeological consultant/ archeological monitor/ contractor(s), and the ERO. Monitor throughout all soils-disturbing activities.	During excavation, demolition and construction. Considered complete upon receipt of final monitoring report at completion of

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<p>research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the proposed project. Destructive data recovery methods shall not be applied to portions of the archeological resources if nondestructive methods are practical.</p> <p>The scope of the ADRP shall include the following elements:</p> <ul style="list-style-type: none"> <li>• <i>Field Methods and Procedures.</i> Descriptions of proposed field strategies, procedures, and operations.</li> <li>• <i>Cataloguing and Laboratory Analysis.</i> Description of selected cataloguing system and artifact analysis procedures.</li> <li>• <i>Discard and Deaccession Policy.</i> Description of and rationale for field and post-field discard and deaccession policies.</li> <li>• <i>Interpretive Program.</i> Consideration of an on-site/off-site public interpretive program during the course of the archeological data recovery program.</li> <li>• <i>Security Measures.</i> Recommended security measures to protect the archeological resource from vandalism, looting, and non-intentionally damaging activities.</li> <li>• <i>Final Report.</i> Description of proposed report format and distribution of results.</li> <li>• <i>Curation.</i> Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities.</li> </ul>				construction.

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Mitigation Measures Agreed to by Project Sponsor	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p><i>Human Remains and Associated or Unassociated Funerary Objects.</i> The treatment of human remains and of associated or unassociated funerary objects discovered during any soils disturbing activity shall comply with applicable State and Federal Laws, including immediate notification of the Coroner of the City and County of San Francisco and in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC) who shall appoint a Most Likely Descendant (MLD) (Pub. Res. Code Sec. 5097.98). The archeological consultant, project sponsor, and MLD shall make all reasonable efforts to develop an agreement for the treatment of, with appropriate dignity, human remains and associated or unassociated funerary objects (CEQA Guidelines. Sec. 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, curation, possession, and final disposition of the human remains and associated or unassociated funerary objects.</p>	<p>Project sponsor / archeological consultant in consultation with the San Francisco Coroner, NAHC, and MLD.</p>	<p>In the event human remains and/or funerary objects are found.</p>	<p>Project sponsor/ archeological consultant/ San Francisco Coroner/ NAHC/ MLD. Monitor throughout all soils-disturbing activities</p>	<p>During excavation, demolition and construction. Considered complete upon receipt of final monitoring report at completion of construction.</p>
<p><i>Final Archeological Resources Report.</i> The archeological consultant shall submit a Draft Final Archeological Resources Report (FARR) to the ERO that evaluates the historical of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the draft final report.</p> <p>Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved by the ERO copies of the FARR shall be distributed as follows: California Archeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Major Environmental Analysis</p>	<p>Project sponsor/ archeological consultant at the direction of the ERO.</p>	<p>After completion of the archeological data recovery, inventorying, analysis and interpretation.</p>	<p>Project sponsor/ archeological consultant/ ERO</p>	<p>Following completion of soil disturbing activities. Considered complete upon Planning Department receipt of final monitoring report at completion of</p>

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Mitigation Measures Agreed to by Project Sponsor	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
division of the Planning Department shall receive three copies of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest or interpretive value, the ERO may require a different final report content, format, and distribution than that presented above.				construction.
<b>MITIGATION MEASURE M-AQ-1</b>				
Short-term Construction Exhaust Emissions				
To reduce project-related short-term exhaust emissions from construction equipment, the project sponsor and its contractors shall implement the following mitigation measures: <ul style="list-style-type: none"> <li>• Confine idle time of combustion engine construction equipment at construction sites to five minutes.</li> <li>• Maintain and properly tune construction equipment in accordance with manufacturer's specifications.</li> <li>• Use alternative fueled or electrical construction equipment at the subject property when feasible.</li> <li>• Use the minimum practical engine size for construction equipment.</li> <li>• Equip gasoline-powered construction equipment with catalytic converters when feasible.</li> </ul>	Project sponsor and its contractors	Throughout excavation and all construction activities	Project sponsor / contractors to report compliance to ERO	Considered complete at completion of building construction

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<b>MITIGATION MEASURE M-NOI-1</b> <b>Noise (Construction Phase)</b>				
<p>To reduce daytime noise impacts due to construction to the maximum feasible extent, the following measures shall be implemented in addition to all measures set forth in the Noise Ordinance:</p> <ul style="list-style-type: none"> <li>At least 10 days prior to the start of construction, the project sponsor shall notify occupants of properties within 100 feet of the project site's lot line. Notification shall include an estimation of the duration of construction activities including anticipated start and completion dates and the daily construction times.</li> <li>Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds, wherever feasible).</li> <li>Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed-air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed-air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible, which could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.</li> <li>Stationary noise sources shall be located as far from sensitive receptors as</li> </ul>	Project sponsor and construction contractor	Prior to and during demolition, excavation and construction	Project sponsor / contractors to report compliance to ERO	Considered complete at completion of building construction

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## MITIGATION MONITORING AND REPORTING PROGRAM

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Mitigation Measures Agreed to by Project Sponsor	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>possible, and they shall be muffled and enclosed within temporary sheds, insulation barriers, or other measures shall be incorporated to the extent feasible.</p> <p><b>Ground clearing, excavation, foundation, building erection and exterior finishing activities shall be limited to Monday through Friday between the hours of 7:00 a.m. to 8:00 p.m. All other work occurring on Saturday and Sunday shall be limited to the hours of 9:00 a.m. to 6:00 p.m.</b></p>				
<b>MITIGATION MEASURE M-HZ-1</b>				
Hazards (Contaminated Soil)				
<p><i>Step 1: Soil Testing</i></p> <p>If required by the San Francisco Department of Public Health (SFDPH), the project sponsor shall, prior to approval of a building permit for the proposed project, hire a consultant to collect soil samples (borings) from areas on the site in which soil would be disturbed and test the samples for total lead and petroleum hydrocarbons. The consultant shall analyze the samples as discrete, not composite samples. The consultant shall prepare a report on the testing for petroleum hydrocarbons that includes the results of the testing and a map that shows the locations samples collected.</p> <p>The project sponsor shall submit the report on the testing for petroleum hydrocarbons and a fee in the form of a check payable to the San Francisco Department of Public Health (SFDPH), to the Hazardous Waste Program, Department of Public Health, 101 Grove Street, Room 214, San Francisco, California 94102. The fee shall cover staff time for report review and administrative handling. If additional review is necessary, DPH shall bill the</p>	Project sponsor	Prior to issuance of a building permit.	Project sponsor shall hire a consultant to collect soil samples and prepare a report for the DPH including the results of the testing for total lead and petroleum hydrocarbons.	Prior to any demolition or construction. Considered complete on issuance of building permit.

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Mitigation Measures Agreed to by Project Sponsor	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
project sponsor. These fees shall be charged pursuant to Section 31.47(c) of the San Francisco Administrative Code. DPH shall review the testing report to determine whether soils the project site are contaminated with petroleum hydrocarbons at or above potentially hazardous levels.				
<p><i>Step 2: Preparation of Site Mitigation Plan</i></p> <p>If, based on the results of the tests conducted, the San Francisco Department of Public Health (DPH) determines that the soils or on the project site are contaminated with contaminants at or above potentially hazardous levels, the DPH shall determine if preparation of a Site Mitigation Plan (SMP) is warranted. If such a plan is requested by the DPH, the SMP shall include a discussion of the level of contamination of soils on the project site and mitigation measures on the site, including, but not limited to: 1) the alternatives for managing contaminated soils on the site (e.g., encapsulation, partial or complete removal, treatment, recycling for reuse, or a combination); 2) the preferred alternative for managing contaminated soils on the site and a brief justification; and 3) the specific practices to be used to handle, haul, and dispose of contaminated soils on the site. The SMP shall be submitted to the DPH for review and approval. A copy of the SMP shall be submitted to the Planning Department to become part of the case file.</p>	Project sponsor	Prior to excavation.	The DPH shall determine if preparation of an SMP is warranted. If so, the SMP should be prepared according to certain guidelines, and is subject to approval by the DPH.	Prior to excavation. Considered complete upon DPH review and approval of plans.
<p><i>Step 3: Handling, Hauling, and Disposal of Contaminated Soils</i></p> <p>(a) <u>Specific Work Practices:</u> If, based on the results of the soil tests conducted, DPH determines that the soils on the project site are contaminated at or above potentially hazardous levels, the construction contractor shall be alert for the presence of such soils during excavation and other construction activities on the site (detected through soil odor, color, and texture and results of on-site soil testing), and shall be prepared to handle, profile (i.e., characterize), and</p>	Project sponsor and construction contractor	Prior to excavation; or prior to excavation and during demolition, excavation, and	If SMP indicates no contaminants in the soil and DPH concurs, then no monitoring required. If DPH determines presence	Prior to excavation; or prior to excavation and during demolition, excavation, and

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<p>dispose of such soils appropriately (i.e., as dictated by local, state, and federal regulations) when such soils are encountered on the site. If there are excavated materials containing over one percent friable asbestos, they would be treated as hazardous waste, and would be transported and disposed of in accordance with applicable State and federal regulations. These procedures are intended to mitigate any potential health risks related to chrysotile asbestos, which may or may not be located on the site.</p> <p>(b) <u>Dust Suppression:</u> Soils exposed during excavation for site preparation and project construction activities shall be kept moist throughout the time they are exposed, both during and after work hours.</p> <p>(c) <u>Surface Water Runoff Control:</u> Where soils are stockpiled, visqueen shall be used to create an impermeable liner, both beneath and on top of the soils, with a berm to contain any potential surface water runoff from the soil stockpiles during inclement weather.</p> <p>(d) <u>Soils Replacement:</u> If necessary, clean fill or other suitable material(s) shall be used to bring portions of the project site, where contaminated soils have been excavated and removed, up to construction grade.</p> <p>(e) <u>Hauling and Disposal:</u> Contaminated soils shall be hauled off the project site by waste hauling trucks appropriately certified with the State of California and adequately covered to prevent dispersion of the soils during transit, and shall be disposed of at a permitted hazardous waste disposal facility registered with the State of California.</p>		construction.	of contaminants or if project sponsor assumes presence of contaminants, then contractor shall take the indicated mitigation action, and shall provide DPH weekly reports during the construction period.	construction. Considered complete if DPH determines the absence of contaminants and if project sponsor assumes the same. Otherwise, considered complete upon receipt by DPH of final monitoring plan.
<p><i>Step 4: Preparation of Closure/Certification Report</i></p> <p>After excavation and foundation construction activities are completed, the project sponsor shall prepare and submit a closure/certification report to DPH</p>	Project sponsor and construction contractor	During demolition, excavation, and	Project sponsor to provide DPH with final	During demolition, excavation, and

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for review and approval. The closure/certification report shall include the mitigation measures in the SMP for handling and removing contaminated soils from the project site, whether the construction contractor modified any of these mitigation measures, and how and why the construction contractor modified those mitigation measures.		construction.	closure/certification report.	construction. Considered complete upon receipt of final monitoring report at completion of construction.
<b>MITIGATION MEASURE M-HZ-2</b>				
Hazardous Building Materials (PCBs, Mercury, Lead and others)				
The project sponsor would ensure that pre-construction building surveys for PCB- and mercury-containing equipment (including elevator equipment), hydraulic oils, fluorescent lights, lead, mercury and other potentially toxic building materials are performed prior to the start of renovation. Any hazardous building materials so discovered would be abated according to federal, state, and local laws and regulations.	Project sponsor.	Prior to demolition and construction activities.	San Francisco Planning Department to review building materials surveys and monitor abatement compliance	Considered complete upon receipt by the San Francisco Planning Department of final abatement compliance report.

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Improvement Measures Identified by Planning Department Staff	Responsibility for Implementation	Implementation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<b>IMPROVEMENT MEASURE I-TR-1</b>				
Transportation (Parking)				
As an improvement measures to reduce the proposed project's residential parking demand and parking shortfall and to encourage use of alternative modes, the project sponsor could provide a transportation insert for the move-in packet that would provide information on transit service (Muni and BART lines, schedules and fares), information on where FastPasses could be purchased, and information on the 511 Regional Rideshare Program. It should be noted that the project sponsor would provide a car-share parking space and would "unbundle" the sale of parking spaces from the sale of residential units to provide a financial incentive for car-free living.	Project sponsor	Ongoing when new residents move into building	Project sponsor to report to MTA	Ongoing
As an improvement measure to reduce the proposed project's residential parking shortfall during the overnight hours, residents could be permitted to park within the grocery store component of the garage.	Project sponsor	Ongoing	Project sponsor to report to Planning Department Northeast Quadrant	Ongoing
As improvement measures to reduce the impact of the parking shortfall for the grocery store use, the following improvement measures have been identified:				
<ul style="list-style-type: none"> <li>To ensure that parking spaces in the garage are available for shopping patrons, employees could be required to park off-site and encouraged to take transit. The grocery store operator could provide TransitChecks to employees to encourage use of transit.</li> </ul>	Project sponsor / grocery tenant	Ongoing	Project sponsor / grocery tenant to report to Planning Department Northeast Quadrant	Ongoing

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Improvement Measures Identified by Planning Department Staff	Responsibility for Implementation	Implementation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<ul style="list-style-type: none"> <li>To reduce the number of employees that drive to work, the grocery store operator could recruit employees from the neighborhood.</li> </ul>	Project sponsor / grocery tenant	Ongoing	N/A	Ongoing
<ul style="list-style-type: none"> <li>The website for the grocery store could include information on transit access to the project site.</li> </ul>	Grocery tenant	Ongoing. Initial implementation prior to grocery store opening.	Grocery tenant to report to Planning Department Northeast Quadrant	Ongoing
<ul style="list-style-type: none"> <li>To ensure that patrons actively shopping at the grocery store are parking in the project garage, the garage could be monitored.</li> </ul>	Project sponsor / grocery tenant	Ongoing	Project sponsor / grocery tenant to report to Planning Department Northeast Quadrant	Ongoing
<ul style="list-style-type: none"> <li>To facilitate traffic flow within the garage and reduce potential for traffic queues spilling out onto Fulton or Octavia Street, an electronic "FULL" sign could be installed outside the project garage. The supermarket operator could be required to develop a plan to address overflow parking or queuing outside either the Fulton Street or Octavia Street entrances.</li> </ul>	Project sponsor	During project construction	Project sponsor to report to Planning Department Northeast Quadrant	Completed after project construction
<b>IMPROVEMENT MEASURE I-TR-2</b>				
<b>Transportation (Loading)</b>				
As an improvement measure to reduce the potential for delivery vehicles to double-park on Fulton Street, an on-site loading dock manager could be hired for the grocery store use to manage the delivery demand, provide assistance for truck maneuvers into and out of the on-site loading area, schedule deliveries by 60 foot trucks and reserve the proposed on-street loading zone	Project sponsor	Prior to opening of grocery tenant for ongoing implementation	Project sponsor to report to Planning Department Northeast Quadrant	Ongoing

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Improvement Measures Identified by Planning Department Staff	Responsibility for Implementation	Implementation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
for larger vehicles (through the use of cones), and coordinate trash collection activities.				
Additionally, the curb on Fulton Street to the west of the proposed on-site loading area could be designated as short-term commercial vehicle loading/unloading spaces, as proposed by the project sponsor. The designation of the two new spaces (about 80 linear feet) as commercial vehicle loading/unloading spaces would need to be approved by the Board of Supervisors at a public hearing through the MTA.	Project sponsor	During project construction	MTA	Prior to completion of construction
<b>IMPROVEMENT MEASURE I-TR-3</b>				
Transportation (Construction)				
Any construction traffic occurring between 7:00 and 9:00 a.m. or between 3:30 and 6:00 p.m. would coincide with peak hour traffic and could temporarily impede traffic and transit flow, although it would not be considered a significant impact. An improvement measure limiting truck movements to the hours between 9:00 a.m. and 3:30 p.m. (or other times, if approved by DPT) would minimize disruption of the general traffic flow on adjacent streets during the a.m. and p.m. peak periods.	Project sponsor	During project construction	DBI	Considered complete upon issuance of building permit.



# SAN FRANCISCO PLANNING DEPARTMENT

*Subject to: (Select only if applicable)*

- Affordable Housing (Sec. 415)  
 Jobs Housing Linkage Program (Sec. 413)  
 Downtown Park Fee (Sec. 412)

- First Source Hiring (Admin. Code)  
 Child Care Requirement (Sec. 414)  
 Other

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

## Planning Commission Draft Resolution Planning Code Amendment

HEARING DATE: OCTOBER 3, 2013

*Date:* September 26, 2013  
*Case No.:* **2013.0063CET**  
*Project Address:* **555 Fulton Street**  
*Zoning:* Hayes-Gough Neighborhood Commercial Transit (NCT) District  
Residential Transit-Oriented (RTO) District  
40-50-X Height and Bulk District  
Fulton Street Grocery Store Special Use District (SUD)  
*Block/Lot:* 0794/015, 028  
*Project Sponsor:* Jessica Zhou  
Fulton Street Ventures, LLC  
205 13<sup>th</sup> Street  
San Francisco, CA 94103  
*Staff Contact:* Kevin Guy – (415) 558-6163  
[kevin.guy@sfgov.org](mailto:kevin.guy@sfgov.org)

**RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING THAT THE BOARD OF SUPERVISORS AMEND THE TEXT OF THE PLANNING CODE TO EXTEND THE TERM OF THE FULTON STREET GROCERY STORE SPECIAL USE DISTRICT FOR FIVE YEAR, ALLOW FORMULA RETAIL GROCERY STORE USES WITHIN THE FULTON STREET GROCERY STORE SPECIAL USE DISTRICT THROUGH CONDITIONAL USE AUTHORIZATION, AND SPECIFY ADDITIONAL SIGN REGULATIONS FOR GROCERY STORE USES WITHIN THE FULTON STREET GROCERY STORE SPECIAL USE DISTRICT, AND ADOPTING FINDINGS THAT THE PROPOSED AMENDMENT TO THE PLANNING CODE IS CONSISTENT WITH THE OBJECTIVES AND POLICIES OF THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF SECTION 101.1(b) OF THE PLANNING CODE.**

### **RECITALS**

1. WHEREAS, The Fulton Street Grocery Store Special Use District (“SUD”), Planning Code Section 249.35A, was adopted in 2008 to specifically enable the development of a mixed-use project containing a grocery store located at 555 Fulton Street, in order to provide retail grocery services in an area which is currently underserved by such a use. The SUD expired after a five-year sunset period on April 3, 2013.

2. **WHEREAS**, On November 21, 2005, David Silverman, acting on behalf of the Trust for the Children of Henry Wong, ("Previous Project Sponsor") submitted an Environmental Evaluation Application with the Planning Department ("Department"), Case No. 2005.1085E. A Notification of Project Receiving Environmental Review was sent on December 8, 2006 to owners of properties within 300 feet, adjacent tenants, and other potentially interested parties.
3. **WHEREAS**, On August 29, 2008, the Previous Project Sponsor filed an application with the Planning Department requesting, under Sections 303 and 304, Conditional Use Authorization to allow a Planned Unit Development ("PUD"), to allow development on a lot greater than 10,000 square feet, allow a non-residential use size greater than 3,000 square feet, and to allow off-street parking for residential and commercial uses beyond the amount principally permitted by the Planning Code, for a development on a 44,250 square-foot site (Lots 015 and 028 in Assessor's Block 0794) at 555 Fulton Street, south side between Laguna and Octavia Streets ("Project Site"). The project proposed to demolish the existing office/industrial building and construct a new five-story building containing 143 dwelling units, a 21,945 square-foot grocery store, and 217 off-street parking spaces. The application was subsequently amended to request specific modifications to Planning Code regulations regarding off-street parking, rear yard, open space, dwelling unit exposure, height limits for narrow streets, and curb-cuts on streets with bicycle lanes, and to modify the project to propose 136 dwelling units, a 32,800 square-foot grocery store, and 205 off-street parking spaces (Case No. 2005.1085C; collectively, "Previous Project").
4. **WHEREAS**, On March 3, 2010, a Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the Previous Project was prepared and published for public review. The Draft IS/MND was available for public comment until March 23, 2010.
5. **WHEREAS**, On March 22, 2010, an appeal of the MND was filed with the Department.
6. **WHEREAS**, On May 13, 2010, the Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use/Planned Unit Development Application No. 2005.1085C and the Appeal of the MND, 2005.1085E.
7. **WHEREAS**, On May 13, 2010, the Commission upheld the PMND and approved the issuance of the Final Mitigated Negative Declaration (FMND) as prepared by the Department in compliance with CEQA, the State CEQA Guidelines and Chapter 31 (Motion No. 18082). The Commission reviewed and considered the Final MND and found that the contents of said report and the procedures through which the Final MND was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) ("CEQA"), 14 California Code of Regulations Sections 15000 et seq. ("the CEQA Guidelines"), and Chapter 31 of the San Francisco Administrative Code ("Chapter 31").
8. **WHEREAS**, The Commission found the Final MND was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Commission, and that the

summary of comments and responses contained no significant revisions to the Draft IS/MND, and approved the Final MND for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31.

9. **WHEREAS**, Since the MND was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the MND due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the MND. The Planning Department, Jonas Ionin, is the custodian of records, located in the File for Case No. 2005.1085E, at 1650 Mission Street, Fourth Floor, San Francisco, California.
10. **WHEREAS**, Department staff prepared a Mitigation Monitoring and Reporting program ("MMRP"), which material was made available to the public and this Commission for this Commission's review, consideration and action.
11. **WHEREAS**, On May 13, 2010, the San Francisco Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting and approved Conditional Use Application No. 2005.1085C, which proposed to construct a mixed-use building containing 136 dwelling units and a grocery store measuring approximately 32,800 square feet, located at 555 Fulton Street ("Previous Project"). The Previous Project has not yet been constructed, and the performance period for the Previous Project expired on May 13, 2013.
12. **WHEREAS**, On January 16, 2013, Patrice Fambrini, acting on behalf of Fulton Street Ventures, LLC ("Project Sponsor") filed an application with the Planning Department requesting an extension of the performance period for the Previous Project, and proposing minor revisions to the design and program of uses that were previously approved. The application proposes to demolish an existing office/industrial building and construct a new five-story, mixed-use building containing approximately 139 dwelling units, 29,200 square feet of ground floor commercial uses (a grocery store), and 148 off-street parking spaces, located at 555 Fulton Street (Case No. 2013.0063C).
13. **WHEREAS**, In order for the Project to proceed, an extension of the term of the Fulton Street Grocery Store SUD would need to be adopted.
14. **WHEREAS**, On January 16, 2013, the Project Sponsor filed an application with the Planning Department requesting a Planning Code Amendment to allow formula retail uses within the Fulton Street Grocery Store Special Use District (Section 249.35A) with Conditional Use Authorization. Formula retail uses are currently prohibited within the Hayes-Gough NCT District. The Amendment also proposes to extend the term of the Fulton Street Grocery Store Special Use District (SUD) for an additional five years. (Case No. 2013.0063T).
15. **WHEREAS**, Formula retail uses are currently prohibited within the Hayes-Gough NCT District. The proposed amendment would broaden the types of grocery store tenants that could seek to operate at

this location, in an area that is currently underserved by such a use. Should this amendment be approved by the Board of Supervisors, a specific formula retail grocery store tenant would need to seek separate Conditional Use Authorization in the future.

16. **WHEREAS**, The Project Sponsor has voluntarily agreed to incorporate additional signage controls for the grocery store use which are more restrictive than the existing controls which would apply to the Project Site. These restrictions are intended to restrain the grocery store signage to respect the surrounding residential context of the immediate area.
17. **WHEREAS**, The Project would affirmatively promote, be consistent with, and would not adversely affect the General Plan, including the following objectives and policies, for the reasons set forth set forth in Item #13 of Motion No. XXXXX, Case #2013.0063C, which are incorporated herein as though fully set forth.
18. **WHEREAS**, The Project complies with the eight priority policies of Planning Code Section 101.1, for the reasons set forth set forth in Item #14 of Motion No. XXXXX, Case #2013.0063C, which are incorporated herein as though fully set forth.
19. **WHEREAS**, A proposed ordinance, attached hereto as Exhibit A, has been prepared in order to make amendments to the Planning Code to extend the term of the Fulton Street Grocery Store Special Use District for five years, allow formula retail grocery store uses within the Fulton Street Grocery Store Special Use District through Conditional Use Authorization, and specify additional sign regulations for grocery store uses within the Fulton Street Grocery Store Special Use District.
20. **WHEREAS**, the Office of the City Attorney has approved the proposed ordinance as to form.
21. **WHEREAS**, Section 4.105 of the San Francisco Charter and Section 302 of the Planning Code require that the Commission consider any proposed amendments to the City's Zoning Maps or Planning Code, and make a recommendation for approval or rejection to the Board of Supervisors before the Board of Supervisors acts on the proposed amendments.
22. **WHEREAS**, On October 3, 2013, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting and approved the Conditional Use Authorization described in Case No. 2013.0063C (Motion No. XXXXX), and approved the FMND prepared for the Previous Project (Case No. 2005.1085C).
23. **WHEREAS**, On October 3, 2013, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the Proposed Zoning Map Amendment and Zoning Text Amendment.
24. **WHEREAS**, The Commission has had available to it for its review and consideration studies, case reports, letters, plans, and other materials pertaining to the Project contained in the Department's case files, and has reviewed and heard testimony and received materials from interested parties during the public hearings on the Project.

NOW, THEREFORE BE IT RESOLVED THAT, the Commission finds, based upon the entire Record, the submissions by the Applicant, the staff of the Department, and other interested parties, the oral testimony presented to the Commission at the public hearing, and all other written materials submitted by all parties, that the public necessity, convenience and general welfare require that the Planning Code be amended to extend the term of the Fulton Street Grocery Store Special Use District for five years, allow formula retail grocery store uses within the Fulton Street Grocery Store Special Use District through Conditional Use Authorization, and specify additional sign regulations for grocery store uses within the Fulton Street Grocery Store Special Use District., as proposed in Application No. 2013.0063T; and,

BE IT FURTHER RESOLVED THAT, the Commission hereby adopts the FMND (Case No. 2005.1085E) for the Project that was finalized on May 13, 2010 by Motion No. 18082, and adopts the MMRP prepared for the Project, attached as "EXHIBIT C" to Motion No. XXXXX (Case No 2013.0063C), which is incorporated by reference as thought fully set forth. Since the FMND was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the FMND due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the FMND; and,

BE IT FURTHER RESOLVED THAT, the Planning Commission recommends the Board of Supervisors approve the proposed Planning Code Amendment.

I hereby certify that the foregoing Resolution was ADOPTED by the Planning Commission at its regular meeting on October 3, 2013.

Jonas P. Ionin  
Acting Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: October 3, 2013

1 [Planning Code – Fulton Street Grocery Store Special Use District]

2

3 **Ordinance amending the Planning Code to amend Planning Code Section 249.35A to**  
4 **allow a grocery store that may be defined as a formula retail use; making**  
5 **environmental findings and findings of consistency with the General Plan and the eight**  
6 **priority policies of Planning Code Section 101.1.**

7       **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.  
8       **Additions to Codes** are in *single-underlined italics Times New Roman font*.  
9       **Deletions to Codes** are in ~~strikethrough italics Times New Roman font~~.  
10      **Board amendment additions** are in double-underlined Arial font.  
11      **Board amendment deletions** are in ~~strikethrough Arial font~~.  
12      **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
13      subsections or parts of tables.

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

15      Section 1. Findings.

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

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

25      (c) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_, adopted  
findings that the actions contemplated in this ordinance are consistent, on balance, with the

1 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board  
2 adopts these findings [OR, this determination] as its own. A copy of said Resolution is on file  
3 with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by  
4 reference.

5 Section 2. The Planning Code is hereby amended by revising Section 249.35A to read  
6 as follows:

7 SEC. 249.35A. FULTON STREET GROCERY STORE SPECIAL USE DISTRICT

8 (a) **Purpose.** In order to provide for the consideration of a neighborhood-serving  
9 grocery store of moderate size in a location accessible to the Hayes Valley and Western  
10 Addition neighborhoods, there shall be a Fulton Street Grocery Store Special Use District,  
11 consisting of Lots 001, 015 and 028 of Assessor's Block 0794 as designated on Sectional  
12 Map 2SU of the Zoning Map. This Special Use District would enable the consideration of a  
13 project containing a grocery store in a district that does not permit such uses and of a building  
14 height not permitted by the established height limitations in the surrounding NCT district.

15 (b) **Definition.** "Grocery Store" shall mean a retail use *which that* provides fresh  
16 produce and other unprepared perishable food products (such as dairy, fish, grains), in  
17 addition to other general groceries, personal items, household goods and similar goods.

18 (c) **Application.** This special use district shall apply only to projects that meet all of the  
19 following standards:

20 (1) Project is mixed-use, with both commercial and residential uses;

21 (2) Commercial uses include a grocery store larger than 15,000 square feet of  
22 gross occupied floor area; and

23 (3) Residential uses achieve a density of not less than 1 unit per 600 square  
24 feet of lot area

25

1                   (d) **Controls.** The following controls apply to projects meeting the criteria of subsection  
2 (c) and to any subsequent alterations or changes of use in a building approved under this  
3 Section 249.35A.

4                   (1) The controls of the Hayes-Gough NCT apply in their entirety, except as  
5 specified in this Section.

6                   (2) A grocery store may be permitted as a formula retail use, as defined in Section  
7 703.3(b), through Conditional Use Authorization pursuant to Section 303. All other formula retail uses  
8 shall be prohibited.

9                   ~~(2-3)~~ Any commercial uses in addition to the grocery store may not exceed  
10 3,000 square feet of occupied floor area per use.

11                  ~~(3 4)~~ Accessory off-street parking shall not be permitted for any commercial use  
12 except the grocery store.

13                  ~~(4 5)~~ All subsequent changes of use shall require Conditional Use authorization  
14 from the Planning Commission. The only non-residential uses ~~which that~~ may be permitted in  
15 the space initially approved for a grocery store shall include Trade Shop (Planning Code section  
16 790.124), Other Institutions, Large (Planning Code section 790.50), Other Institutions, Small  
17 (Planning Code section 790.51), and Public Use (Planning Code section 790.80), except that  
18 Other Retail Sales and Services (Planning Code section 790.102) may be permitted provided  
19 that no individual tenant occupies more than 3,000 square feet of gross floor area.

20                  (6) Signs shall subject to the requirements of Article 6 of this Code, except that  
21 allowable business signs for the grocery store shall be limited to the following:

22                  (A) Window Signs. The total area of all window signs, as set forth in Section  
23 602.1(b), shall not exceed 10% of the area of the window on or in which the signs are located. Such  
24 signs may be nonilluminated.

25

1                             (B) Wall Signs. The area of all wall signs shall not exceed 40 square feet on the  
2 Fulton Street frontage occupied by the use, and 40 square feet on the Laguna Street frontage occupied  
3 by the use. The height of any wall sign shall not exceed 24 feet, or the height of the wall to which it is  
4 attached, or the height of the lowest of any residential windowsill on the wall to which the sign is  
5 attached, whichever is lower. Such signs may be nonilluminated or indirectly illuminated.

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

13                             (D) Signs on Awnings and Marquees. Sign copy may be located on permitted  
14 awnings or marquees in lieu of wall signs. The area of such sign copy as set forth in Section 602.1(c)  
15 shall not exceed 40 square feet on the Fulton Street frontage occupied by the use, and 40 square feet on  
16 the Laguna Street frontage occupied by the use. Such sign copy may be nonilluminated or indirectly  
17 illuminated.

18                             (E) Freestanding Signs and Sign Towers. Freestanding signs or sign towers per  
19 lot shall not be permitted.

20                             (e) Effectiveness of Controls in this Ordinance. The controls of this Section 249.35A are  
21 effective only if the Planning Commission approves a grocery store subject pursuant to the  
22 requirements of this Section 249.35A is approved by the Planning Commission within five years of  
23 the effective date of this ordinance No.\_\_\_\_\_.

1           Section 3. Effective Date. This ordinance shall become effective 30 days after  
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
4 of Supervisors overrides the Mayor's veto of the ordinance.

5

6           Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
7 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
8 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
9 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
10 additions, and Board amendment deletions in accordance with the "Note" that appears under  
11 the official title of the ordinance.

12

13 APPROVED AS TO FORM:  
14 DENNIS J. HERRERA, City Attorney

15 By: KATE HERRMANN STACY  
16 Deputy City Attorney

17

18

19

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21

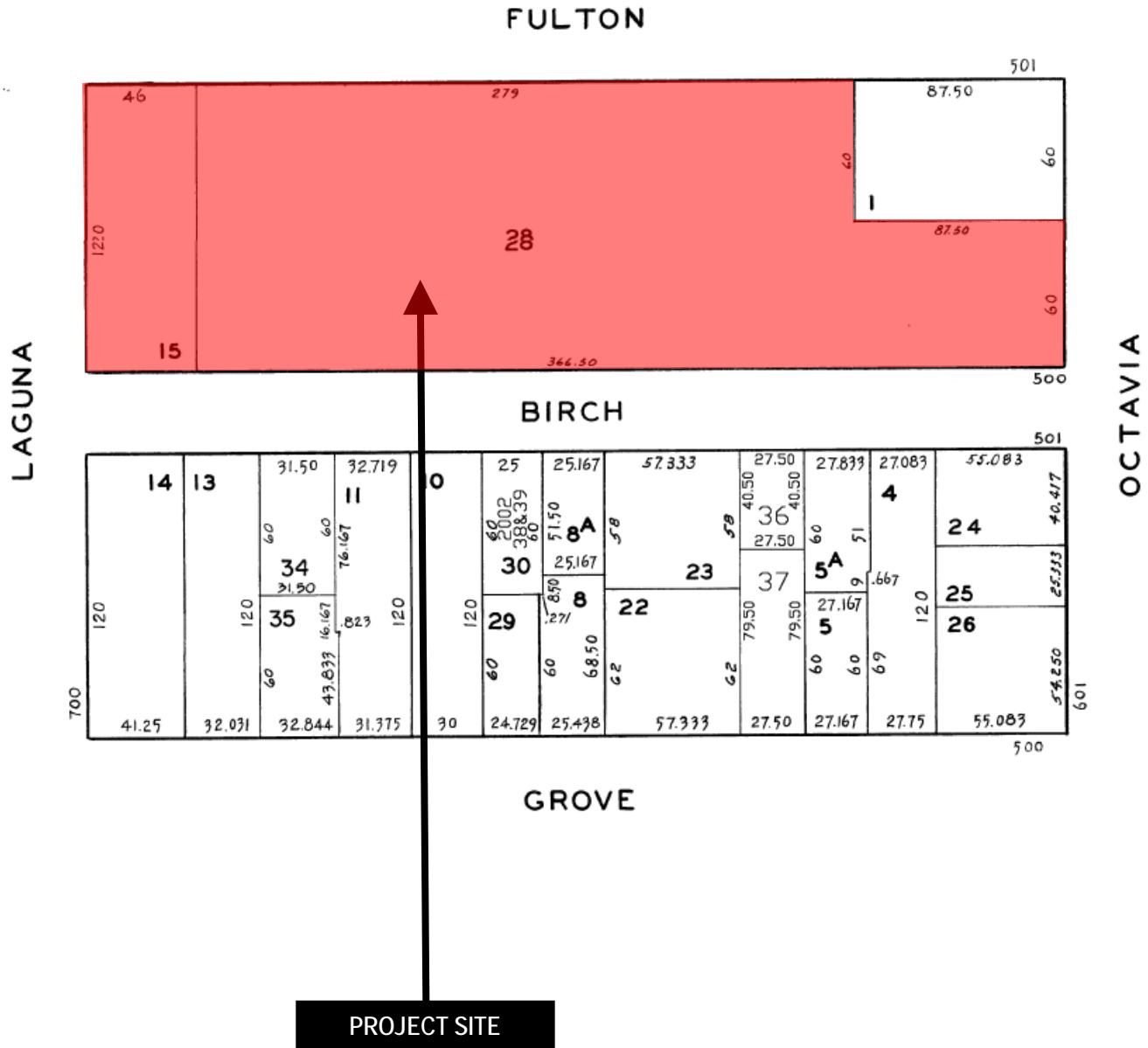
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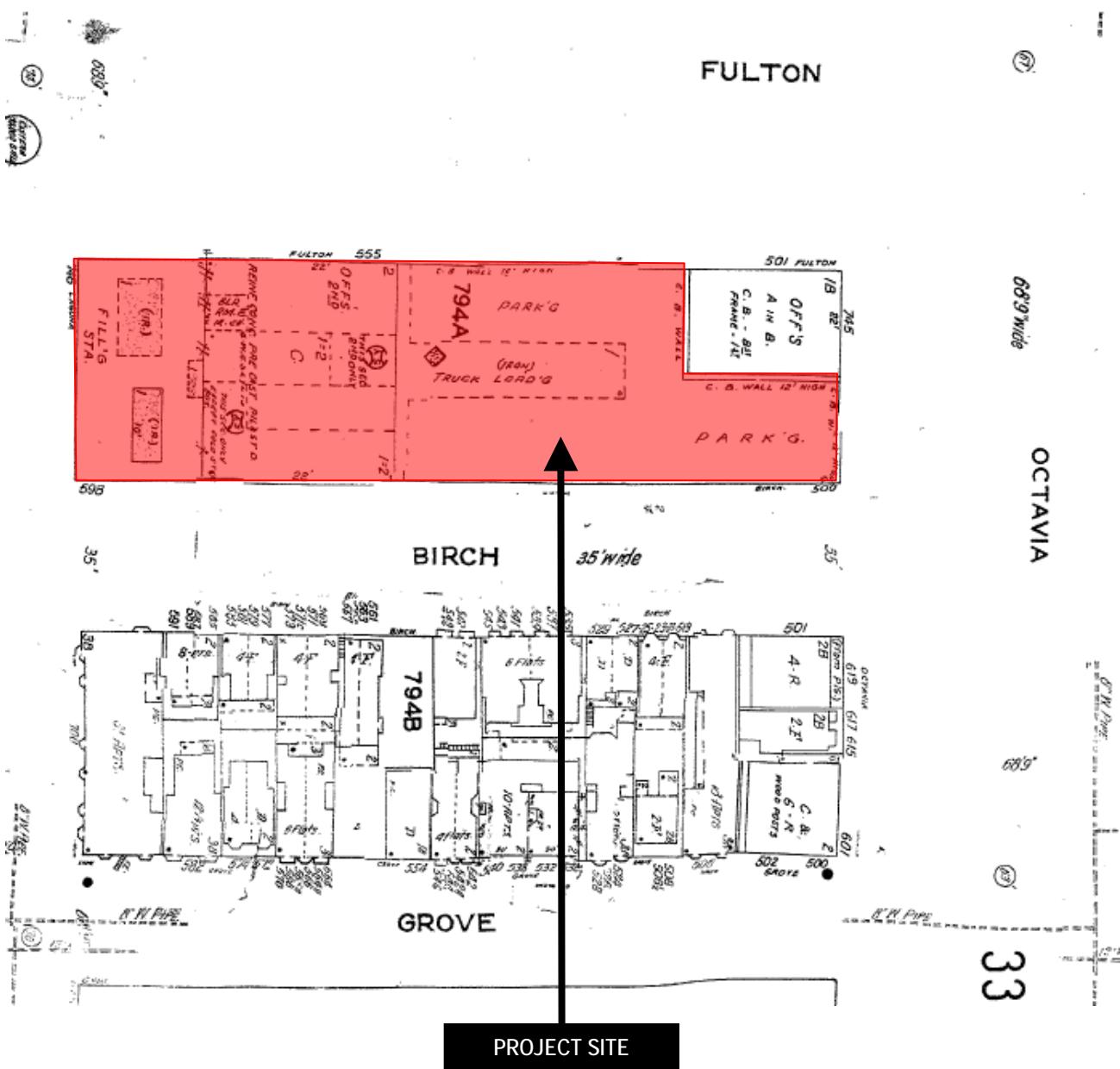
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# Parcel Map



Conditional Use/PUD/Code Amendment  
Case Number 2013.0063CET  
555 Fulton Street

# Sanborn Map\*

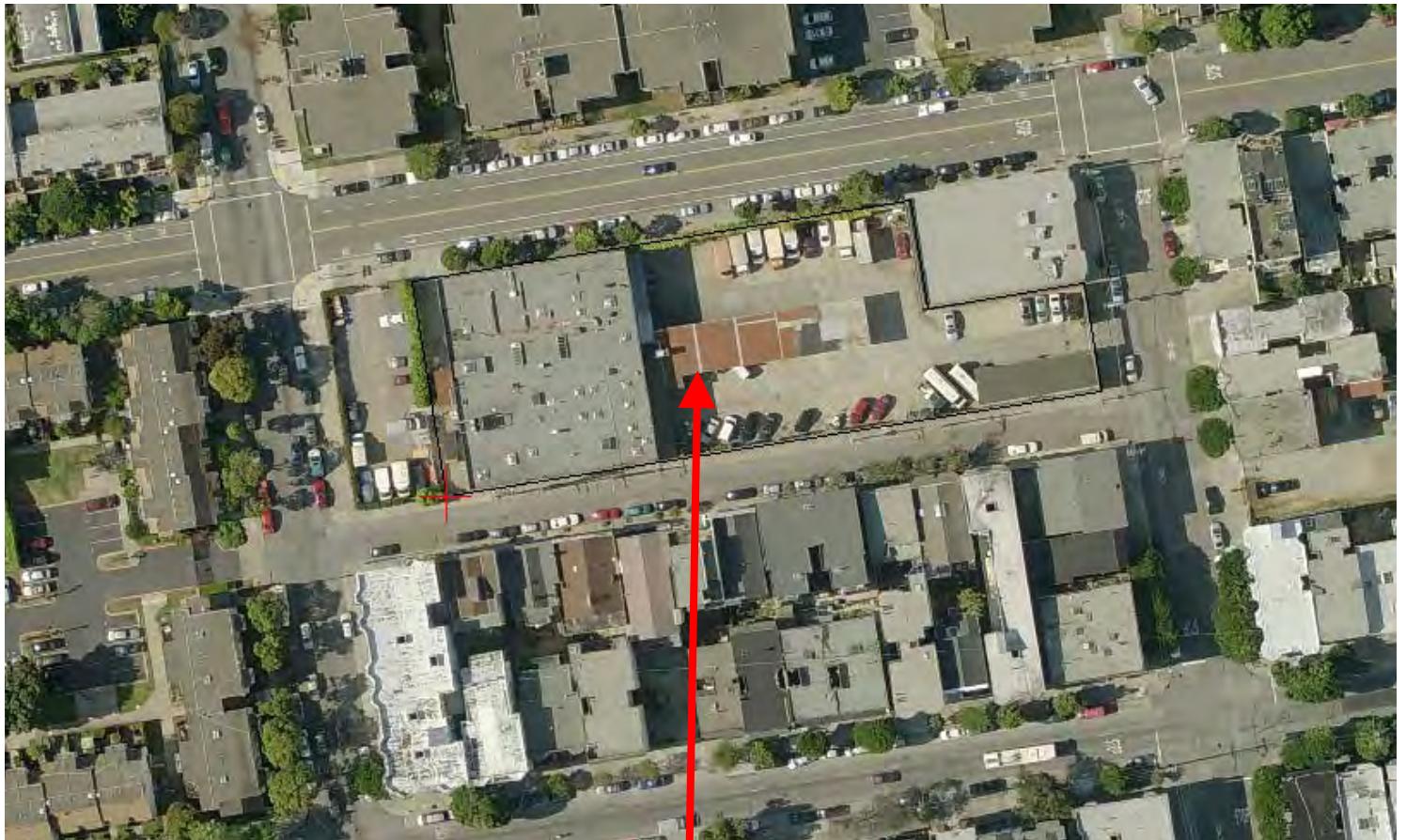


\*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.

Conditional Use/PUD Hearing  
Case Number 2013.0063CET  
555 Fulton Street



# Aerial Photo

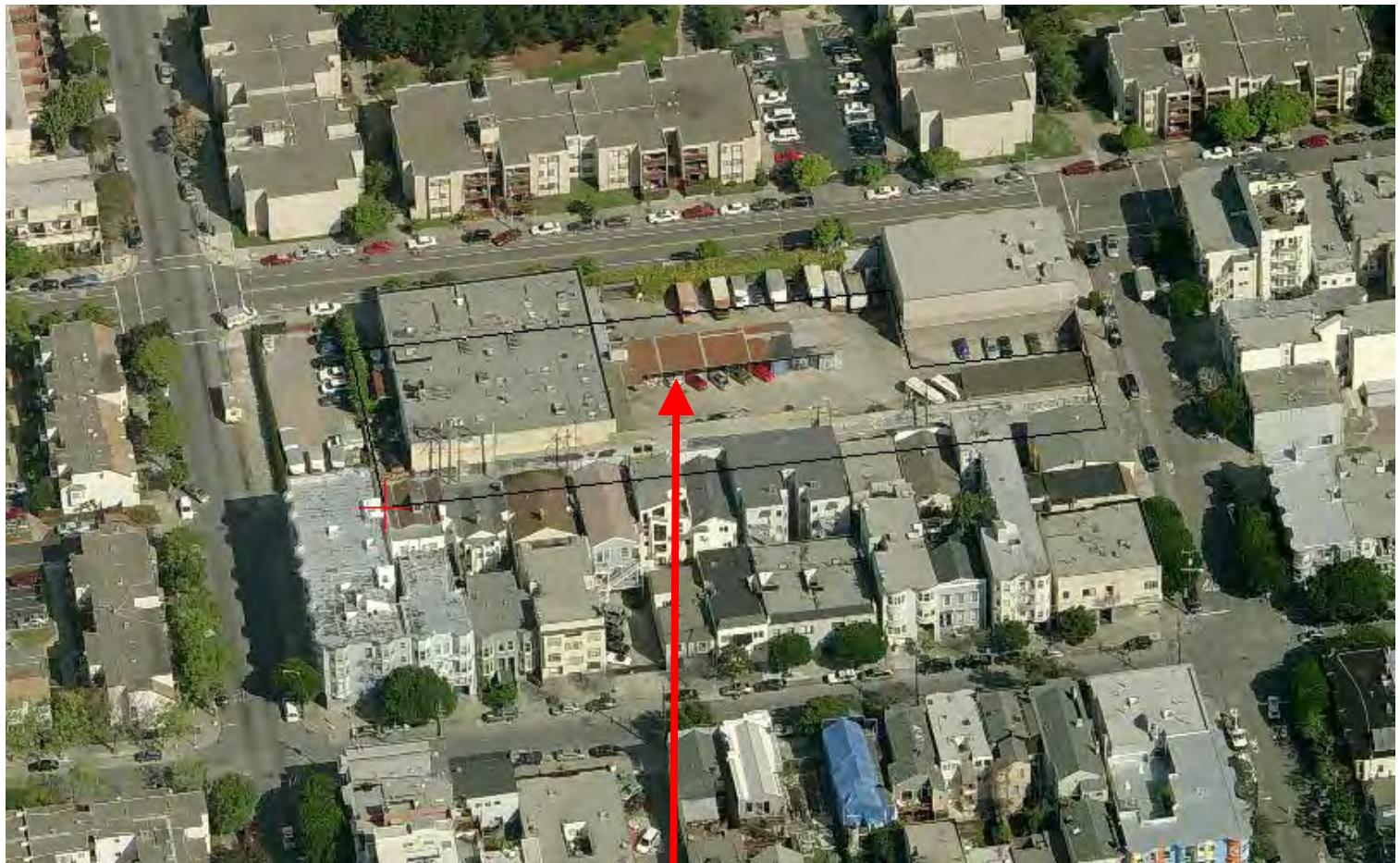


PROJECT SITE



Conditional Use/PUD Hearing  
Case Number 2013.0063CET  
555 Fulton Street

# Aerial Photo



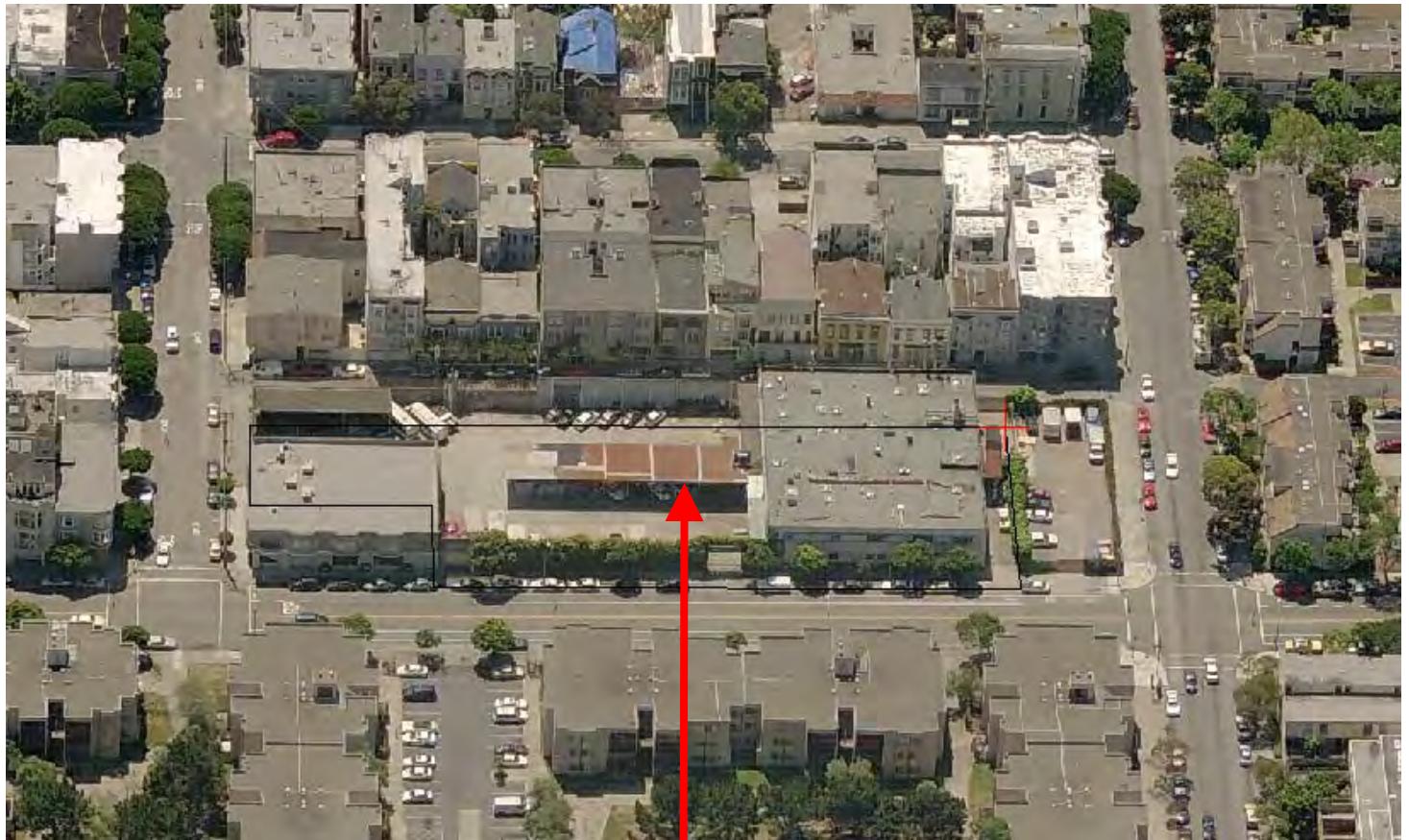
Looking North

PROJECT SITE



Conditional Use/PUD Hearing  
Case Number 2013.0063CET  
555 Fulton Street

# Aerial Photo



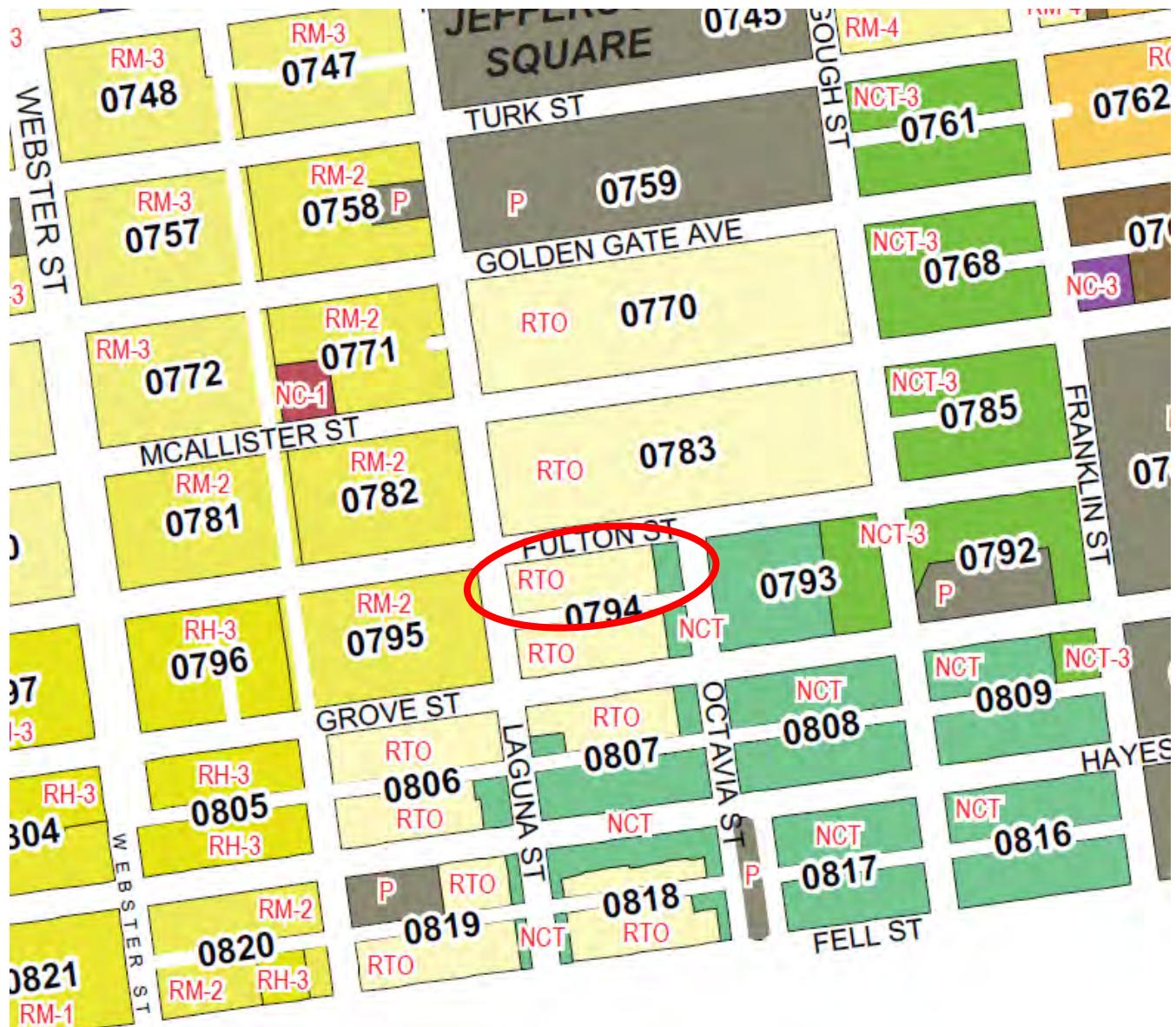
**Looking South**

**PROJECT SITE**

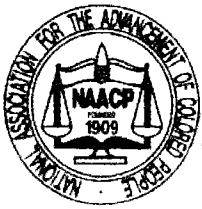


Conditional Use/PUD Hearing  
Case Number 2013.0063CET  
555 Fulton Street

# Zoning Map



Conditional Use/PUD Hearing  
Case Number 2013.0063CET  
555 Fulton Street



---

September 16, 2013

San Francisco Planning Commission  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

**Re: SF NAACP SUPPORT FOR 555 FULTON STREET PROJECT**

Dear President Fong and Commissioners,

On behalf of the San Francisco Chapter of the NAACP, our nation's oldest, largest and most widely-recognized grassroots-based civil rights organization, I am writing to express our organization's strong support for Fulton Street Ventures project at 555 Fulton Street.

As someone who has fought for equality and equity issues in the City of San Francisco for over five decades, I am supporting the 555 Fulton Street project to promote jobs for our community, affordable grocery/retail for our families and opportunities for below market housing that is all too scarce in the Western Addition.

Fulton Street Ventures, under the terms and conditions of their approved planning agreement, continue to seek community involvement and have been open to changing "community voice" to "community action and opportunity".

Again, I strongly urge the San Francisco Planning Commission to support the 555 Fulton Street project and Fulton Street Ventures. Should you have any questions or comments, please do not hesitate to contact me at my NAACP office at (415) 922-0650.

Sincerely,

A handwritten signature in black ink that reads "Amos C. Brown".

Dr. Amos C. Brown,  
President, NAACP Branch San Francisco &  
Member, NAACP National Board of Directors



September 16, 2013

San Francisco Planning Commission  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

RE: FAMILY RESTORATION HOUSE FOR 555 FULTON STREET PROJECT

Dear President Fong and Commissioners,

On the behalf of the Family Restoration House, we strongly support the 555 Fulton Project. Our organization runs several programs in the Cultural Center located two blocks from the site and understands the importance of having a development that is centered around the needs and concerns of our community center. The need for a project on this site goes unsaid. We have longed for years to have an affordable grocery store that provides healthy alternatives for our kids and especially, our seniors who are on a fixed income, disabled and live within a five block radius. Family Restoration House fully supports this project and we strongly advocate to that this is a project that our community wants and needs.

Sincerely,

  
Gary Banks  
Family Restoration House

# RUSSIAN AMERICAN CHAMBER OF COMMERCE OF NORTHERN CALIFORNIA



870 Market Street, Suite 1028  
San Francisco, CA 94102  
(415) 408-6797  
[www.rusamchamber.org](http://www.rusamchamber.org)

September 17, 2013

To Whom It May Concern:

I am writing this letter in support of the 555 Fulton Street mixed used development project. This project contributes a number of benefits for the local community, including seniors and disadvantaged members. These benefits include an affordable groceries for the neighborhood, parking for future residents and retail shoppers and local jobs creation. It significantly revitalizes the community.

We are looking forward to this development to take place.

Sincerely,

Michael Gurevich  
President



## WESTERN ADDITION NEIGHBORHOOD ACCESS POINT

September 17, 2013

Mr. Rodney Fong, President  
San Francisco Planning Commission  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

**Re: 555 Fulton Street**  
**Planning Department Case No. 2005.1085C**  
**Hearing Date: October 3, 2013**

Dear President Fong and Commissioners,

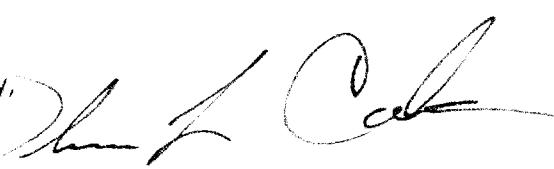
As the new Director of the Western Addition Neighborhood Access Point (WANAP), I am writing to provide support for the 555 Fulton Street Project currently being considered by the San Francisco Planning Commission.

The WANAP is designed to provide integrated neighborhood-based employment services based on OWED modules. WANAP serves as an entry point for the San Francisco public workforce system that provides wrap-around support and related services which assist job seekers in overcoming barriers to employment. We prepare and support low-income residents in building foundational skills, core workplace proficiency and job preparedness skills. Lastly, we connect work-ready job seekers to employers, vocational training and employment opportunities.

The project sponsors, Fulton Street Ventures, have an incredible opportunity to provide short-term and long-term employment options for Western Addition residents. These employment options range from construction jobs to retail/hospitality jobs that support the commercial and residential functions of the project. In addition, there will be a significant percentage of housing offered below market rate consistent with community input.

I look forward to working more closely with Fulton Street Ventures to help the community fully leverage the opportunities this project creates and ask for your support of the 555 Fulton Street Project.

Sincerely,

  
Johnnie L. Carter  
Director,  
Western Addition Neighborhood Access Point

1449 WEBSTER STREET SAN FRANCISCO, CALIFORNIA 94115

TELEPHONE (415) 549-7000 FAX (415) 529-2223



# UP FROM DARKNESS

TRANSITIONAL HOUSING AND EDUCATION PROGRAM INC.

1075 Fillmore Street San Francisco, CA 94115 (415) 447-4234 Office  
(415) 261-0329 Cell (415) 447-4015 Fax

September 10, 2013

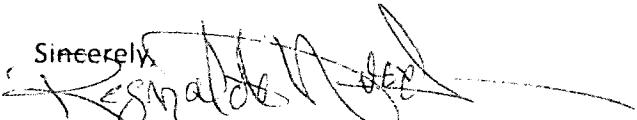
San Francisco Planning Commission  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Planning Commissioners,

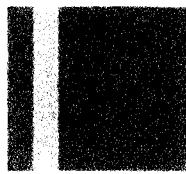
Up From Darkness understands that the **555 Fulton Street Project** requires a strong network of Community Based Organizations and service providers to create a systemic change in the community and to improve the Western Addition neighborhood.

Recognized as one of the Best Drug and Alcohol Recovery Programs in San Francisco, Up From Darkness has made a major difference in the City of San Francisco and other surrounding areas. Known for our genuine compassion and concerns for those who have been overcome by drug and alcohol addictions, Up From Darkness has been committed for more than 15 years of serving the community by educating, rehabilitating and developing men and women beyond their addictions. With a high success rate, many men and women have benefited as a result of the Up From Darkness efforts.

We look forward to seeing those that have successfully completed the Up From Darkness program finding employment opportunities created by this project. We strongly support the **555 Fulton Street Project** because it provides a real opportunity for our successful participants to live, work, shop and support their community, making both this project and our participants' great assets to the community.

Sincerely,  
  
Regnaldo Woods  
Up From Darkness

Black American Congress of San Francisco  
2 Sadwa Street  
San Francisco, CA 94124  
415-307-6876



September 12, 2013

Planning Commission  
City Hall, Commission Chambers - Room 400  
1 Dr. Carlton B. Goodlett Place  
San Francisco CA 94102 US

Dear Planning Commission,

It is my pleasure to write a letter in support of the 555 Fulton Street Project which is being submitted to the Planning Commission. The Black American Congress of San Francisco is an Advocacy Group that advocates for the less fortunate that can't represent themselves. We have supported African Americans throughout the entire Bay Area with challenging community issues. In conclusion, I fully support the efforts of the 555 Fulton Street Project in building a new Affordable Grocery Store in the community. Any project that will bring job opportunities to our community, help seniors, and make things more affordable for the community, I strongly support. I support the 555 Fulton Street Project because I believe that this is truly something the community needs, and wants.

Sincerely,

  
Regnaldo Woods, President

Black American Congress of San Francisco





September 12, 2013

Planning Commission  
City Hall, Commission Chambers – Room 400  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Dear Planning Commission,

The West Bay Conference Center strongly encourage the Commission Board to consider and support the 555 Fulton Project Affordable Grocery Store. This project will provide numerous benefits that would support the community as well as our seniors. If this project is approved, it will create retail jobs, 16 percent low income housing and most importantly, an affordable grocery store for our community seniors. Thanks for your support and we look forward to this new development in our community.

As a larger part of the redevelopment effort, West Bay Local Development Corporation (dba: West Bay Conference Center) strives to ground, sustain and inspire the Western Addition community of San Francisco. This effort is promoted by connecting the most disenfranchised groups with opportunities to access information and local historical facts; West Bay Community Center is a hub for community preservation and social-economic empowerment.

Again, I join the Board of Directors to support the 55 Fulton Project Affordable Grocery Store. Your support of this effort will greatly impact the lives of San Franciscans.

Sincerely,

*Floyd Trammell*

Floyd Trammell  
Executive Director  
West Bay Conference Center

**STAFF NOTE:** The following page is an excerpt from a petition containing 603 signatures.

KENNETH LEE

Help Bring Jobs, Housing and Voice to the District 5 Community  
A Petition in Support of 555 Fulton Street Project

9/4/2013

Dear: Western Addition Community

We recognize that bringing jobs that help create affordable and market-rate housing are vital to our families and the Western Addition community. The 555 Fulton Street project will not only create construction job opportunities for community residences, but continue to offer community benefits through sustainable wage retail employment. Employment offers our community the ability to combat juvenile crime, help working families and provide our community with housing opportunities that are often overlooked or forgotten. Over 15% of the housing units will be designated from low-income to affordable offering additional benefits for our families to stay in San Francisco.

We are proud partners of Urban Property Ventures, a local development firm that continues to work with the District 5 community regarding project benefits and services. Please support the 555 Fulton Street Project in District 5 for jobs, housing and community.

Please print your Name, Address and Email or Phone number below. SIGN ONLY ONCE PLEASE.

First and Last Name (Printed)	Address	Email or Phone
Patrice Burdine	3066 Calif St.	415-685-9406
Forest Keith	535 Fell St. 94102	
Stephanie Fisher	880 McAllister St. 94102	
Elaine Supino	860 McAllister #E 94102 929-0954	
Betty White	125 Rhine St. 94112	
Genelle Smokey	967 McAllister 94102 415-409-2118	
DAVID TSE	470-C Fulton 94102 786-8778	
Lashawn Bell	649 d Grove St Hd 94102	
Aisha Sade	745 Songz ST Apt I 2351448	
Anthony J. St.	875 Golden Gate Ave. 933-1127	
Mark L.	605 n Gmt A 94102	
Charita Dunder	875 Golden Gate Ave. 814-3119	
Linda Dunder	" " "	" "
John Zee	835 Golden Gate Ave. 389-4624	
ND Cissney	5935 23rd Ave 94121	
Rid O'Neal	724 McAllister 94102	
Chilli Link	800 McAllister 94102	
Eric Jenkins	475 FULTON ST #12 94102	
Denise Kess	580 Fulton St 94102	

**From:** [jason henderson](#)  
**To:** [Rahaim, John](#); [Guy, Kevin](#); [Cindy Wu](#); [Gwyneth Borden](#); [Hisashi Sugaya](#); [katherin Moore](#); [katherin Moore](#); [Rich Hillis](#); [Rodney Fong](#); [Michael Antonini](#)  
**Cc:** [Breed, London](#); [Brown, Vallie](#); [Conor Johnston](#)  
**Subject:** 555 Fulton - Oct 3 PC hearing.  
**Date:** Wednesday, September 18, 2013 8:12:32 AM

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Dear Mr. Guy, Director Rahaim, Planning Commissioners, and Supervisor Breed,

555 Fulton is on the Oct 3rd Planning Commission Calendar. As chair of the HVNA T & P Committee, I respectfully ask that you recommend a continuance on 555 Fulton. We understand that the planning department is conducting an important study of formula retail citywide. We believe this study will inform the planning commission in significant ways. It would behoove the department and the city to delay action until the results of that study are made public and disseminated to the public.

The HVNA Board of directors is unanimously opposed to allowing formula retail at 555 Fulton and we were pleased with staff's support. Since last spring the planning department led us to believe that it supported HVNA in opposing the proposed legislative amendment to lift the formula retail ban. Throughout the summer we operated under that assumption. On Monday Sept 16 we were told that staff will retract their recommendation. We are extremely disappointed in the sudden change. We do not believe the sudden change by staff reflects the judgement of staff. Rather, the sudden change in recommendation reflects exogenous influences that have forced staff to retract their original support for maintaining the formula retail ban on 555 Fulton.

Our neighborhood association has worked with the planning department to make the Market an Octavia Plan an excellent model of urban infill, affordable housing, and sustainable development. This sudden retraction dishonors that cooperative spirit.

Please delay the decision on the formula retail component until the community is better informed of the consequences and impacts of formula retail, much anticipated in the upcoming study by the department.

Thank you for your consideration,

-jh

Jason Henderson  
Chair, Hayes Valley Neighborhood Association, Transportation and  
Planning Committee.  
300 Buchanan Street Apartment 503  
San Francisco CA  
94102

**From:** [jason henderson](#)  
**To:** [Guy, Kevin](#); [Rahaim, John](#)  
**Cc:** [William Bulkley](#); [Nathan Lozier](#); [Karen Mauney-Brodek](#); [Jim Warshell](#)  
**Subject:** 555 Fulton  
**Date:** Tuesday, September 24, 2013 7:41:19 AM

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Kevin, John,

I have been very busy with work and unable to get a letter together on 555 Fulton. I understand it is due Wed. So here is a quick email after HVNA met with Supervisor Breed last night. With this and last week's email I think we have made our position very clear and please include it in the record. If I have time I will try and get a formal letter tomorrow.

HVNA board members met with London Breed last night and requested of her to ask the commission/ dept to have the item continued.

HVNA position is

- 1) retain formula retail ban on 555 Fulton. It is bad precedent to lift it.
- 2) separate extending entitlements from formula retail.
- 3) wait until the dept formula retail study has been completed to decide on 555 Fulton's formula retail.
- 4) require the developer to show us data on retail rents and parking, etc. and how they interact. Show formula retail versus non-formula retail. Make them prove their case. The burden is on them because they want the change.
- 4.a) also they should show what different floor space scenarios look like
- 5) if formula retail is going to be approved, get something back from the development (less parking, require local hire, require that groceries meet some level of affordability) - please examine this with Supervisor Breed and city attorney.
- 6) get the developer to reduce the size of the retail to something more manageable for a local store, like 15-20,000 square feet, and then allow a hardware store, etc in the balance of ground floor retail.

We are really discouraged that your director and others seem to imply that HVNA and the Market and Octavia plan is causing gentrification. Gentrification/displacement is caused by developer and real estate speculation and tech bubble greed, not our neighborhood advocacy or good planning. This may attract greed. but it is exogenous to our community. It is global capital.

Since Hayes Valley is adjacent to the Civic Center venues, we are a very special case. A regional destination next to venues. Thus, more than ever we need the formula retail protection to leverage this store into something that serves the community.

And we need retail rent control and we have been saying that for a decade. You should help us work towards that and not give the whole barn away.

Oct 3rd, if it is not continued, is our last chance to leverage the site to make it an affordable, local, fresh grocer. Please help the supervisor work out some of her questions. She should be contacting the department soon.

thanks

-jh  
Chair of HVNA Transportation and Planning Committee

--

Jason Henderson  
San Francisco, CA  
94102



22 Battery Street, Suite 200  
San Francisco, California 94111

T: 415.732.3777  
F: 415.732.3791

[www.peretzlaw.com](http://www.peretzlaw.com)

September 25, 2013

*Via Email*

Kevin Guy  
Planning Department  
City and County of San Francisco  
1650 Mission Street, Suite 400,  
San Francisco, CA 94103

**Re: 555 Fulton Street**

Dear Mr. Guy,

This opposition to the extension of the building permits for the property located at 555 Fulton Street, San Francisco, CA 94102 (the “Subject Premises”) is hereby submitted by our firm who have been retained by the residential tenants of the Subject Premises: Amanda Allen, Karla Harmina, Kevin O’Leary, Debra Lee and David Wilcock (collectively, the “Tenants”).

**I. THE SUBJECT PREMISES AND THE TENANTS**

The Subject Premises consists of a two story multitenant industrial building, which has been used for both residential and commercial tenancies, and located in the Hayes Valley District of San Francisco. The Subject Premises contains 2-story industrial offices, residential suites, storage space, yard space and parking. The Subject Premises is situated between Hayes Valley and Alamo Square and is accessible to a wealth of restaurants, shops, museums, libraries, performance spaces and public transportation.

The current intent for the Subject Premises is to demolish the existing building and structures to develop a five story building containing 136 dwelling units, a 32,800 square foot grocery store and 205 off-street parking spaces. However, the Subject Premises is presently used for residential and commercial purposes by the Tenants, who possess valid leasehold interest in the subject premises. The Tenants possess live/work leases for the Subject Premises, and have relied on their tenancies of the Subject Premises for their business as a source of livelihood and as their homes.

**A. The Tenants are Residential Tenants**

At Section 37.2(t), the Rent Ordinance defines a tenant to be “A person entitled by written or oral agreement... to occupy a residential dwelling unit to the exclusion of others.” Clearly, the Tenants are residential tenants who are protected under the Rent Ordinance as

they have written leases which provide: "The premises shall be used for, and occupied as, a live/work space or any other legal use, which is reasonably comparable, and for no other purpose." This section of the lease indicating the type of allowable use of the Subject Premises was a material term of the lease for the Tenants. As such, since their commencement date of tenancy in lease, the Tenants have been openly and notoriously residing at the Subject Premises in full consent of the owners, as originally agreed upon in their lease.

Furthermore, Mr. Berline has also confirmed the fact the Subject Premises has been used for residential purposes based on consent and awareness of the owners. In a letter from Mr. Berline to the SF Planning Department, on March 18, 2010, Mr. Berline expressed the following:

"The negative declaration assertion that there is no residential use of the site is incorrect. There has been *consistent and notorious residential use of the site of decades*. There are currently five or six units, depending on how a wonderful but eccentric individual is counted. The building owners graciously helped with the Planning Department Permit Application for *these residential units*. The owners were intimately involved with the repair of a roof leak in one of the live/work units as recently as few months ago. *The Live/Work units are a matter of public record in the Planning Department permit for the expired non-conforming use*. They were the subject of correspondence with the Planning Department February 13, 2007, albeit we got the numbers wrong. The impact of eliminating the current residential use of the property should not be waived in the negative declaration on the false pretext that does not exist."

As provided by Mr. Berline, an existing and recorded restriction on the property also specifically confirms the live/work situation which has been occurring on the property since 1990. The restriction states the following:

"That permitted nonconforming uses shall include, but not necessarily be limited to, the following types of tenant activities which are anticipated to be accommodated in the building. Not all of these activities will necessarily be accommodated at any one time but this list is representative of the types provided they conform with the item 4 above.

Architect's office, ambulance service, live/work, computer programming, contractor's office, contractor's tool storage, food processing such as chocolate company or fish smoking, data equipment storage or repair, hotel storage such as beds, desks and chairs, word processing or other similar office activity, antique automobile hobbyist, tour bus operator, television equipment rentals, glass etching, artist working with acrylic and oil paint, sculptor working with stone, book

publisher, neon lighting shop.” Attached hereto as Exhibit “A” is a true and correct copy of the Notice of Special Restrictions.

As such, the granting of the extension of the Conditional Use and SUD entitlements of the Subject Premises, without the necessary study and research of the potential impact it will have on the immediate community will detrimentally affect the residential Tenants the most.

#### **B. Impacts of the Permit to the Disabled Tenants**

It should also be noted that two of the Tenants are disabled, and suffer from documented disabilities that would qualify them as a disabled tenant based on both section 39.7(a)(8) and 39.7(a)(13) of the Rent Ordinance. As it is the intent to convert these buildings and lofts to condominiums and a formula retail store, the decision of the planning commission today should rightfully be to postpone the decisions to extend these entitlements themselves by six months, as these two people in particular will be negatively impacted the most, absent such a decision.

Unmistakably the law affords disabled tenants greater protection under the law and disfavors the displacement of such tenants in order to protect them from irreparable harm that may be caused by building conversion and renovations. For example, under the San Francisco Subdivision Code (“Subdivision Code”) section 1386, the Planning Commission must disapprove a condominium conversion in any case that evictions have occurred for the purpose of preparing the building for conversion where elderly or disabled tenants have been displaced.

In addition, the Ellis Act requires the extension of the termination notice period to one year for those units which are occupied by disabled tenants because they qualify for an extended notice as disabled tenants for the purpose of eviction based on both section 39.7(a)(13) of the Rent Ordinance. Furthermore, In addition, Subdivision Code section 1396.2 provides significant disadvantage and prohibits the selling of lottery tickets for condominium conversion of buildings from which elderly or disabled tenants were evicted. Finally, pursuant to a policy adopted by the San Francisco Rent Arbitration and Stabilization Board in May 1, 2001, withdrawals of residential units pursuant to section 37.9(a)(13) of the Rent Ordinance generally cannot be rescinded by the owners once any tenant has vacated the building after being served with a termination notice according to this section. Therefore, if the Ellis Act is invoked, it would often make it impossible for the owners of the Subject Building to convert the building into condominiums, a possibility that otherwise would have been available according to the Subdivision Code.

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## **II. THE INTRODUCTION OF A FORMULA RETAIL INSTITUTION**

### **A. Formula Retail Institutions Remain Controversial in San Francisco**

The current intent of the Subject Premises to is to utilize the building permit in order to insert a formula retail business onto the subject premises. However, it is well known that San Francisco provides strong protection over its small business sectors and creates a supportive environment for new small business innovations. As such, in 2004, San Francisco amended its original ordinance to include formula retail on the list of types of uses which required neighborhood notification and review by the Planning Commission. As exemplified in the preamble, the policy states:

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

As such, the decision to grant extension of either of these expired entitlements concerning the Subject Premises should be extended, so that all interested parties have had the opportunity to review the facts and express their opinions as to the impact of the potential establishment of a formula retail institution into the community. At a bare minimum, the city's planned study of formula retail should be allowed to occur first, before any such legislative change for the 555 Fulton Street Grocery Store SUD is even allowed to be considered, let alone recommended by this commission to the Board of Supervisors. Under the circumstances, any such a recommendation seems needlessly hasty at best, and potentially disastrous at its worst.

### **B. Formula Retail Institutions Have Been Controversial in Regards to the Subject Premises**

The position of the Planning Department has been uncertain at best and ever changing, further exemplifying the controversial nature of the proposed legislative change to allow formula retail in the Fulton Street Grocery SUD. For example, there has already been a letter of determination issued by the Planning Department on the formula retail issue for the previous owner of the Subject Premises, Henry Wong, on September 12th, 2012, a negative determination that the new owners are only too aware of, as it occurred during their due diligence process, directly preceding their purchase of the building in November of last year.

In addition, it's been over 5.5 years since the Fulton Street Grocery SUD was first approved, and 3.5 years since the conditional use was granted. However, due to the lapse in

time, the factors on which the use was granted have changed and therefore, should be reconsidered based on the following reasons:

- 1) Parking situation/appropriateness has changed.
- 2) Transit needs have changed - the SFMTA's current policies and plans for appropriate "transit first" transportation, such as for the 5 Fulton line and the 21 Hayes line, will be seriously impacted here with this plan, and that has to be re-assessed here.
- 3) Congestion has changed
- 4) The housing and residential density originally forecast when these entitlements were granted is enormously larger than imagined then.

This becoming a formula retail Grocery, instead of a non-formula grocery, should also be taken into great consideration, as that change itself will greatly impact the current community in terms of parking, congestion, and pedestrian safety.

In addition to the change of circumstances due to the lapse of time, the grant of the conditional use for the Fulton Street Grocery SUD was made absent the disclosure of material factors, such as the residential nature of the Subject Premises. On a review of previous planning meetings caption notes, the facts indicate that the city was seriously misled on the nature of the residential tenancies at 555 Fulton. As, mentioned above, the Tenants are clearly covered by the San Francisco rent ordinances, were denied appropriate due process then, and should not be denied it yet again.

As such, the Tenants request the Planning Department to grant six month delay to the submission of a decision to grant or deny the extension of the entitlements. The granting of time to the Tenants will allow for all interested parties to first facilitate the planned study of formula retail to determine the impacts it may have to the community.

### **III. ENVIRONMENTAL IMPACTS OF THE PLANNED BUILDING PERMIT**

If the extension of these entitlements is approved, there are a host of potential environmental issues and impacts the Subject Premises may have, that are controversial and understudied, and such an extension would ignore those factors prematurely. Although a Preliminary Mitigated Negative Declaration ("PMND") of the Subject Premises was completed May 3, 2010, the decision has been seriously contended, and should be open to further examination, and appeal.

In addition to the PMND, the Tenants submit that there are harmful substances present in the building, with some commercial units utilizing hazmats. The environmental impacts of the unknown substances still have not been properly evaluated, and may cause harm to not only to the health of the Tenants, but also to the immediate community, unless measured and abated effectively.

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#### **IV. CONCLUSION**

Based on the foregoing, the Tenants request that the decision of the planning commission today should rightfully be to postpone the decisions to extend these entitlements themselves by six months, in order to (1) prevent irreparable harm to the residential tenants of the Subject Premises, (2) properly evaluate the potential impact and opinions of the community for the formula retail issue, and (3) provide comprehensive evaluation of the possible environmental impact on the Subject Premises.

Very truly yours,

Yosef Peretz

# **EXHIBIT A**

SAN FRANCISCO, CA RECORDER'S OFFICE  
Bruce Jamison, Recorder  
DOC - E817315

RECORDING REQUESTED )  
BY AND WHEN RECORDED )  
MAIL TO: )  
555 Fulton Associates )  
555 Fulton Street )  
San Francisco )  
California 94102 )  
Space Above This Line For Recorder's Use

Tuesday, November 13, 1990 03:37:29PM  
Rec 6.00 --- Ps 4.00  
Mic 1.00 --- Amt 11.00  
TOTAL -> \$11.00  
REEL F251 IMAGE 0468

NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

555 Fulton Associates, the lessor of that certain real property situated in the City and County of San Francisco, State of California, being Assessor's Block 794, lot 28, hereby gives notice that there are special restrictions on the use of said leasehold under Part II, Chapter II of the San Francisco Municipal Code (City Planning Code).

Said restrictions of conditions attached to the approval of Building Permit Application No. 9016260 by the Department of City Planning and are conditions that had to be so attached in order that said application could be approved under the City Planning Code (Building Form 3).

The plans filed with the present application indicates on the ground and second floors of the commercial/industrial building at 555 Fulton Street: multiple rooms/units to be rented or leased for uses permitted in Sections 180 through 185 of the City Planning Code.

The restrictions and conditions of which notice is hereby given are:

1. That said property shall be able to continue its nonconforming use status until its termination date of March 13 2007. 2008.
2. That said multiple rooms/units shall be used only for uses permitted in Sections 180 through 185 of the City Planning Code.
3. That if the non-conforming use of the property is discontinued for a continuous period of three (3) years, the NCU shall be deemed abandoned and not be re-established on the property.
4. That for the purposes of this restriction and the City Planning Code, these multiple rooms/units shall not consist of any use which by reason of its nature or manner of operation creates conditions that are hazardous, noxious, or offensive though emissions of odor, fumes, smoke, cinders, dust, gas, vibration, glare, refuse, water-carried waste or excessive noise.
5. That the building vehicular traffic use shall conform to the Circulation Diagram attached as Exhibit A.
6. That permitted nonconforming uses shall include, but not necessarily be limited to, the following types of tenant activities which are anticipated to be accommodated in the

building. Not all of these activities will necessarily be accommodated at any one time but this list is representative of the types provided they conform with item 4 above.

Architect's office, ambulance service, live/work, computer programming, contractor's office, contractor's tool storage, food processing such as chocolate company or fish smoking, data equipment storage or repair, hotel storage such as beds, desks and chairs, word processing or other similar office activity, antique automobile hobbyist, tour bus operator, television equipment rentals, glass etching, artist working with acrylic and oil paint, sculptor working with stone, book publisher, neon lighting shop

The use of said property contrary to these special conditions shall constitute a violation of the City Planning Code, and no release, modification or elimination of these restrictions shall be valid unless notice thereof is recorded on the Land Records by the Zoning Administrator of the City and County of San Francisco; except that in the event that the zoning standards above are modified so as to be less restrictive and the uses herein restricted are thereby permitted and in conformity with the provisions of the City Planning Code, this document would no longer be in effect and bout be null and void.

Dated: NOVEMBER 13, 1990 at San Francisco California

555 FULTON ASSOCIATES

(signature of lessor)

STATE OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO

On NOV 13 1990, before me, Margaret R. Griffin,  
the undersigned, a Notary Public, in and for said City and  
County and State, personally appeared MICHEL PAUL BERLINE  
known to me (or proved to me on the basis of satisfactory  
evidence) to be the person whose name us subscribed to the within  
instrument, and acknowledged to me that he or she executed the  
same.

WITNESS my hand and official seal.

Signature Margaret R. Griffin

(This area for official notarial seal)



STATE OF CALIFORNIA  
COUNTY OF *Mary Landau*) ss.

On NOV 13 1991, before me, the undersigned, a Notary Public in and for said State, personally appeared MICHEL PAUL BERLINE

**E817315**

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person that executed the within instrument as GENERAL partner(s),  
on behalf of 555 FULTON ASSOCIATES, the partnership therein named and acknowledged to me that the partnership executed it.

WITNESS my hand and official seal

Signature *Margaret R. Griffin*



(This area for official notarial seal)

**From:** [deedubble@gmail.com](mailto:deedubble@gmail.com) on behalf of [David Wilcock](#)  
**To:** [Guy, Kevin](#)  
**Subject:** Letter of opinion to be included in the packet for the upcoming Oct. 3rd Planning commission hearing  
**Date:** Wednesday, September 25, 2013 1:11:54 PM

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Dear Mr Guy,

As you well know, I am a legal residential tenant living at 555 Fulton Street, so I wouldn't be surprised if you expect my letter to focus on my tenant issues.

That is however not what I wish to focus on, or even more than touch on: not only am I protected under the rent ordinance concerning those issues, I feel there is a much larger, far more important, and potentially crucial aspect of this proposed legislative change that is widely overlooked, or certainly underestimated.

**Hayes Valley is the best retail startup incubator that the San Francisco could ever hope for, and that's why this proposed legislative change to allow formula retail for the 555 Fulton Street Grocery SUD is such a terrible idea: not just for Hayes Valley's present and future economic growth, but more importantly, for the City's itself.**

The simple fact of the matter is, whether by design or accident, as a neighborhood that disallows formula retail chains, Hayes Valley's formula retail ban has fostered the perfect environment to start, perfect, and then grow the retail chains of the future. San Franciscan chains.

If there had been a Starbucks on every corner, Blue Bottle coffee would never have had the opportunity to try ideas, fail at some, and eventually become the refined and rapidly growing retail chain operation it is now. Blue Bottle could only have done that here, in a Hayes Valley that disallows formula retail of any nature. Blue Bottle now has 11 locations, employs over 200 people, and recently raised a \$20 Million round of private equity.

The same is true for La Boulange, an even more remarkable success story (to date). With its ability to go through the same process (also only possible in a retail environment like Hayes Valley), it became attractive enough to similarly raise Private Equity, and then be bought by Starbucks for \$100 Million. It currently has 20 locations, and employs over 1200 people, right here in San Francisco.

Noticeably, Starbucks has not (and will not) alter the La Boulange business model or character (why spoil a proven commodity), thereby having the natural effect of maintaining the neighborhood character so loved by all who live here, a character in serious threat from this proposed legislative change, a change that could only help destroy it.

The world is crying out for the next retail grocery model, one that emphasizes healthy and delicious produce, at reasonable prices, without impacting the environment to the extent that existing formula grocery retail chains do.

**Let that chain be born right here, in San Francisco. There couldn't be a more perfect location, or a more perfect opportunity.**

The simple question is, do we want to foster a San Francisco which prioritizes being a bedroom community over being an economic powerhouse in it's own right? I say no, and allowing formula retail at this location is at best hasty, and in my assessment, immensely short-sighted, not to mention destructive to the economic future of San Francisco itself.

It is of the highest importance for San Francisco that we carefully protect and nurture the Hayes Valley environment as it stands. At the very least, we should allow the city's proposed study of formula retail versus non-formula retail to proceed first, as I strongly suspect that study will simply affirm what I have already stated above. How could it not?

I put it to the commission - do not recommend to the Board of Supervisors to allow formula retail in the 555 Fulton Grocery SUD.

Sincerely,

David Wilcock.



# SAN FRANCISCO PLANNING DEPARTMENT

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

## Residential Pipeline

### ENTITLED HOUSING UNITS 2007 TO Q1 2012

State law requires each city and county to adopt a Housing Element as a part of its general plan. The State Department of Housing and Community Development (HCD) determines a Regional Housing Need Allocation (RHNA) that the Housing Element must address. The need is the minimum number of housing units that a region must plan for in each RHNA period.

This table represents all development projects adding residential units that have been entitled since January 2007. The total number of entitled units is tracked by the San Francisco Planning Department, and is updated quarterly in coordination with the Pipeline Report. Subsidized housing units, including moderate and low income units, are tracked by the Mayor's Office of Housing, and are also updated quarterly.

2012 – QUARTER 1	RHNA Allocation 2007-2014	Units Entitled To Date	Percent Entitled
<b>Total Units Entitled<sup>1</sup></b>	<b>31,193</b>	<b>11,130</b>	<b>35.7%</b>
Above Moderate (> 120% AMI)	12,315	7,457	60.6%
Moderate Income ( 80-120% AMI)	6,754	360	5.3%
Low Income (< 80% AMI)	12,124	3,313	27.3%

<sup>1</sup> Total does not include entitled major development projects such as Treasure Island,, Candlestick, and Park Merced. While entitled, these projects are not projected to be completed within the current RHNA reporting period (through June 2014).

Affidavit for Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415

September 1, 2013  
Date

I, Shaoyong Liu, do hereby declare as follows:

- a. The subject property is located at (address and block/lot):

555 Fulton Street, San Francisco, CA 94102  
Address

0794 / 015, 028  
Block / Lot

- b. The proposed project at the above address is subject to the Inclusionary Affordable Housing Program, Planning Code Section 415 et seq.

The Planning Case Number and/or Building Permit Number is:

2013-05-03-6062  
Planning Case Number

Building Permit Number

This project requires the following approval:

- Planning Commission approval (e.g. Conditional Use Authorization, Large Project Authorization)  
 This project is principally permitted.

The Current Planner assigned to my project within the Planning Department is:

Kevin Guy  
Planner Name

Is this project within the Eastern Neighborhoods Plan Area?

- Yes (if yes, please indicate Tier) \_\_\_\_\_  
 No

This project is exempt from the Inclusionary Affordable Housing Program because:

- This project uses California Debt Limit Allocation Committee (CDLAC) funding.  
 This project is 100% affordable.

- c. This project will comply with the Inclusionary Affordable Housing Program by:

- Payment of the Affordable Housing Fee prior to the first site or building permit issuance (Planning Code Section 415.5).  
 On-site or Off-site Affordable Housing Alternative (Planning Code Sections 415.6 and 416.7).

Affidavit for Compliance with the Inclusionary Affordable Housing Program

- d. If the project will comply with the Inclusionary Affordable Housing Program through an **On-site or Off-site Affordable Housing Alternative**, please fill out the following regarding how the project is eligible for an alternative and the accompanying unit mix tables on page 4.
- Ownership.** All affordable housing units will be sold as ownership units and will remain as ownership units for the life of the project.
- Rental.** Exemption from Costa Hawkins Rental Housing Act.<sup>2</sup> The Project Sponsor has demonstrated to the Department that the affordable units are not subject to the Costa Hawkins Rental Housing Act, under the exception provided in Civil Code Sections 1954.50 though one of the following:
- Direct financial contribution from a public entity.
- Development or density bonus or other public form of assistance.
- Development Agreement with the City. The Project Sponsor has entered into or has applied to enter into a Development Agreement with the City and County of San Francisco pursuant to Chapter 56 of the San Francisco Administrative Code and, as part of that Agreement, is receiving a direct financial contribution, development or density bonus, or other form of public assistance.
- e. The Project Sponsor acknowledges that failure to sell the affordable units as ownership units or to eliminate the on-site or off-site affordable ownership-only units at any time will require the Project Sponsor to:
- (1) Inform the Planning Department and the Mayor's Office of Housing and, if applicable, fill out a new affidavit;
  - (2) Record a new Notice of Special Restrictions; and
  - (3) Pay the Affordable Housing Fee plus applicable interest (using the fee schedule in place at the time that the units are converted from ownership to rental units) and any applicable penalties by law.
- f. The Project Sponsor must pay the Affordable Housing Fee in full sum to the Development Fee Collection Unit at the Department of Building Inspection for use by the Mayor's Office of Housing prior to the issuance of the first construction document, with an option for the Project Sponsor to defer a portion of the payment to prior to issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge that would be deposited into the Citywide Affordable Housing Fund in accordance with Section 107A.13.3 of the San Francisco Building Code.
- g. I am a duly authorized officer or owner of the subject property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on this day in:

459 Fulton street, suite 206, San Francisco 9/1/13  
Location Date  
CA 94102

Signature

Shaoyong Liu  
Name (Print), Title

(909)667-9581  
Contact Phone Number

cc: Mayor's Office of Housing  
Planning Department Case Docket  
Historic File, if applicable  
Assessor's Office, if applicable

Affidavit for Compliance with the Inclusionary Affordable Housing Program

## Unit Mix Tables

NUMBER OF ALL UNITS IN PRINCIPAL PROJECT:					
Total Number of Units	SRO	Studios	One-Bedroom Units	Two-Bedroom Units	Three-Bedroom Units
139		21	51	64	3

If you selected an On-site or Off-Site Alternative, please fill out the applicable section below:

- On-site Affordable Housing Alternative (Charter Section 16.110 (g) and Planning Code Section 415.6): calculated at 12% of the unit total.

NUMBER OF AFFORDABLE UNITS TO BE LOCATED ON-SITE					
Total Affordable Units	SRO	Studios	One-Bedroom Units	Two-Bedroom Units	Three-Bedroom Units
17		3	6	8	0

- Off-site Affordable Housing Alternative (Planning Code Section 415.7): calculated at 20% of the unit total.

NUMBER OF AFFORDABLE UNITS TO BE LOCATED OFF-SITE					
Total Affordable Units	SRO	Studios	One-Bedroom Units	Two-Bedroom Units	Three-Bedroom Units
Area of Dwellings in Principal Project (in sq. feet)	Off-Site Project Address				
Area of Dwellings in Off-Site Project (in sq. feet)					
Off-Site Block/Lot(s)	Motion No. (if applicable)		Number of Market-Rate Units in the Off-site Project		

- Combination of payment of a fee, on-site affordable units, or off-site affordable units with the following distribution:

Indicate what percent of each option would be implemented (from 0% to 99%) and the number of on-site and/or off-site below market rate units for rent and/or for sale.

1. Fee \_\_\_\_\_ % of affordable housing requirement.

2. On-Site \_\_\_\_\_ % of affordable housing requirement.

NUMBER OF AFFORDABLE UNITS TO BE LOCATED ON-SITE					
Total Affordable Units	SRO	Studios	One-Bedroom Units	Two-Bedroom Units	Three-Bedroom Units

3. Off-Site \_\_\_\_\_ % of affordable housing requirement.

NUMBER OF AFFORDABLE UNITS TO BE LOCATED OFF-SITE					
Total Affordable Units	SRO	Studios	One-Bedroom Units	Two-Bedroom Units	Three-Bedroom Units
Area of Dwellings in Principal Project (in sq. feet)	Off-Site Project Address				
Area of Dwellings in Off-Site Project (in sq. feet)					
Off-Site Block/Lot(s)	Motion No. (if applicable)		Number of Market-Rate Units in the Off-site Project		

Affidavit for Compliance with the Inclusionary Affordable Housing Program

CONTACT INFORMATION AND DECLARATION OF SPONSOR OF PRINCIPAL PROJECT		CONTACT INFORMATION AND DECLARATION OF SPONSOR OF OFF-SITE PROJECT (IF DIFFERENT)	
Company Name <i>Fulton Street Ventures, LLC</i>	Company Name	Print Name of Contact Person <i>Shaoyong Liu (Mike Liu)</i>	Print Name of Contact Person
Address <i>459 Fulton St. ste. 206</i>	Address	City, State, Zip <i>San Francisco, CA 94102</i>	City, State, Zip
Phone, Fax <i>phone: (415) 621-2370 ; Fax: (415) 621-2005</i>	Phone, Fax	Email <i>shaoyongliu2008@gmail.com</i>	Email
I hereby declare that the information herein is accurate to the best of my knowledge and that I intend to satisfy the requirements of Planning Code Section 415 as indicated above.		I hereby declare that the information herein is accurate to the best of my knowledge and that I intend to satisfy the requirements of Planning Code Section 415 as indicated above.	
Signature 		Signature	
Name (Print), Title <i>Shaoyong Liu, General Manager</i>		Name (Print), Title	

Fulton Street Ventures, LLC  
459 Fulton Street  
Suite 206  
San Francisco, CA 94102

September 24, 2013

San Francisco Planning Commission  
1650 Mission Street  
Suite 400  
San Francisco, CA 94013

**Re:** 555 Fulton Street Planning Case 2013.0063CT

Dear Planning Commissioners,

Thank you for considering application package for 555 Fulton street mixed-use development and; for which we seek your support in our effort to move this project forward.

The application package is scheduled for Planning Commission hearing on October 3, 2013. Approval of this project will allow for (1) an extension of the approval terms of a previously-approved Conditional Use Authorization (2) an extension of the term of the Fulton Street grocery Store Special Use District (SUD); and (3) adding a provision for consideration (CU) of a “formula retail” grocery store in this Special Use District, directly affecting the economic vitality of the subject development.

On January 16, 2013 the project sponsor, Fulton Street Ventures, filed the initial application package and over the last eight months has worked extensively to bring this project to the community. During this time the project sponsor has worked with Planning Department staff, the neighborhood and the architect to adapt the original architectural design that is supported by the Planning Department and the neighborhood community. Under the guidance of the Planning Staff and the Better Streets Design guideline, the project sponsor is also developing a streetscape plan that benefits the community and is supported by Planning staff.

The Market – Octavia Area Plan legislation established the Fulton Street Grocery Store SUD to fill the need in the Western Addition - Hayes Valley neighborhoods for a supermarket, in conjunction with in-fill residential development. The 555 Fulton Street development adhering to these principles was approved by the Planning Commission on May 13, 2010; including 136 dwelling units (with 16 affordable units), a 32,800 sf grocery store and 148 parking spaces (CPC Motion 18083).

Following approval of the project in 2010, economic challenges resulted in the prior owner not moving forward with the project and at the end of 2012 the entitled property was purchased by the current sponsor. In 2012, current project sponsor representative met with Planning Staff to discuss the transfer of ownership and project entitlements at which time Planning Staff recommended submittal of conditional use and text amendment applications to extend the

entitlements, which would be expiring in spring 2013. During the preliminary process, it was first learned that the entitlements did not include an opportunity for a "formula retail" grocery store. At that time Staff supported a Text Amendment to allow consideration (CU) of a "formula retail" grocery store.

Considered to be an essential element for a financially viable project, and the challenges in the past year of seeking an independent grocer that is able to lease the retail space of such size, the sponsor is seeking a text amendment to allow for the consideration of a "formula retail" grocery store by conditional use within the Fulton Street Grocery Store SUD. This amendment does not authorize but simply allows for a CU hearing; where a grocery store can make an individual case of merit for this location.

The merits of the 555 Fulton Street mixed-use development is sanctioned by the Market-Octavia Area Plan and a part of the 2010 review and approval record. The potential for a formula retail supermarket of this type was covered under the maximum development scenario in the Market Octavia Plan EIR, with no significant impacts or adverse changes noted.

Approval of these text amendments would support the economic feasibility and development schedule of the mixed-use project and benefit the entire community; meeting the demand of the entire Western Addition and Hayes Valley neighborhoods for a grocer with reasonably priced and healthy grocery goods. The provision to consider a "formula retail" grocery store at this site will increase the opportunity to draw a viable tenant into the approved 32,800 sf space, while adding employment opportunities to the neighborhood.

Since the project was acquired, we have outreached to local residents, business owners, community organizations and associations, senior developments, and housing developments in the Western Addition and Hayes Valley community, including: Western Addition Neighborhood Access Point, Hayes Valley Neighborhood Association, NAACP, Freedom West, Ammel Park, Plaza East Apartment Housing, to name a few. We have received wide support from all above community groups on the development project, architectural design, and a full-service grocery store; and we have also received overwhelming support from the Western Addition community on an affordable formula retail grocery store, instead of a pricey boutique supermarket.

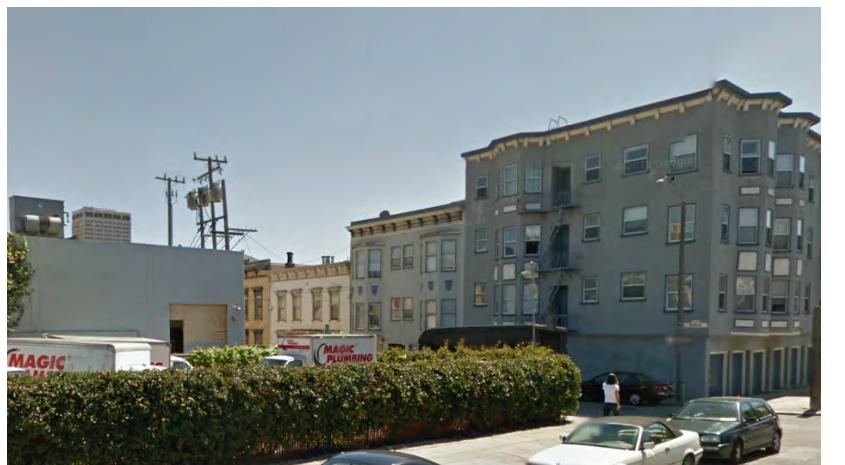
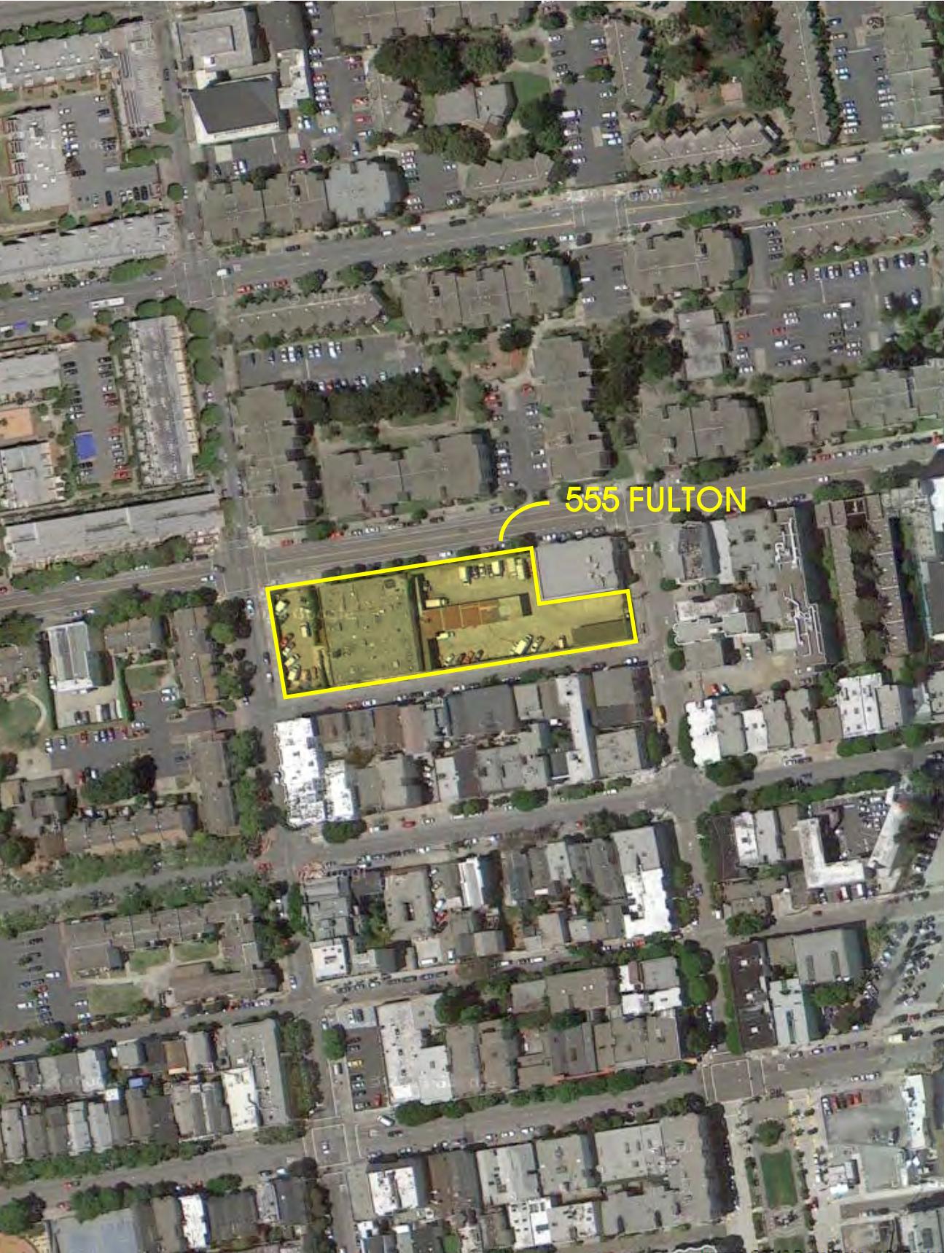
We appreciate the effort that Planning staff has extended in the preparation of our case for your review and ask that you support the Department's recommendation to approve the full Conditional Use and Text Amendment package.

Sincerely yours,



Mike Liu  
Fulton Street Ventures, LLC





Project Sponsor:  
Fulton Street Ventures, LLC  
459 Fulton Street, Suite 206  
San Francisco, CA 94102

Date of Package:  
September 25, 2013

#### AERIAL SITE MAP AND SURROUNDING NEIGHBORHOOD

555 FULTON

**ib+a**  
architecture

Ian Birchall and Associates  
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IBA

FULTON STREET ELEVATION



NATOMA

FULTON STREET ELEVATION

Project Sponsor:  
Fulton Street Ventures, LLC  
459 Fulton Street, Suite 206  
San Francisco, CA 94102

Date of Package:  
September 25, 2013

**IBA & NATOMA ARCHITECTS COMPARISON STUDIES -  
FULTON STREET ELEVATION**

555 FULTON

**ib+a**  
architecture

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IBA

BIRCH STREET ELEVATION



NATOMA

BIRCH STREET ELEVATION

Project Sponsor:  
Fulton Street Ventures, LLC  
459 Fulton Street, Suite 206  
San Francisco, CA 94102

Date of Package:  
September 25, 2013

### IBA & NATOMA ARCHITECTS COMPARISON STUDIES - BIRCH STREET ELEVATION

555 FULTON

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IBA



NATOMA

Project Sponsor:  
Fulton Street Ventures, LLC  
459 Fulton Street, Suite 206  
San Francisco, CA 94102

Date of Package:  
September 25, 2013

**IBA & NATOMA ARCHITECTS COMPARISON STUDIES -  
LAGUNA STREET ELEVATION**

555 FULTON

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IBA



NATOMA

Project Sponsor:  
Fulton Street Ventures, LLC  
459 Fulton Street, Suite 206  
San Francisco, CA 94102

Date of Package:  
September 25, 2013

**IBA & STANLEY SAITOWITZ COMPARISON STUDIES -  
OCTAVIA STREET**

555 FULTON

**ib+a**  
architecture

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P1	4	1B-TH-A	1	1,150	1	1,150	5,338	40,213
		2B-TH-A	1	1,228	1	1,228		
		3B-TH-A	2	1,480	2	2,960		
		RES. LOBBY		910		910		
		RES. LOADING		659		659		
		RES. BIKE STORAGE		156		156		
		VERTICAL CIRC.		1,569		1,569		
		GYM		673		673		
		BUSINESS		592		592		
		RETAIL @ P1		26,283		26,283		
		RETAIL . LOADING		936		936		
		RETAIL . STORAGE		1,301		1,301		
		RETAIL . BIKE STORAGE		668		668		

B1		RES. STORAGE		2,281		2,281	39,238	
		GROCERY STORAGE		1,196		1,196		
		PARKING		28,516		28,516		
		SUPPORT		7,245		7,245		

B2		RES. STORAGE		1,026		1,026	31,268	
		BIKE STORAGE		1,130		1,130		
		PARKING		26,061		26,061		
		SUPPORT		3,051		3,051		

TOTAL BUILDING GROSS AREA					251,318	
TOTAL RESIDENTIAL GROSS AREA					146,443	
TOTAL BUILDING SALEABLE RESIDENTIAL AREA					116,312	
TOTAL RETAIL GROSS AREA					30,384	

COMMON USABLE AND PRIVATE USABLE OPEN SPACE CALCULATIONS			
139 UNIT BUILDING			
60 SQ FT OF PRIVATE USABLE OPEN SPACE FOR EACH DWELLING UNIT			
1.33 RATIO OF COMMON USABLE SPACE THAT MAY BE SUBSTITUTED FOR PRIVATE			
PRIVATE OPEN SPACE PROVIDED:			
FLOOR	UNIT W/PUOS	PUOS AREA	TOTAL PUOS
P5	7	60	420
TOTAL PRIVATE USABLE OPEN SPACE			
139 x 60 = 8340 SQ.FT			
8340 - 420 = 7920 SQ.FT.			
7920 X 1.33 = 10533.6 SQ.FT IS THE REM'G REQUIRED COMMON USABLE OPEN SPACE			
HENCE TOTAL COMMON USABLE OPEN SPACE REQUIRED			
10,534			
FLOOR	CUOS PROVIDED	CUOS REQUIRED	TOTAL CUOS PRO.
P2	2550 + 1220	3770	3770
PR	7225	6764	7,225
COMMON USABLE OPEN SPACE			
10,534			
TOTAL COMMON USABLE OPEN SPACE PROVIDES			
10,995			

ABOUT 450 SQ FT OVER THE REQUIRED CUOS

FLOOR	TOTAL NO. OF UNITS	UNIT	UNIT TYPE COUNT	AREA(SQFT)*	MULTIPLIER	TOTAL	SALEABLE AREA	GROSSFLOOR AREA #
ROOF		DECK AREA		7,225				7,225
P5	30	1B-B @ P5		605	1	605		
		1B-D		713	4	2,852		
		1B-F		688	1	688		
		1B-G		595	1	595		
		1B-A		1,072	1	1,072		
		1B-B		1,131	1	1,131		
		1B-C		1,044	1	1,044		
		1B-D		1,013	2	2,026		
		1B-G		689	2	1,378		
		2B-H		830	1	830		
		2B-I		1,164	1	1,164		
		2B-J		946	2	1,892		
		2B-K VARIATION		900	1	900		
		2B-L		1,013	1	1,013		
		2B-M		821	3	2,463		
		J-1B-A		490	4	1,960		
		J-1B-C		467	2	934		
		PENTHOUSE		2,304	1	2,304		

P4	35	1B-A		707	1	707		
		1B-C		720	7	5,040		
		1B-C VARIATION		638	2	1,276		
		1B-D		713	4	2,852		
		2B-A		1,072	1	1,072		
		2B-B		1,131	1	1,131		
		2B-C		1,044	1	1,044		
		2B-D		1,013	2	2,026		
		2B-F		938	1	938		
		2B-G		689	2	1,378		
		2B-H		830	1	830		
		2B-I		1,164	1	1,164		
		2B-J		999	1	999		
		2B-L		1,013	1	1,013		
		2B-M		821	3	2,463		
		2B-N		821	1	821		
		J-1B-A		490	4	1,960		
		J-1B-B		526	1	526		

P3	35	1B-A		707	1	707		
		1B-C		720	7	5,040		
		1B-C VARIATION		638	2	1,276		
		1B-D		713	4	2,852		
		2B-A		1,072	1	1,072		
		2B-B		1,131	1	1,131		
		2B-C		1,044	1	1,044		
	</							



Project Sponsor:  
Fulton Street Ventures, LLC  
459 Fulton Street, Suite 206  
San Francisco, CA 94102

Date of Package:  
September 25, 2013

#### AERIAL VIEW - FULTON AND LAGUNA STREET

555 FULTON

**ib+a**  
architecture

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#### AERIAL VIEW - LAGUNA AND BIRCH STREET

555 FULTON

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#### AERIAL VIEW - BIRCH AND OCTAVIA STREET

555 FULTON

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Project Sponsor:  
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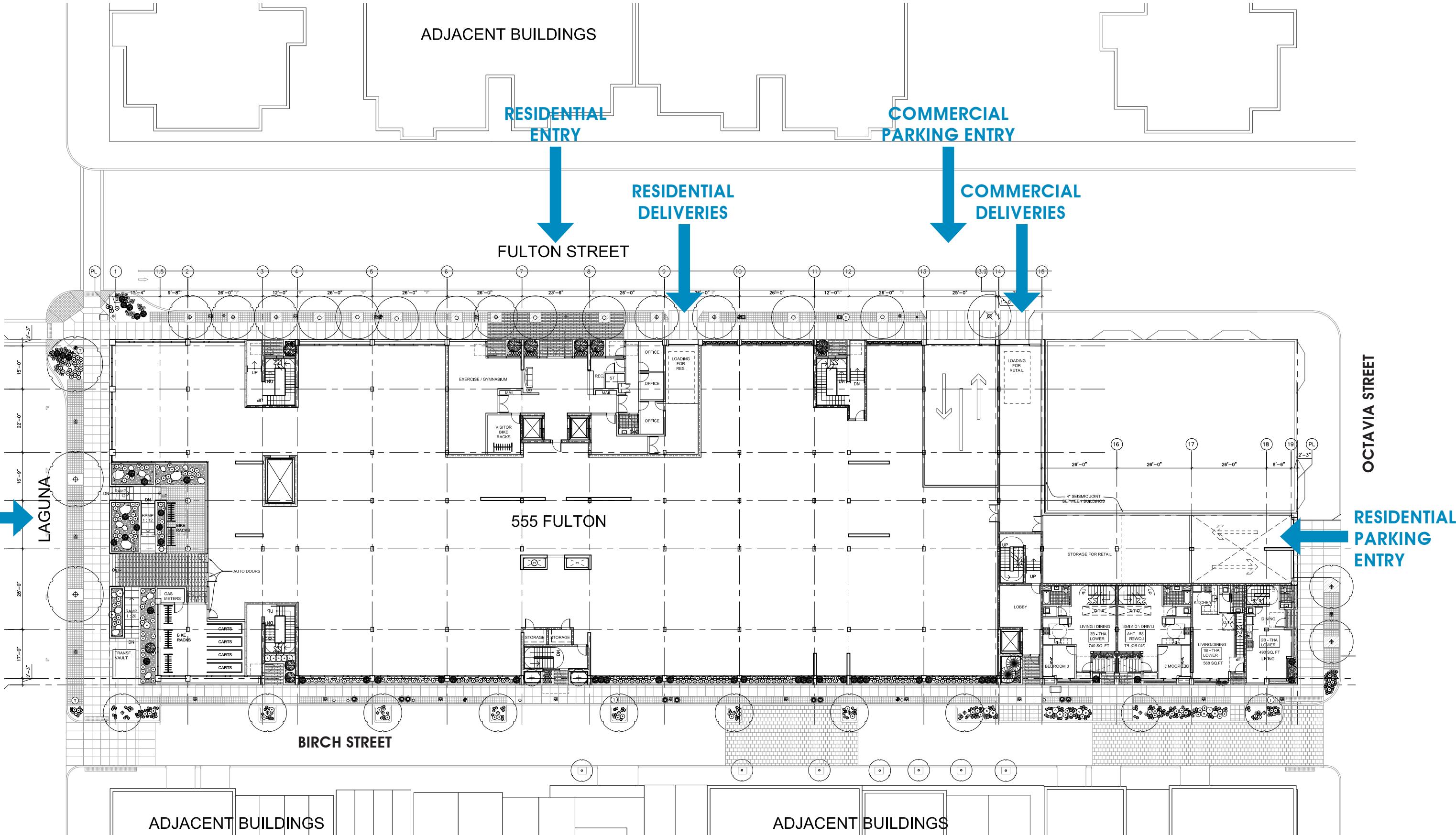
Date of Package:  
September 25, 2013

#### AERIAL VIEW - OCTAVIA AND FULTON STREET

555 FULTON

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architecture

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## SITE PLAN

555 FULTON

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architecture

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Project Sponsor:  
Fulton Street Ventures, LLC  
459 Fulton Street, Suite 206  
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#### STREET VIEW - FULTON AND LAGUNA CORNER

555 FULTON

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architecture

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Fulton Street Ventures, LLC  
459 Fulton Street, Suite 206  
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#### STREET VIEW - BIRCH AND LAGUNA STREET

555 FULTON

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**VIEW INTO RETAIL BIKE & CART STORAGE AREA - LAGUNA & BIRCH CORNER**



**BIRCH STREET - MID-BLOCK CONNECTION**



**BIRCH STREET LOOKING TOWARDS LAGUNA - TOWNHOUSE ENTRY**



**VIEW OF BIRCH AND OCTAVIA STREET CORNER**

Project Sponsor:  
Fulton Street Ventures, LLC  
459 Fulton Street, Suite 206  
San Francisco, CA 94102

Date of Package:  
September 25, 2013

#### **BIRCH STREET VIEWS**

555 FULTON

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Project Sponsor:  
Fulton Street Ventures, LLC  
459 Fulton Street, Suite 206  
San Francisco, CA 94102

Date of Package:  
September 25, 2013

#### RESIDENTIAL ENTRANCE AT FULTON STREET

555 FULTON

**ib+a**  
architecture

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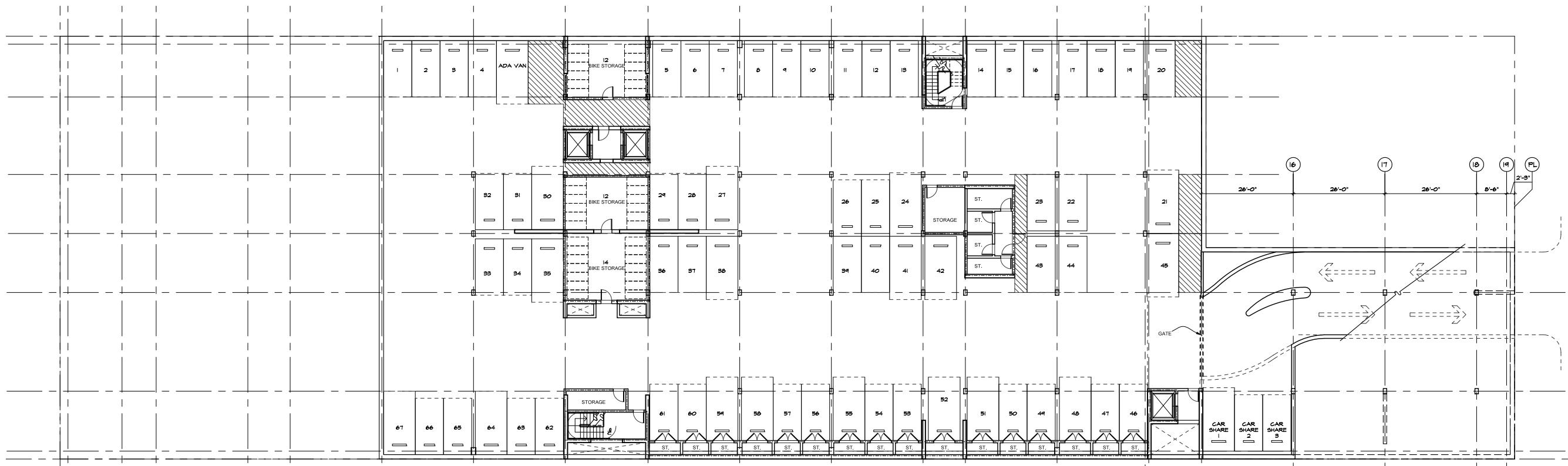
**BASEMENT LEVEL 1 PLAN  
COMMERCIAL PARKING**

77 CAR SPACES  
36 BIKE SPACES



**BASEMENT LEVEL 2 PLAN  
RESIDENTIAL PARKING**

68 CAR SPACES  
3 CAR SHARE  
38 BIKE SPACES



Project Sponsor:  
Fulton Street Ventures, LLC  
459 Fulton Street, Suite 206  
San Francisco, CA 94102

Date of Package:  
September 25, 2013

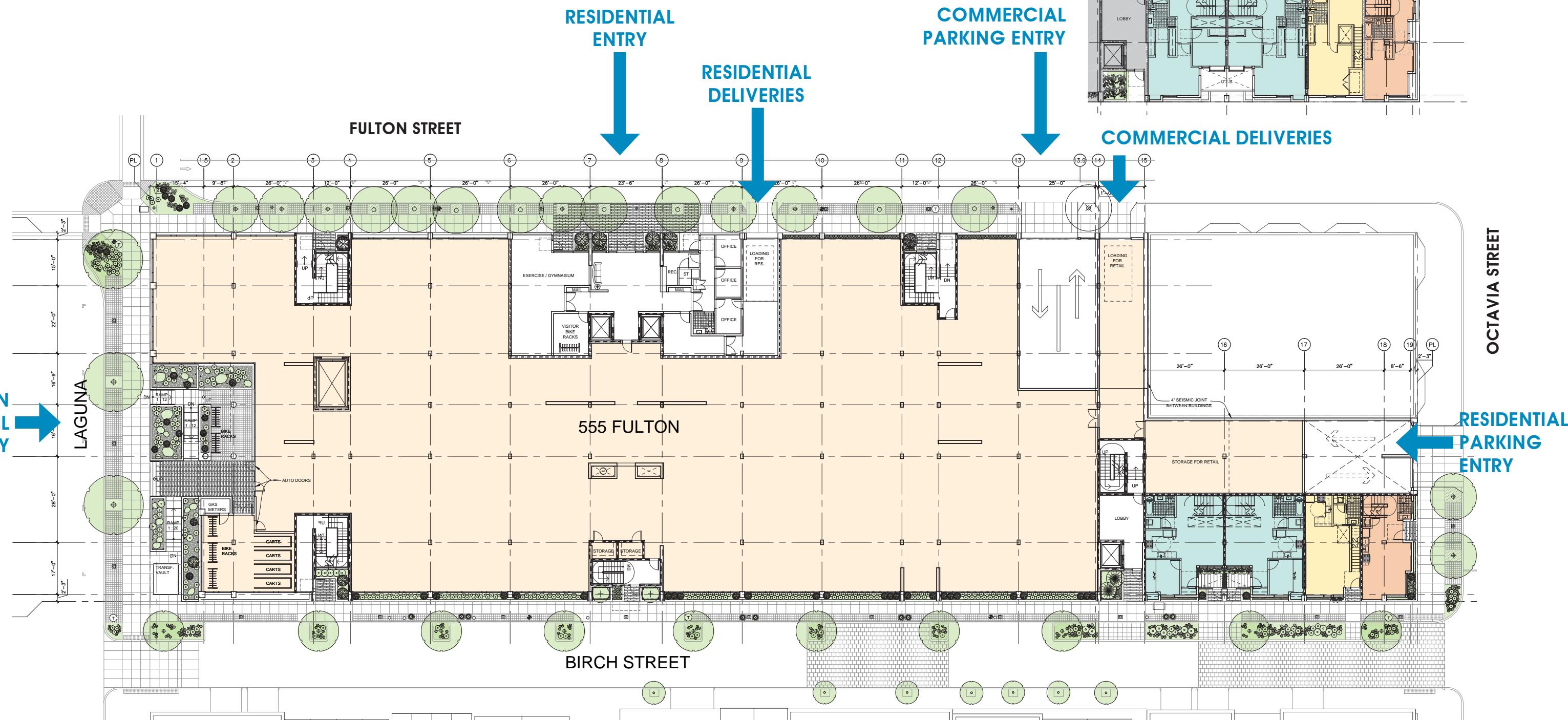
**BASEMENT LEVEL 1 & 2 PLANS  
COMMERCIAL & RESIDENTIAL PARKING**

555 FULTON

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architecture

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RETAIL SPACE	2-BED
LANDSCAPING	3-BED
JR. 1-BED / STUDIO	PENTHOUSE/4-BED
1-BED	COURTYARD/TERRACES



Project Sponsor:  
Fulton Street Ventures, LLC  
459 Fulton Street, Suite 206  
San Francisco, CA 94102

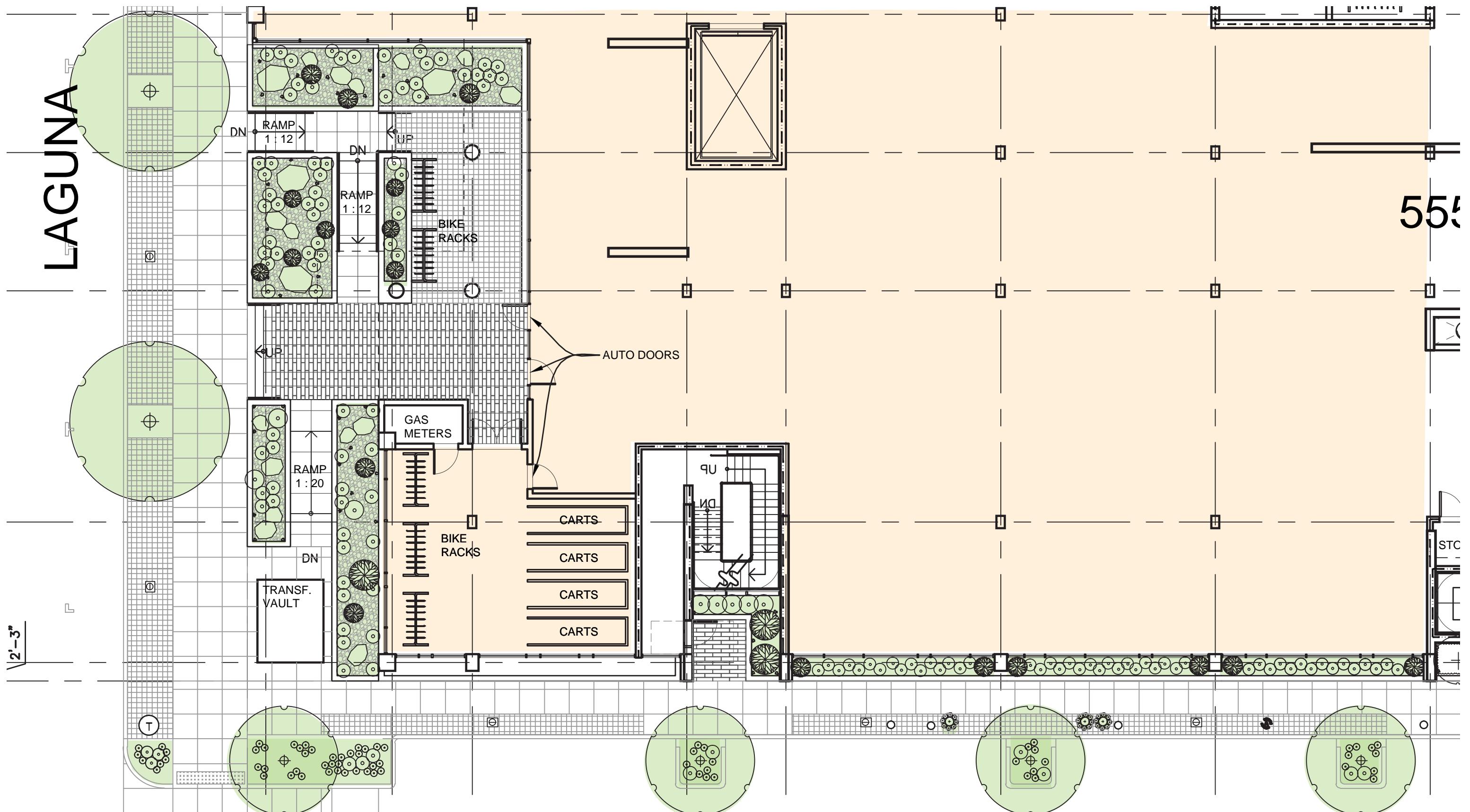
Date of Package:  
September 25, 2013

### FIRST FLOOR PLAN - LOWER AND UPPER

555 FULTON

**ib+a**  
architecture

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Project Sponsor:  
Fulton Street Ventures, LLC  
459 Fulton Street, Suite 206  
San Francisco, CA 94102

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September 25, 2013

### ENLARGED PLAN OF RETAIL ENTRY PLAZA

555 FULTON

**ib+a**  
architecture

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AERIAL VIEW - LAGUNA STREET RETAIL ENTRY PLAZA



STREET VIEW - BIRCH AND LAGUNA STREET CORNER



STREET VIEW - LAGUNA STREET



NIGHTTIME STREET VIEW - LAGUNA STREET

Project Sponsor:  
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RETAIL PLAZA VIEWS - LAGUNA STREET

555 FULTON

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LAGUNA STREET COURTYARD



OCTAVIA STREET COURTYARD



Project Sponsor:  
Fulton Street Ventures, LLC  
459 Fulton Street, Suite 206  
San Francisco, CA 94102

Date of Package:  
September 25, 2013

## SECOND FLOOR PLAN AND COURTYARD VIEWS

555 FULTON

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architecture

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## FOURTH FLOOR PLAN

- JR. 1-BED/ STUDIO
- 1-BED
- 2-BED



## THIRD FLOOR PLAN

- JR. 1-BED/ STUDIO
- 1-BED
- 2-BED



Project Sponsor:  
Fulton Street Ventures, LLC  
459 Fulton Street, Suite 206  
San Francisco, CA 94102

Date of Package:  
September 25, 2013

## THIRD & FOURTH FLOOR PLANS

555 FULTON

**ib+a**  
architecture

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**FIFTH FLOOR PLAN  
AND VIEW OF FIFTH FLOOR TERRACES**

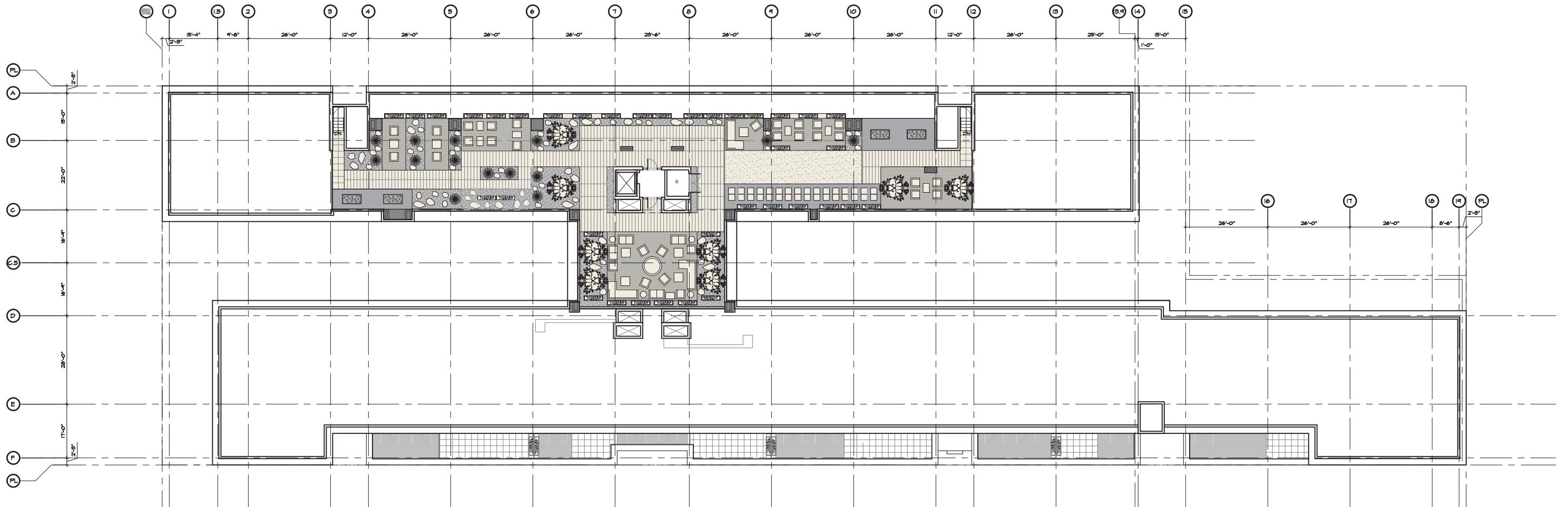
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RETAIL SPACE	2-BED
LANDSCAPING	3-BED
JR. 1-BED/ STUDIO	PENTHOUSE/4-BED
1-BED	COURTYARD/TERRACES

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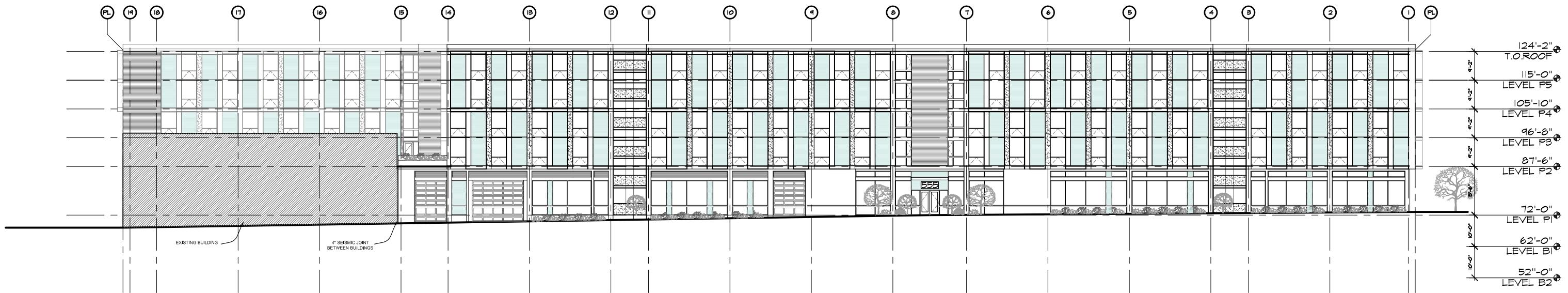
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## ROOF PLAN AND VIEW OF ROOF DECK

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FULTON STREET ELEVATION



BIRCH STREET ELEVATION

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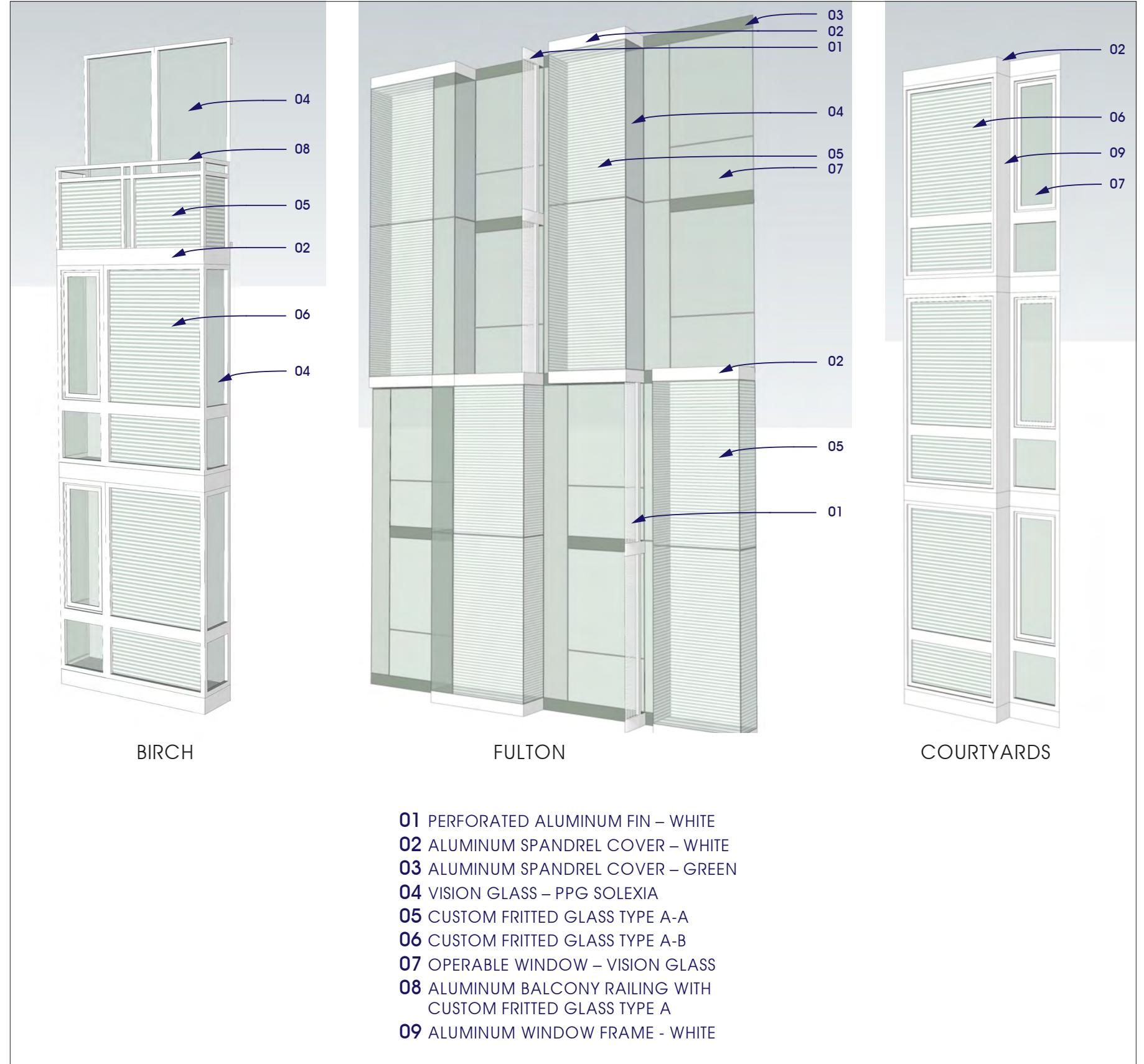
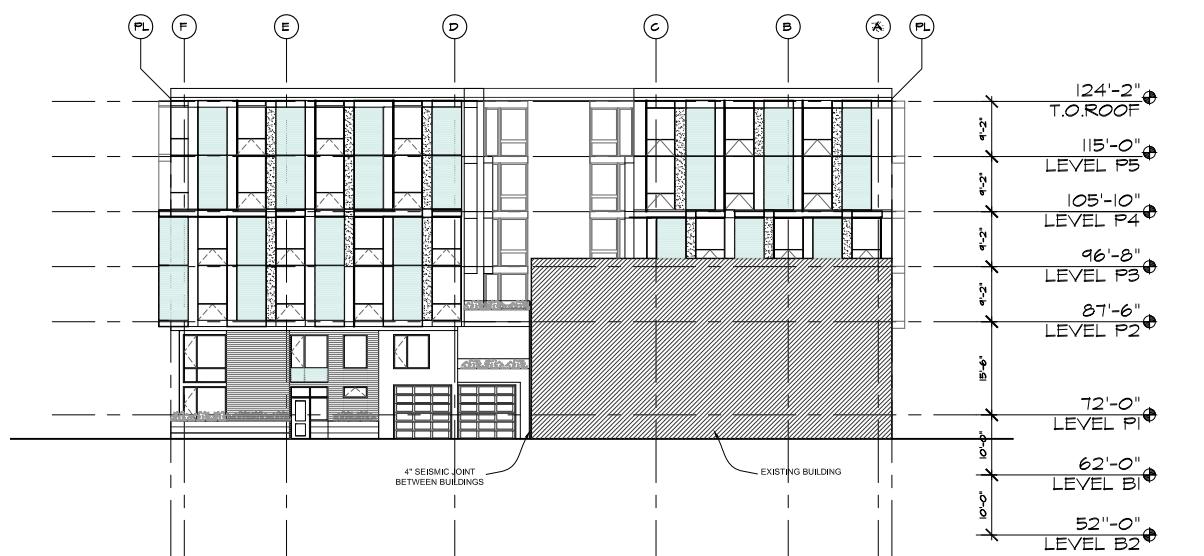
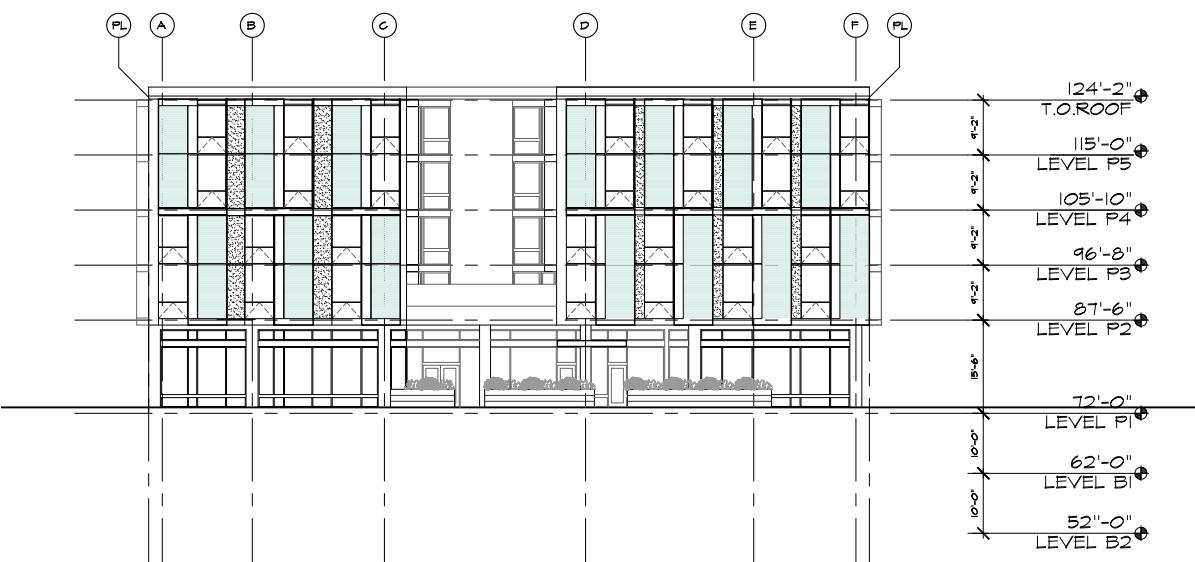
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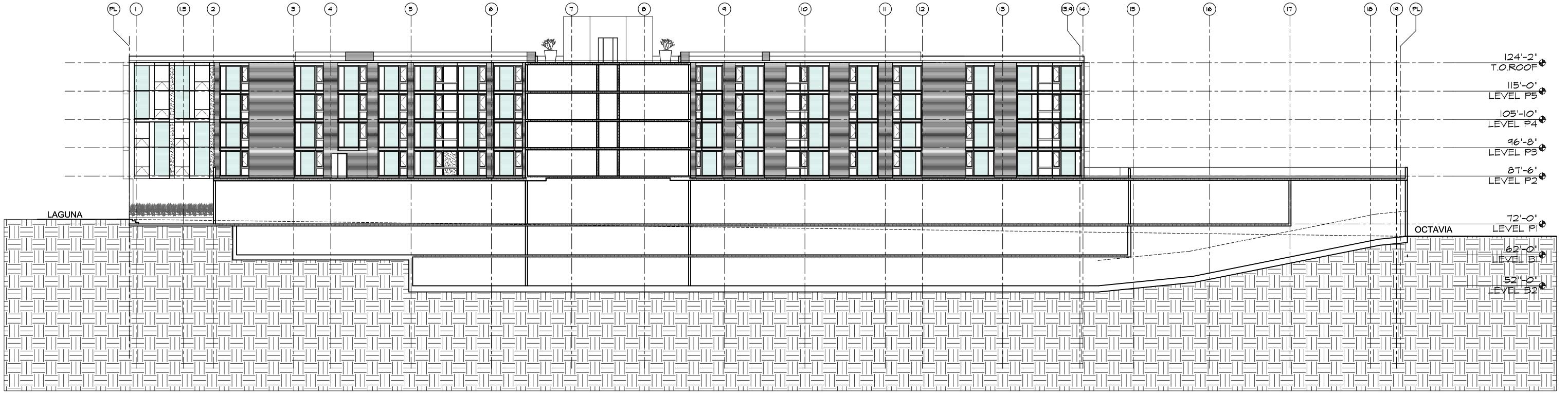
FULTON & BIRCH STREET ELEVATIONS

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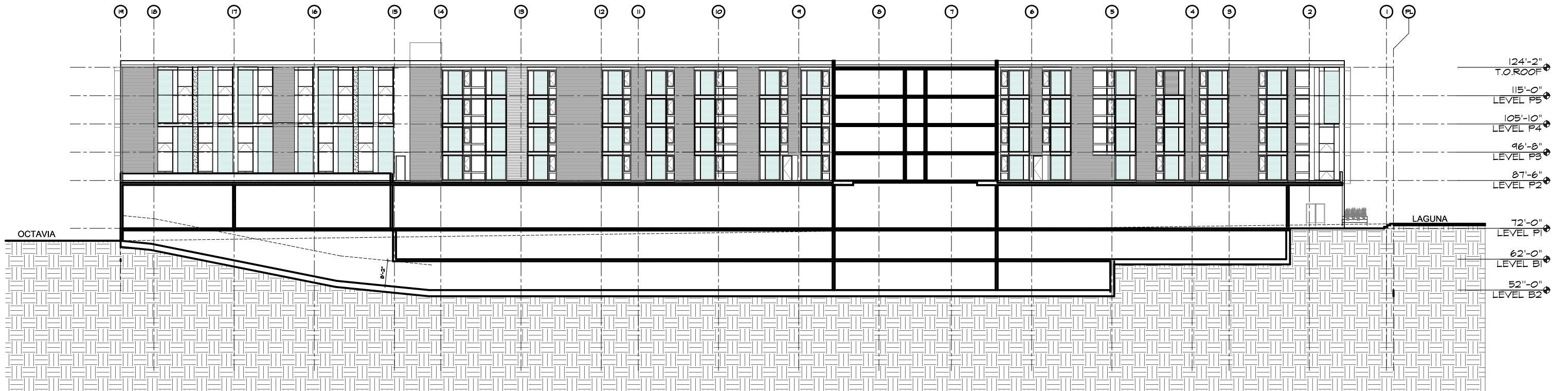
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**NORTH SECTION**



**SOUTH SECTION**

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**COURTYARD NORTH AND SOUTH SECTIONS**

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#### NIGHTTIME STREET VIEW - LAGUNA STREET

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