

File No. 130712

Committee Item No. 6

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date July 22, 2013

Board of Supervisors Meeting Date _____

Cmte Board

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- Budget and Legislative Analyst Report
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- Categorical Exemption Determination, dtd 7/17/13
- Notice of Public Hearing
- _____
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- _____

Completed by: Alisa Miller Date July 19, 2013

Completed by: _____ Date _____

1 [Interim Zoning Controls - Formula Retail Uses on Market Street, from 6th Street to Van Ness
2 Avenue]

3
4 **Resolution imposing interim zoning controls requiring conditional use authorization for**
5 **formula retail uses, as defined, on Market Street, from 6th Street to Van Ness Avenue,**
6 **subject to specified exceptions, for 18 months; and making findings, including findings**
7 **of consistency with the priority policies of Planning Code, Section 101.1, and**
8 **environmental findings.**

9
10 WHEREAS, Planning Code Section 306.7 provides for the imposition of interim zoning
11 controls to accomplish several objectives, including preservation of residential and mixed
12 residential and commercial areas in order to preserve the existing character of such
13 neighborhoods and areas, and development and conservation of the commerce and industry
14 of the City in order to maintain the economic vitality of the City, to provide its citizens with
15 adequate jobs and business opportunities, and to maintain adequate services for its residents,
16 visitors, businesses and institutions; and

17 WHEREAS, In April 2004, the City adopted Planning Code Section 703.3, which
18 defined a formula retail use and either permitted it, authorized it as a conditional use, or
19 prohibited it in various areas of the city. In adopting Section 703.3, this Board found that the
20 increase in formula retail stores in San Francisco had a number of undesirable effects,
21 including hampering the City's goal of a diverse retail base, with distinct neighborhood
22 retailing personalities, which form the base for the City's diverse and distinct neighborhoods;
23 and

24 WHEREAS, San Francisco needs to promote its vibrant small business sector and
25 create a supportive environment for new small business innovations. One of the eight Priority

1 Policies of the City's General Plan resolves that "existing neighborhood-serving retail uses be
2 preserved and enhanced and future opportunities for resident employment in and ownership
3 of such businesses enhanced"; and

4 WHEREAS, Retail uses are the land uses most critical to the success of the City's
5 commercial districts; and

6 WHEREAS, In January 2010, the Mayor's Office of Economic and Workforce
7 Development launched the Central Market Partnership, a public/private initiative to renew and
8 coordinate efforts to revitalize the Central Market neighborhood; and

9 WHEREAS, In November 2011, the Mayor released the Central Market Economic
10 Strategy, which has as Objective 1 the goal to stabilize the existing community and as
11 Objective 4 the desire to reduce vacancies; and

12 WHEREAS, With over 3,100 new residential units in the development pipeline, eleven
13 new technology companies, a food emporium and thousands of employees moving to the
14 Mid-Market corridor, the success of this rapidly growing neighborhood is tied to its ability to
15 maintain diverse small businesses which contribute to its character and vibrancy; and

16 WHEREAS, As the City continues to attract new businesses to this emerging retail
17 corridor, there is a desire to preserve and attract neighborhood retail that is in keeping with
18 the character of this historic area; and

19 WHEREAS, Formula retail businesses can have a competitive advantage over
20 independent businesses, because they are typically better capitalized and can absorb larger
21 startup costs, pay more for lease space, and commit to longer lease contracts. This can put
22 pressure on existing businesses and potentially price out new startup independent
23 businesses, nonprofit organizations and arts organizations in an area where one of the
24 guiding principles is to prevent displacement of existing residents and businesses; and
25

1 WHEREAS, In the Central Market area there are already ten formula retail fast food
2 establishments and two formula retail pharmacies. If not monitored and regulated, additional
3 formula retail may hamper the City's goal of a diverse retail base with distinct neighborhood
4 retailing personalities comprised of a mix of businesses. Specifically, the unregulated and
5 unmonitored establishment of additional formula retail uses may unduly limit or eliminate
6 business establishment opportunities for smaller or medium-sized businesses, many of which
7 tend to be non-traditional or unique; and

8 WHEREAS, Allowing unregulated formula retail uses in the Central Market area needs
9 further study. These interim controls on formula retail uses on Market Street, from 6th Street
10 to Van Ness Avenue, will allow City to examine the cost and benefits of allowing formula retail
11 as this area is being promoted for business attraction and revitalization; and

12 WHEREAS, These interim controls are intended and designed to deal with and
13 ameliorate the problems and conditions associated with the proliferation and high
14 concentration of formula retail uses on Market Street, from 6th Street to Van Ness Avenue, by
15 requiring conditional use authorization for such establishments uses during the next year; and

16 WHEREAS, This Board has considered the impact on the public health, safety, peace,
17 and general welfare if the interim controls proposed herein were not imposed; and

18 WHEREAS, This Board has determined that the public interest will be best served by
19 imposition of these interim controls at this time, in order to ensure that the legislative scheme
20 which may be ultimately adopted is not undermined during the planning and legislative
21 process for permanent controls; and

22 WHEREAS, The Planning Department has determined that the actions contemplated in
23 this Resolution are in compliance with the California Environmental Quality Act (California
24 Public Resources Code Section 21000 et. seq.). Said determination is on file with the Clerk of
25

1 the Board of Supervisors in File No. 130712 and is incorporated herein by reference; now,
2 therefore, be it

3 RESOLVED, Pursuant to Planning Code Section 306.7, the Board of Supervisors, by
4 this resolution, hereby prohibits any City agency, board, commission, officer or employee from
5 approving any site permit, building permit or any other permit or license authorizing the
6 establishment of any formula retail uses, as defined herein, unless the action would conform
7 both to the existing provisions of the Planning Code and this resolution imposing interim
8 controls; and, be it

9 FURTHER RESOLVED, That for the purpose of these interim controls "formula retail
10 uses" shall be defined as set forth in Section 703.3 of the Planning Code; and, be it

11 FURTHER RESOLVED, That as of the effective date of this Resolution, the
12 establishment of any new formula retail establishments, as defined herein, on Market Street,
13 between 6th Street and Van Ness Avenue, shall be subject to a conditional use authorization;
14 and, be it

15 FURTHER RESOLVED, That these interim controls shall not apply to general grocery
16 stores, as defined in Planning Code Section 790.102(a); and, be it

17 FURTHER RESOLVED, That any formula retail use lawfully existing prior to the
18 effective date of this interim controls is exempt from these interim controls, unless such
19 enterprise ceases to operate or discontinues operation for ninety (90) days or longer, in which
20 event the use shall be deemed abandoned; and, be it

21 FURTHER RESOLVED, That for purposes of these interim controls, the Planning
22 Commission shall use the conditional use criteria established in Planning Code Section
23 303(i)(3); and, be it

24 FURTHER RESOLVED, That for purposes of these interim controls, the Planning
25 Commission shall consider, in addition to the criteria listed in Planning Code Section 303(i)(3),

1 the economic and fiscal impact of the proposed formula retail use in the area. To this effect,
2 the applicant shall provide the Planning Department as part of its conditional use application a
3 complete economic impact analysis of the proposed use, prepared by an independent
4 licensed professional; and, be it

5 FURTHER RESOLVED, That these interim controls shall remain in effect for eighteen
6 months from the effective date of this legislation, or until the adoption of permanent legislation
7 regulating formula retail, as defined herein, on Market Street, from 6th Street to Van Ness
8 Avenue, whichever first occurs; and, be it

9 FURTHER RESOLVED, That these interim zoning controls advance and are consistent
10 with Priority Policies the Planning Code Section 101.1, particularly Policies 1 and 2, in that
11 they attempt to preserve and enhance the character and vitality of one of the City's
12 neighborhoods. With respect to Priority Policies 3, 4, 5, 6, 7, and 8, the Board finds that these
13 interim zoning controls do not, at this time, have an effect upon these policies, and thus, will
14 not conflict with said policies.

15
16 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

17
18 By: 
ANDREA RUIZ-ESQUIDE
19 Deputy City Attorney

20 n:\legana\as2013\1300496\00857669.doc

LEGISLATIVE DIGEST

[Interim Zoning Controls - Formula Retail Uses on Market Street, from 6th Street to Van Ness Avenue]

Resolution imposing interim zoning controls requiring conditional use authorization for formula retail uses, as defined, on Market Street, from 6th Street to Van Ness Avenue, subject to specified exceptions, for 18 months; and making findings, including findings of consistency with the priority policies of Planning Code, Section 101.1, and environmental findings.

Existing Law

Formula retail uses are defined in the Planning Code as “a type of retail sales activity or retail sales establishment which, along with eleven or more other retail sales establishments located in the United States, maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark.” (Planning Code Sections 303(i) and 703.3.) The City currently regulates formula retail by either prohibiting it altogether in certain areas, such as the Hayes-Gough Neighborhood Commercial Transit District, the North Beach Neighborhood Commercial District, and the Chinatown Visitor Retail District, or by requiring a conditional use permit, in other neighborhood commercial and mixed use areas (Planning Code Section 303(i)(4) and (5).) The conditional use requirement directs the Planning Commission, when reviewing an application for a formula retail establishment, to consider the existing concentrations of formula retail uses within the district; the availability of other similar retail uses within the district; the compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the district; the existing retail vacancy rates within the district; and the existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the district. (Planning Code Section 303(i)(3).)

Planning Code Section 306.7 authorizes the City to impose interim controls “to suspend temporarily the processing of certain applications (. . .) which may be in conflict with a contemplated zoning proposal” which City is contemplating, for a duration up to 18 months, with the possibility of extending them up to 24 months.

Amendments to Current Law

This legislation imposes interim zoning controls under Planning Code 306.7 to require conditional use authorization for formula retail uses on Market Street, from 6th Street to Van Ness Avenue, for eighteen months. This area is currently zoned C-3-G (Commercial, Downtown General), and has no formula retail restrictions.

FILE NO. 130712

The legislation would require that, when considering an application for a formula retail use, the Planning Commission consider the criteria listed in Section 303(i)(3). In addition, the Commission must consider the economic and fiscal impact of the proposed formula retail use in the area, by requiring that the applicant provide the Planning Department a complete economic impact analysis of the proposed use.

The legislation exempts grocery stores from the interim controls, as well as any formula retail use lawfully existing prior to the effective date of the controls.

Background Information

The legislation addresses the need to study the expansion of formula retail uses in this section of Market Street, which is undergoing rapid changes and is the subject of several planning efforts as part of the Central Market initiatives.

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BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

July 11, 2013

File No. 130712

John Rahaim
Director
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Director Rahaim:

On July 9, 2013, Supervisor Kim introduced the following proposed legislation:

File No. 130712

Resolution imposing interim zoning controls requiring conditional use authorization for formula retail uses, as defined, on Market Street, from 6th Street to Van Ness Avenue, subject to specified exceptions, for 18 months; and making findings, including findings of consistency with the priority policies of Planning Code, Section 101.1, and environmental findings.

This legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Miller".

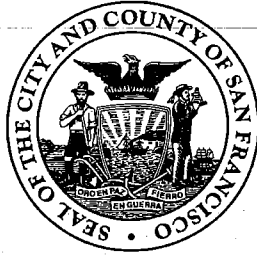
By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

Attachment

- c: Scott Sanchez, Zoning Administrator
- Sarah Jones, Environmental Review Officer
- AnMarie Rodgers, Legislative Affairs Manager
- Aaron Starr, Legislative Affairs
- Keith DeMartini, Finance Manager
- Monica Pereira, Environmental Planning
- Joy Navarrete, Environmental Planning
- Teresa Ojeda, Information & Analysis Manager
- Mike Wynne, GIS Business Analyst

NON-PHYSICAL EXEMPTION
CEQA SECTION 6060(c)(2)
JD 7/17/13
JOY NAVARRETE

BOARD of SUPERVISORS



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1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
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NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO LAND USE AND ECONOMIC DEVELOPMENT COMMITTEE

NOTICE IS HEREBY GIVEN THAT the Land Use and Economic Development Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: Monday, July 22, 2013

Time: 1:30 p.m.

Location: Committee Room 263, located at City Hall
1 Dr. Carlton B. Goodlett Place, San Francisco, CA

Subject: File No. 130712. Resolution imposing interim zoning controls requiring conditional use authorization for formula retail uses, as defined, on Market Street, from 6th Street to Van Ness Avenue, subject to specified exceptions, for 18 months; and making findings, including findings of consistency with the priority policies of Planning Code, Section 101.1, and environmental findings.

In accordance with San Francisco Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made a part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton Goodlett Place, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, July 19, 2013.

A handwritten signature in black ink, appearing to read "Angela Calvillo".

Angela Calvillo, Clerk of the Board

DATED: July 11, 2013
MAILED/POSTED/PUBLISHED: July 12, 2013

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Alisa Miller
S.F. BD OF SUPERVISORS (OFFICIAL NOTICES)
1 DR CARLTON B GOODLETT PL #244
SAN FRANCISCO, CA 94102

COPY OF NOTICE

Notice Type: GPN GOVT PUBLIC NOTICE
Ad Description AM - 07.22.13 Land Use - 130712 Interim Controls

To the right is a copy of the notice you sent to us for publication in the SAN FRANCISCO EXAMINER. Thank you for using our newspaper. Please read this notice carefully and call us with ny corrections. The Proof of Publication will be filed with the County Clerk, if required, and mailed to you after the last date below. Publication date(s) for this notice is (are):

07/12/2013

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THE DAILY RECORDER, SACRAMENTO	(916) 444-2355
THE INTER-CITY EXPRESS, OAKLAND	(510) 272-4747

EXM 2509240

NOTICE OF
PUBLIC HEARING
BOARD OF SUPERVISORS
OF THE CITY AND
COUNTY OF SAN FRAN-
CISCO
LAND USE AND ECO-
NOMIC DEVELOPMENT
COMMITTEE
MONDAY, JULY 22, 2013 -
1:30 PM
COMMITTEE ROOM 263,
CITY HALL
1 DR. CARLTON B.
GOODLETT PLACE, SAN
FRANCISCO, CA

NOTICE IS HEREBY GIVEN THAT the Land Use and Economic Development Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard: File No. 130712. Resolution imposing interim zoning controls requiring conditional use authorization for formula retail uses, as defined, on Market Street, from 6th Street to Van Ness Avenue, subject to specified exceptions, for 18 months; and making findings, including findings of consistency with the priority policies of Planning Code, Section 101.1, and environmental findings.

In accordance with San Francisco Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made a part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton Goodlett Place, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, July 19, 2013. Angela Calvillo, Clerk of the Board



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BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

PROOF OF MAILING

Legislative File No. 130712

Description of Items:

Resolution imposing interim zoning controls requiring conditional use authorization for formula retail uses, as defined, on Market Street, from 6th Street to Van Ness Avenue, subject to specified exceptions, for 18 months; and making findings, including findings of consistency with the priority policies of Planning Code, Section 101.1, and environmental findings.

I, Alisa Miller, an employee of the City and County of San Francisco, mailed the above described document(s) by depositing the sealed items with the United States Postal Service (USPS) with the postage fully prepaid as follows:

Date: July 12, 2013

Time: 1:15 p.m.

USPS Location: Repro Pick-up Box in the Clerk of the Board's Office (Rm 244)

Mailbox/Mailslot Pick-Up Times (if applicable): N/A

Signature: *Alisa Miller*

Instructions: Upon completion, original must be filed in the above referenced file.



SAN FRANCISCO
CHAMBER OF COMMERCE

BOS-11, LU clerk
cpage

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2013 JUL 19 AM 11:03

File 130712

jo

July 19, 2013

The Honorable David Chiu
President, San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

RE: Table File #130712: Interim Zoning Controls – Formula Retail Uses on Market St. from 6th St. to Van Ness Avenue

Dear President Chiu;

The San Francisco Chamber of Commerce, representing over 1500 local businesses (both small businesses and formula retailers), has concerns with the resolution (File # 130712) coming before the Board of Supervisors Land Use Committee on July 22, 2013 to establish interim zoning controls that would require a Conditional Use Permit (CUP) for formula retail uses on Market Street between 6th Street and Van Ness Avenue.

The proposed requirement to pursue and win a CUP for formula retail comes when property owners in the Central Market area are populating their buildings with residential, office and retail uses. They need flexibility in order to fill the ground floor spaces with neighborhood-serving retail that activates the pedestrian environment and creates a thriving commercial hub in what has been an economically depressed urban center for decades. This requirement would create uncertainty and hardship for those property owners who have taken a giant leap of faith and invested enormous capital attempting to revitalize the condition of the Central Market corridor.

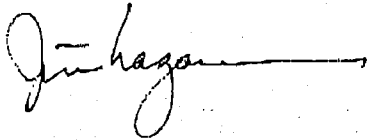
The resolution requires the permit applicant to "provide the Planning Department as part of its conditional use application a complete economic impact analysis of the proposed use, prepared by an independent licensed professional...", while at the same time stating that the interim controls, "will allow [the] City to examine the cost and benefits of allowing formula retail as this area is being promoted for business attraction and revitalization...". Requiring the permit applicant to carry out and pay for an economic analysis of the impacts of formula retail at the same time the City is carrying out its own analysis is unnecessary, duplicative and adds additional, potentially prohibitive burdens to the property owner.

Finally, the resolution states that the interim controls "are intended and designed to deal with and ameliorate the problems and conditions associated with the proliferation and high concentration of formula retail uses on Market Street from between 6th Street and Van Ness Avenue...". This does not recognize that a formula retailer is often an anchor in a commercial corridor, and its economic activity lifts neighboring, non-formula retailers to create a balanced, sustainable commercial environment. In fact, given the high number of storefront vacancies in the blocks between 6th Street and Van Ness

Avenue currently, certain formula retail uses may ameliorate the problems and conditions that have dominated the neighborhood for many years.

Given that the Planning Department, Office of Economic and Workforce Development and other city agencies are working with the mayor's office to begin study of formula retail use and its economic impact citywide, we feel the introduction of these interim controls are premature, and may hinder new development finally taking a foothold in the Central Market area. We urge the Board of Supervisors to table this resolution until a citywide study on formula retail has been completed.

Sincerely,



Jim Lazarus
Senior Vice President for Public Policy

cc: BOS Clerk (Please Distribute to All Supervisors Prior to 7/22/13 Land Use Committee Mtg.); Mayor Ed Lee

BOARD of SUPERVISORS



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July 11, 2013

File No. 130712

John Rahaim
Director
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Director Rahaim:

On July 9, 2013, Supervisor Kim introduced the following proposed legislation:

File No. 130712

Resolution imposing interim zoning controls requiring conditional use authorization for formula retail uses, as defined, on Market Street, from 6th Street to Van Ness Avenue, subject to specified exceptions; for 18 months; and making findings, including findings of consistency with the priority policies of Planning Code, Section 101.1, and environmental findings.

This legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board

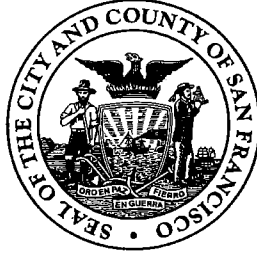
A handwritten signature in cursive script that reads "Alisa Miller".

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

Attachment

- c: Scott Sanchez, Zoning Administrator
- Sarah Jones, Environmental Review Officer
- AnMarie Rodgers, Legislative Affairs Manager
- Aaron Starr, Legislative Affairs
- Keith DeMartini, Finance Manager
- Monica Pereira, Environmental Planning
- Joy Navarrete, Environmental Planning
- Teresa Ojeda, Information & Analysis Manager
- Mike Wynne, GIS Business Analyst

BOARD of SUPERVISORS



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MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Chris Schulman, Commission Secretary
Small Business Commission, City Hall, Room 448

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: July 11, 2013

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use & Economic Development Committee

The Board of Supervisors' Land Use and Economic Development Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 130712

Resolution imposing interim zoning controls requiring conditional use authorization for formula retail uses, as defined, on Market Street, from 6th Street to Van Ness Avenue, subject to specified exceptions, for 18 months; and making findings, including findings of consistency with the priority policies of Planning Code, Section 101.1, and environmental findings.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

- _____ **No Comment**
- _____ **Recommendation Attached**

Chairperson, Small Business Commission

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):

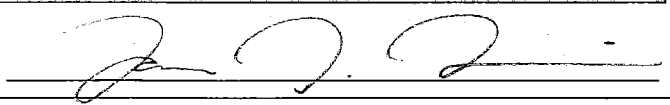
Supervisor Jane Kim

Subject:

Resolution Imposing Interim Zoning Controls for Formula Retail Uses on Market Street, from 6th Street to Van Ness Ave.

The text is listed below or attached:

see attached.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

130712