

File No. 120814

Committee Item No. 3

Board Item No. 4

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date October 20, 2014

Board of Supervisors Meeting

Date 11 / 4 / 2014

Cmte Board

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest |
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Completed by: Andrea Ausberry Date October 16, 2014

Completed by:  Date 10-21-14

1 [Planning Code, Zoning Map - Establishing the Fillmore Street Neighborhood Commercial
2 District].

3 **Ordinance amending the Planning Code to establish the Fillmore Street Neighborhood**
4 **Commercial District along Fillmore Street between Bush and McAllister Streets;**
5 **amending various other Code sections to make conforming and other technical**
6 **changes; amending the Zoning Map to add the Fillmore Street NCD; affirming the**
7 **Planning Department's California Environmental Quality Act determination; and making**
8 **findings of consistency with the General Plan, and the eight priority policies of**
9 **Planning Code, Section 101.1.**

10 NOTE: **Unchanged Code text and uncodified text** are in plain Ariel font.
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.
12 **Deletions to Codes** are in *strike-through italics Times New Roman font*.
13 **Board amendment additions** are in double-underlined Ariel font.
14 **Board amendment deletions** are in ~~strikethrough-Ariel font~~.
15 **Asterisks (* * *)** indicate the omission of unchanged Code
16 subsections or parts of tables.

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

18 Section 1. Findings.

19 (a) The Planning Department has determined that the actions contemplated in this
20 ordinance comply with the California Environmental Quality Act (California Public Resources
21 Code Section 21000 et seq.). The Board of Supervisors hereby affirms this determination.
22 Said determination is on file with the Clerk of the Board of Supervisors in File No. 120814 and
23 is incorporated herein by reference.

24 (b) On June 13, 2013, the Planning Commission, in Resolution No. 18907, adopted
25 findings that the actions contemplated in this ordinance are consistent, on balance, with the
City's General Plan and the priority policies of Planning Code Section 101.1. The Board

1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
2 Board of Supervisors in File No. 120814.

3
4 Section 2. The Planning Code is hereby amended by adding Section 747.1 and the
5 accompanying Zoning Control Table, to read as follows:

6 **SEC. 747.1. FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT.**

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

14 The Fillmore Street NCD controls are designed to encourage and promote development that
15 enhances the walkable, mixed-use character of the corridor and surrounding neighborhoods. Rear yard
16 requirements at residential levels preserve open space corridors of interior blocks. Housing
17 development in new buildings is encouraged above the ground story. Existing residential units are
18 protected by limitations on demolition and upper-story conversions.

19 Consistent with Fillmore Street's existing mixed-use character, new commercial development is
20 permitted at the ground and second stories. Most neighborhood- and visitor-serving businesses are
21 strongly encouraged. Controls on new Formula Retail uses are consistent with Citywide policy for
22 Neighborhood Commercial Districts; Eating and Drinking and entertainment uses are confined to the
23 ground story. The second story may be used by some retail stores, personal services, and medical,
24 business, and professional offices. Parking and hotels are monitored at all stories. Limits on drive-up
25

1 facilities and other automobile uses protect the livability within and around the district and promote
 2 continuous retail frontage.

3 **SEC. 747. FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING**

4 **CONTROL TABLE**

			<u>Fillmore Street</u>
<u>No.</u>	<u>Zoning Category</u>	<u>§ References</u>	<u>Controls</u>
<u>BUILDING STANDARDS</u>			
<u>747.10</u>	<u>Height and Bulk Limit</u>	<u>§§ 102.12, 105, 106, 250</u> <u>- 252, 260, 261.1, 263.20,</u> <u>270, 271</u>	<u>Generally, 65-X, and 40-X</u> <u>south of Oak Street; see</u> <u>Zoning Map. Height Sculpting</u> <u>on Alleys; § 261.1. Additional</u> <u>5 feet in height allowed for</u> <u>parcels in the 40-X and 50-X</u> <u>height district with active</u> <u>uses; see § 263.20</u>
<u>747.11</u>	<u>Lot Size</u> <u>[Per Development]</u>	<u>§§ 790.56, 121.1</u>	<u>P up to 9,999 sq. ft.; C 10,000</u> <u>sq. ft. & above</u>
<u>747.12</u>	<u>Rear Yard</u>	<u>§§ 130, 134, 136</u>	<u>Required at residential levels</u> <u>§ 134(a) and (e)</u>
<u>747.13</u>	<u>Street Frontage</u>	<u>§ 145.1</u>	<u>Required</u>
<u>747.13a</u>	<u>Street Frontage, Above Grade</u> <u>Parking Setback and Active Uses</u>	<u>§ 145.1</u>	<u>Maximum 25 feet on ground</u> <u>floor, 15 feet on floors above</u>
<u>747.13b</u>	<u>Street Frontage, Required</u>	<u>§ 145.4</u>	<u>Required along Fillmore</u>

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	<u>Ground Floor Commercial</u>		<u>Street from Bush Street to McAllister Street</u>
<u>747.14</u>	<u>Awning</u>	<u>§ 136.1(a)</u>	<u>P</u>
<u>747.15</u>	<u>Canopy</u>	<u>§ 136.1(b)</u>	<u>P</u>
<u>747.16</u>	<u>Marquee</u>	<u>§ 136.1(c)</u>	<u>P</u>
<u>747.17</u>	<u>Streetscape and Pedestrian Improvements</u>	<u>§ 138.1</u>	<u>Required</u>
<u>COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES</u>			
<u>747.20</u>	<u>Floor Area Ratio</u>	<u>§§ 102.9, 102.11, 123</u>	<u>3.6 to 1</u> <u>§ 124(a) and (b)</u>
<u>747.21</u>	<u>Use Size</u> <u>[Non-Residential]</u>	<u>§ 790.130, § 121.2</u>	<u>P up to 5,999 sq. ft.;</u> <u>C 6,000 sq. ft. & above</u>
<u>747.22</u>	<u>Off-Street Parking, Non-residential</u>	<u>§§ 145.1, 150, 151.1, 153 - 157, 159 - 160, 204.5</u>	<u>None required. Maximum permitted as set forth in Section 151.1</u>
<u>747.23</u>	<u>Off-Street Freight Loading</u>	<u>§§ 150, 153 - 155, 204.5, 152, 161(b)</u>	<u>Generally, none required if gross floor area is less than 10,000 sq. ft.</u>
<u>747.24</u>	<u>Outdoor Activity Area</u>	<u>§§ 790.70, 145.2(a)</u>	<u>P if located in front; C if</u>

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			<i>located elsewhere</i>		
<u>747.25</u>	<u>Drive-Up Facility</u>	<u>§ 790.30</u>			
<u>747.26</u>	<u>Walk-Up Facility</u>	<u>§§ 790.140, 145.2(b)</u>	<i>P if recessed 3 ft.;</i>		
			<i>C if not recessed</i>		
<u>747.27</u>	<u>Hours of Operation</u>	<u>§ 790.48</u>	<i>No limit</i>		
<u>747.30</u>	<u>General Advertising Sign</u>	<u>§§ 262, 602 - 604, 608, 609</u>			
<u>747.31</u>	<u>Business Sign</u>	<u>§§ 262, 602 - 604, 607.1(f)(2), 608, 609</u>	<i>P</i>		
<u>747.32</u>	<u>Other Signs</u>	<u>§§ 262, 602 - 604, 607.1(c), (d), and (g), 608, 609</u>	<i>P</i>		
			<i>Fillmore Street</i>		
<u>No.</u>	<u>Zoning Category</u>	<u>§ References</u>	<u>Controls by Story</u>		
		<u>§ 790.118</u>	<u>1st</u>	<u>2nd</u>	<u>3rd+</u>
<u>747.36</u>	<u>Residential Conversion</u>	<u>§ 317</u>	<i>P</i>	<i>NP</i>	<i>NP</i>
<u>747.37</u>	<u>Residential Demolition</u>	<u>§ 317</u>	<i>P</i>	<i>C</i>	<i>C</i>
<u>747.38</u>	<u>Residential Division</u>	<u>§ 207.8</u>	<i>P</i>	<i>P</i>	<i>P</i>
<u>747.39</u>	<u>Residential Merger</u>	<u>§ 317</u>	<i>C</i>	<i>C</i>	<i>C</i>
<u>Retail Sales and Services</u>					
<u>747.40</u>	<u>Other Retail Sales and Services</u>	<u>§ 790.102</u>	<i>P</i>	<i>P</i>	<i>P</i>
	<u>[Not Listed Below]</u>				
<u>747.41</u>	<u>Bar</u>	<u>§ 790.22</u>	<i>P</i>	<i>P</i>	
<u>747.43</u>	<u>Limited-Restaurant</u>	<u>§ 790.90</u>	<i>P</i>	<i>P</i>	

1	<u>747.44</u>	<u>Restaurant</u>	<u>§ 790.91</u>	<u>P</u>	<u>P</u>	
2	<u>747.45</u>	<u>Liquor Store</u>	<u>§ 790.55</u>			
3	<u>747.46</u>	<u>Movie Theater</u>	<u>§ 790.64</u>	<u>P</u>	<u>P</u>	
4	<u>747.47</u>	<u>Adult Entertainment</u>	<u>§ 790.36</u>	<u>C</u>	<u>C</u>	
5	<u>747.48</u>	<u>Other Entertainment</u>	<u>§ 790.38</u>	<u>P</u>	<u>P</u>	
6	<u>747.49</u>	<u>Financial Service</u>	<u>§ 790.110</u>	<u>P</u>	<u>P</u>	
7	<u>747.50</u>	<u>Limited Financial Service</u>	<u>§ 790.112</u>	<u>P</u>	<u>P</u>	
8	<u>747.51</u>	<u>Medical Service</u>	<u>§ 790.114</u>	<u>P</u>	<u>P</u>	<u>P</u>
9	<u>747.52</u>	<u>Personal Service</u>	<u>§ 790.116</u>	<u>P</u>	<u>P</u>	
10	<u>747.53</u>	<u>Business or Professional Service</u>	<u>§ 790.108</u>	<u>P</u>	<u>P</u>	<u>P</u>
11	<u>747.54</u>	<u>Massage Establishment</u>	<u>§ 790.60</u>	<u>C</u>	<u>C</u>	
12			<u>§§29.1 – 29.32 Health</u>			
13			<u>Code</u>			
14	<u>747.55</u>	<u>Tourist Hotel</u>	<u>§ 790.46</u>	<u>C</u>	<u>C</u>	<u>C</u>
15	<u>747.56</u>	<u>Automobile Parking</u>	<u>§§ 790.8, 145.1, 156, 160</u>	<u>C</u>		
16	<u>747.57</u>	<u>Automotive Gas Station</u>	<u>§ 790.14</u>	<u>C</u>		
17	<u>747.58</u>	<u>Automotive Service Station</u>	<u>§ 790.17</u>	<u>C</u>		
18	<u>747.59</u>	<u>Automotive Repair</u>	<u>§ 790.15</u>	<u>C</u>	<u>C</u>	
19	<u>747.60</u>	<u>Automotive Wash</u>	<u>§ 790.18</u>	<u>C</u>		
20	<u>747.61</u>	<u>Automobile Sale or Rental</u>	<u>§ 790.12</u>	<u>C</u>		
21	<u>747.62</u>	<u>Animal Hospital</u>	<u>§ 790.6</u>	<u>C</u>		
22	<u>747.63</u>	<u>Ambulance Service</u>	<u>§ 790.2</u>	<u>C</u>		
23	<u>747.64</u>	<u>Mortuary</u>	<u>§ 790.62</u>	<u>C</u>	<u>C</u>	<u>C</u>
24	<u>747.65</u>	<u>Trade Shop</u>	<u>§ 790.124</u>	<u>P</u>	<u>C</u>	<u>C</u>

1	<u>747.66</u>	<u>Storage</u>	<u>§ 790.117</u>	<u>C</u>	<u>C</u>	<u>C</u>
2	<u>747.68</u>	<u>Fringe Financial Service</u>	<u>§ 790.111</u>	<u>NP #</u>		
3	<u>747.69</u>	<u>Tobacco Paraphernalia</u>	<u>§ 790.123</u>	<u>C</u>		
4		<u>Establishments</u>				
5	<u>747.69B</u>	<u>Amusement Game Arcade</u>	<u>§ 790.4</u>	<u>C</u>		
6		<u>(Mechanical Amusement Devices)</u>				
7	<u>747.69C</u>	<u>Neighborhood Agriculture</u>	<u>§ 102.35(a)</u>	<u>P</u>	<u>P</u>	<u>P</u>
8	<u>747.69D</u>	<u>Large-Scale Urban Agriculture</u>	<u>§ 102.35(b)</u>	<u>C</u>	<u>C</u>	<u>C</u>
9	<u>Institutions and Non-Retail Sales and Services</u>					
10	<u>747.70</u>	<u>Administrative Service</u>	<u>§ 790.106</u>	<u>C</u>	<u>C</u>	<u>C</u>
11	<u>747.80</u>	<u>Hospital or Medical Center</u>	<u>§ 790.44</u>	<u>C</u>	<u>C</u>	<u>C</u>
12	<u>747.81</u>	<u>Other Institutions, Large</u>	<u>§ 790.50</u>	<u>P</u>	<u>P</u>	<u>P</u>
13	<u>747.82</u>	<u>Other Institutions, Small</u>	<u>§ 790.51</u>	<u>P</u>	<u>P</u>	<u>P</u>
14	<u>747.83</u>	<u>Public Use</u>	<u>§ 790.80</u>	<u>C</u>	<u>C</u>	<u>C</u>
15	<u>747.84</u>	<u>Medical Cannabis Dispensary</u>	<u>§ 790.141</u>	<u>P #</u>		
16	<u>747.85</u>	<u>Philanthropic Administrative</u>	<u>§ 790.107</u>		<u>P</u>	
17		<u>Service</u>				
18	<u>RESIDENTIAL STANDARDS AND USES</u>					
19	<u>747.90</u>	<u>Residential Use</u>	<u>§ 790.88</u>	<u>P</u>	<u>P</u>	<u>P</u>
20	<u>747.91</u>	<u>Residential Density, Dwelling</u>	<u>§§ 207, 207.1, 207.4,</u>	<u>Generally, 1 unit per 600 sq.</u>		
21		<u>Units</u>	<u>790.88(a)</u>	<u>ft. lot area</u>		
22	<u>747.92</u>	<u>Residential Density, Group</u>	<u>§§ 207.1, 208, 790.88(b)</u>	<u>Generally, 1 bedroom per 210</u>		
23		<u>Housing</u>		<u>sq. ft. lot area</u>		
24	<u>747.93</u>	<u>Usable Open Space</u>	<u>§§ 135, 136</u>	<u>Generally, either 80 sq. ft. if</u>		
25						

	<u>[Per Residential Unit]</u>		<u>private, or 100 sq. ft. if</u>
			<u>common § 135(d)</u>
747.94	<u>Off-Street Parking, Residential</u>	<u>§§ 150, 151.1, 153 - 157,</u>	<u>None required. P up to .5 cars</u>
		<u>159 - 160</u>	<u>per unit, C up to .75 cars per</u>
			<u>unit, NP above</u>
747.95	<u>Community Residential Parking</u>	<u>§ 790.10</u>	<u>C</u> <u>C</u> <u>C</u>

SPECIFIC PROVISIONS FOR THE FILLMORE STREET

NEIGHBORHOOD COMMERCIAL DISTRICT

<u>Article 7</u> <u>Code</u> <u>Section</u>	<u>Other Code</u> <u>Section</u>	<u>Zoning Controls</u>
<u>§ 747.68</u>	<u>§ 249.35</u>	<u>FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT</u> <u>(FFSRUD)</u> <u>Boundaries: The FFSRUD and its ¼ mile buffer includes, but is not limited</u> <u>to, properties within the Fillmore Street NCD.</u> <u>Controls: Within the FFSRUD and its ¼ mile buffer, fringe financial</u> <u>services are NP pursuant to Section 249.35. Outside the FFSRUD and its</u> <u>¼ mile buffer, fringe financial services are P subject to the restrictions set</u> <u>forth in Subsection 249.35(c)(3).</u>
<u>§ 747.84</u> §	<u>790.141</u> <u>Health Code §</u> <u>3308</u>	<u>Medical Cannabis Dispensaries may only operate between the hours of 8</u> <u>a.m. and 10 p.m.</u>

Section 3. The Planning Code is hereby amended by revising Table 151.1 and Sections 151.1, 201, 249.35, 607.1, and 702.1, to read as follows:

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

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

8 * * * *

9 **Table 151.1**

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

Use or Activity	Number of Off-Street Car Parking Spaces or Space Devoted to Off-Street Car Parking Permitted
11 * * * * 12 Dwelling units and SRO units in NCT, <u>RC</u> , C- 13 M, RSD, and SLR Districts , and Chinatown 14 Mixed Use Districts , and the Broadway , 15 Divisadero Street, Fillmore Street, North Beach, 16 and the Upper Market NCD Neighborhood 17 Commercial Districts , except as specified 18 below. 19	P up to one car for each two dwelling units; C up to 0.75 cars for each dwelling unit, subject to the criteria and procedures of Section 151.1(g); NP above 0.75 cars for each dwelling unit.
20 Dwelling units in the <u>Glen Park and Ocean</u> 21 <u>Avenue NCT Districts</u> and the Excelsior Outer 22 Mission Street Neighborhood Commercial Glen 23 Park NCT District	P up to one car for each unit; NP above.
24 Dwelling units in the Folsom Street NCT and RCD	P up to one car for each two dwelling units; up to

1 2 3 Districts	0.75 cars for each dwelling unit, subject to the criteria and procedures of Section 151.1(g); NP above 0.75 cars for each dwelling unit.
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4 **SEC. 201. CLASSES OF USE DISTRICTS.**

5 In order to carry out the purposes and provisions of this Code, the City is hereby
6 divided into the following classes of use districts:

7 * * * *

8 **Named Neighborhood Commercial Districts**

9 (Defined in Sec. 702.1)

10 Broadway Neighborhood Commercial District (Defined in Sec. 714.1)

11 Castro Street Neighborhood Commercial District (Defined in Sec. 715.1)

12 Inner Clement Street Neighborhood Commercial District (Defined in Sec. 716.1)

13 Outer Clement Street Neighborhood Commercial District (Defined in Sec. 717.1)

14 Divisadero Street Neighborhood Commercial District (Defined in Sec. 746.1)

15 Excelsior Outer Mission Neighborhood Commercial District (Defined in Sec. 745.1)

16 Fillmore Street Neighborhood Commercial District (Defined in Sec. 747.1)

17 Upper Fillmore Street Neighborhood Commercial District (Defined in Sec. 718.1)

18 Haight Street Neighborhood Commercial District (Defined in Sec. 719.1)

19 Inner Sunset Neighborhood Commercial District (Defined in Sec. 730.1)

20 Irving Street Neighborhood Commercial District (Defined in 740.1)

21 Judah Street Neighborhood Commercial District (Defined in Sec. 742.1)

22 Upper Market Street Neighborhood Commercial District (Defined in Sec. 721.1)

23 Noriega Street Neighborhood Commercial District (Defined in Sec. 739.1)

24 North Beach Neighborhood Commercial District (Defined in Sec. 722.1)

1 Pacific Avenue Neighborhood Commercial District (Defined in Sec. 732.1)

2 Polk Street Neighborhood Commercial District (Defined in Sec. 723.1)

3 *Regional Commercial District (Defined in Sec. 744)*

4 Sacramento Street Neighborhood Commercial District (Defined in Sec. 724.1)

5 *Inner Sunset Neighborhood Commercial District (Defined in Sec. 730.1)*

6 *Taraval Street Neighborhood Commercial District (Defined in 741.1)*

7 *24th Street-Noe Valley Neighborhood Commercial District (Defined in Sec. 728.1)*

8 Union Street Neighborhood Commercial District (Defined in Sec. 725.1)

9 *24th Street Noe Valley Neighborhood Commercial District (Defined in Sec. 728.1)*

10 West Portal Avenue Neighborhood Commercial District (Defined in Sec. 729.1)

11 *Noriega Street Neighborhood Commercial District (Defined in Sec. 739.1)*

12 *Irving Street Neighborhood Commercial District (Defined in 740.1)*

13 *Taraval Street Neighborhood Commercial District (Defined in 741.1)*

14 Judah Street Neighborhood Commercial District (Defined in Sec. 742.1)

15 *Regional Commercial District (Defined in Sec. 744)*

16 *Excelsior Outer Mission Neighborhood Commercial District (Defined in Sec. 745.1)*

17 * * * *

18
19 **SEC. 249.35. FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT.**

20 * * * *

21 (b) **Establishment of the Fringe Financial Service Restricted Use District.** In order
22 to preserve the residential character and the neighborhood-serving commercial uses of the
23 following defined areas, a noncontiguous Fringe Financial Service Restricted Use District
24 (Fringe Financial Service RUD) is hereby established for the following properties:
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1 (1) Properties in the Mission Alcoholic Beverage Special Use District, as
2 described in Section ~~249.60~~ 781.8 of this Code and as designated on *Zoning Sectional Maps*
3 *Numbers* SU07 and SU08 of the Zoning Map of the City and County of San Francisco;

4 (2) Properties in the North of Market Residential Special Use District, as
5 described in Section 249.5 of this Code and as designated on *Zoning Sectional Maps Numbers*
6 SU01 and SU02 *of the Zoning Map of the City and County of San Francisco*;

7 (3) Properties in *NC-1 and NCT-3 Districts, and in the Broadway (Sec. 714), Castro*
8 *Street (Sec. 715), Inner Clement Street (Sec. 716), Outer Clement Street (Sec. 717), Divisadero Street*
9 *(Sec. 746) Alcohol Restricted Use District, as described in 783 of this Code and as designated on*
10 *Zoning Maps Numbers SU02 and SU07 of the Zoning Map of the City and County of San Francisco*
11 *and the Excelsior Outer Mission Street (Sec. 745), Fillmore Street (Sec. 747), Upper Fillmore*
12 *Street (Sec. 718), Fillmore Street (Sec. 747), Haight Street (Sec. 719), Upper Market Street (Sec.*
13 *721), Upper Market Street NCT (Sec. 733), Mission Street (Sec. 736), North Beach (Sec. 722), Pacific*
14 *Avenue (Sec. 732), Sacramento Street (Sec. 724), Inner Sunset (Sec. 730), 24th Street - Mission (Sec.*
15 *727), 24th Street - Noe Valley (Sec. 728), Union Street (Sec. 725), Valencia Street (Sec. 726), and West*
16 *Portal Avenue (Sec. 729) Neighborhood Commercial Districts, as described in Section 745 of this*
17 *Code and as designated on Zoning Map ZN08 of the Zoning Map of the City and County of San*
18 *Francisco*;

19 (4) Properties in the Third Street Alcohol Restricted Use District, as described in
20 Section ~~249.62~~ 782 of this Code and as designated on *Zoning Sectional Map Number* SU10 of
21 the Zoning Map of the City and County of San Francisco; and

22 (5) Properties in the Haight Street Alcohol Restricted Use Subdistrict, as
23 described in Section 781.9 of this Code and as designated on *Zoning Sectional Maps Numbers*
24 SU06 and SU07 of the Zoning Map of the City and County of San Francisco.

1 **SEC. 607.1. NEIGHBORHOOD COMMERCIAL AND RESIDENTIAL-COMMERCIAL**
2 **DISTRICTS.**

3 * * *

4 (e) **General Advertising Signs.** General advertising signs, as defined in Section
5 602.7, shall, where permitted by the zoning controls for the individual NC districts, conform to the
6 requirements of this subsection be permitted in Neighborhood Commercial Districts, except in the
7 Inner Sunset Neighborhood Commercial District where they are not permitted, as provided for below.

8 In NC Districts where such signs are permitted, general advertising signs may be either a wall
9 sign or freestanding, provided that the surface of any freestanding sign shall be parallel to and
10 within three feet of an adjacent building wall. In either case, the building wall shall form a
11 complete backdrop for the sign, as the sign is viewed from all points from a street or alley from
12 which it is legible. No general advertising sign shall be permitted to cover part or all of any
13 windows. Any extension of the copy beyond the rectangular perimeter of the sign shall be
14 included in the calculation of the sign, as defined in Section 602.1(a) of this Code.

15 (1) NC-2, NCT-2, ~~and~~ NC-S, and named NC and NCT Districts. No more than one
16 general advertising sign shall be permitted per lot or in NC-S Districts, per district. Such sign
17 shall not exceed 72 square feet in area nor exceed 12 feet in height. Such sign may be either
18 nonilluminated or indirectly illuminated.

19 (2) NC-3, and NCT-3, ~~and~~ Broadway Districts. No more than one general
20 advertising sign not exceeding 300 square feet or two general advertising signs of 72 square
21 feet each shall be permitted per lot. The height of any such sign shall not exceed 24 feet, or
22 the height of the wall to which it is attached, or the height of the lowest of any residential
23 windowsills on the wall to which it is attached, whichever is lower, if a wall sign, or the
24 adjacent wall or the top of the adjacent wall if a freestanding sign, whichever is lower.

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

4 * * * *

5 (2) RC, NC-2, NCT-2, NC-S, Broadway, Castro Street, Inner Clement Street,
6 Outer Clement Street, Divisadero Street, Excelsior Outer Mission Street, Fillmore Street, Upper
7 Fillmore Street, Folsom Street, Glen Park, Inner Sunset, Irving Street, Haight Street, Hayes-
8 Gough, Judah Street, Upper Market Street, ~~Excelsior Outer Mission Street~~, Noriega Street,
9 North Beach, Ocean Avenue, Pacific Avenue, Polk Street, Regional Commercial District,
10 Sacramento Street, SoMa, Taraval Street, Union Street, Valencia Street, 24th Street -
11 Mission, 24th Street - Noe Valley, and West Portal Avenue, ~~Glen Park, RCD, and Folsom Street~~
12 Neighborhood Commercial Districts.

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

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

22 (C) **Projecting Signs.** The number of projecting signs shall not exceed
23 one per business. The area of such sign, as defined in Section 602.1(a), shall not exceed 24
24 square feet. The height of such sign shall not exceed 24 feet, or the height of the wall to which
it is attached, or the height of the lowest of any residential windowsill on the wall to which the

1 sign is attached, whichever is lower. No part of the sign shall project more than 75 percent of
2 the horizontal distance from the street property line to the curbline, or six feet six inches,
3 whichever is less. Such signs may be nonilluminated or indirectly illuminated; or during
4 business hours, may be directly illuminated.

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

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

20 * * * *

21 **SEC. 702.1. NEIGHBORHOOD COMMERCIAL USE DISTRICTS.**

22 (a) The following districts are established for the purpose of implementing the
23 Commerce and Industry element and other elements of the General Plan, according to the
24 objective and policies stated therein. Description and Purpose Statements outline the main
25

1 functions of each Neighborhood Commercial (NC) District in the Zoning Plan for San
 2 Francisco, supplementing the statements of purpose contained in Section 101 of this Code.

3 The description and purpose statements and land use controls applicable to each
 4 of the general and individual area districts are set forth in this Code for each district class. The
 5 boundaries of the various Neighborhood Commercial Districts are shown on the Zoning Map
 6 referred to in Sections 105 and 106 of this Code, subject to the provisions of that Section.

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8	****	
9	Named Neighborhood Commercial Districts	Section Number
10	Broadway Neighborhood Commercial District	§ 714
11	Castro Street Neighborhood Commercial District	§ 715
12	Inner Clement Street Neighborhood Commercial District	§ 716
13	Outer Clement Street Neighborhood Commercial District	§ 717
14	<u>Divisadero Street Neighborhood Commercial District</u>	<u>§ 746</u>
15	<u>Excelsior Outer Mission Street Neighborhood Commercial District</u>	<u>§ 745</u>
16	<u>Fillmore Street Neighborhood Commercial District</u>	<u>§ 747</u>
17	Upper Fillmore Street Neighborhood Commercial District	§ 718
18	Haight Street Neighborhood Commercial District	§ 719
19	<u>Irving Street Neighborhood Commercial District</u>	<u>§ 740</u>
20	<u>Judah Street Neighborhood Commercial District</u>	<u>§ 742</u>
21	Upper Market Street Neighborhood Commercial District	§ 721
22	<u>Noriega Street Neighborhood Commercial District</u>	<u>§ 739</u>
23	North Beach Neighborhood Commercial District	§ 722
24		

1	<u>Pacific Avenue Neighborhood Commercial District</u>	<u>§ 732</u>
2	Polk Street Neighborhood Commercial District	§ 723
3	<u>Regional Commercial District</u>	<u>§ 744</u>
4	Sacramento Street Neighborhood Commercial District	§ 724
5	<u>Inner Sunset Neighborhood Commercial District</u>	<u>§ 730</u>
6	<u>Taraval Street Neighborhood Commercial District</u>	<u>§ 741.1</u>
7	<u>24th Street-Noe Valley Neighborhood Commercial District</u>	<u>§ 728</u>
8	Union Street Neighborhood Commercial District	§ 725
9	24th Street-Noe Valley Neighborhood Commercial District	§ 728
10	West Portal Avenue Neighborhood Commercial District	§ 729
11	Inner Sunset Neighborhood Commercial District	§ 730
12	Glen Park Neighborhood Commercial Transit District	§ 738.1
13	Noriega Street Neighborhood Commercial District	§ 739.1
14	Irving Street Neighborhood Commercial District	§ 740.1
15	Taraval Street Neighborhood Commercial District	§ 741.1
16	Judah Street Neighborhood Commercial District	§ 742.1
17	Folsom Street Neighborhood Commercial Transit District	§ 743.1
18	Regional Commercial District	§ 744.1
19	Excelsior Outer Mission Street Neighborhood Commercial District	§ 745.1
20	****	
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23	<u>Folsom Street Neighborhood Commercial Transit District</u>	<u>§ 743.1</u>
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<i>Glen Park Neighborhood Commercial Transit District</i>	<u>§ 743.1</u>
Hayes-Gough Neighborhood Commercial Transit District	§ 720
<i>Valencia Street Neighborhood Commercial Transit District</i>	<u>§ 726</u>
<i>24th Street Mission Neighborhood Commercial Transit District</i>	<u>§ 727</u>
Upper Market Street Neighborhood Commercial Transit District	<u>§ 732</u>
<i>SoMa Neighborhood Commercial Transit District</i>	<u>§ 735</u>
Mission Street Neighborhood Commercial Transit District	§ 736
Ocean Avenue Neighborhood Commercial Transit District	§ 737
<i>Glen Park Neighborhood Commercial Transit District</i>	<u>§ 738</u>
<i>Folsom Street Neighborhood Commercial Transit District</i>	<u>§ 743.1</u>
<i>SoMa Neighborhood Commercial Transit District</i>	<u>§ 735</u>
<i>24th Street-Mission Neighborhood Commercial Transit District</i>	<u>§ 727</u>
<i>Valencia Street Neighborhood Commercial Transit District</i>	<u>§ 726</u>

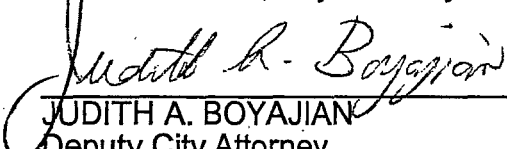
1 Section 4. Sheets ZN02 and ZN07 of the Zoning Map of the City and County of San
2 Francisco are hereby amended, as follows:

<u>Description of Property</u>	<u>Use District to be Superseded</u>	<u>Use District Hereby Approved</u>
All parcels zoned NC-3 on Blocks 0677, 0678, 0683, 0684, 0702, 0707, 0708, 0725, 0726, 0731, 0732, 0749, 0750, 0755, 0756, and 0774;	NC-3	Fillmore Street Neighborhood Commercial District

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10 Section 5. Effective Date. This ordinance shall become effective 30 days after
11 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
12 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
13 of Supervisors overrides the Mayor's veto of the ordinance.

14 Section 6. Scope of Ordinance. In enacting this ordinance, the Board intends to
15 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
16 punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that
17 are explicitly shown in this ordinance as additions, deletions, Board amendment additions,
18 and Board amendment deletions in accordance with the "Note" that appears under the official
19 title of the legislation.

20
21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By: 
24 JUDITH A. BOYAJIAN
Deputy City Attorney

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REVISED LEGISLATIVE DIGEST
(Substituted 9/23/2014)

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

Ordinance amending the Planning Code to establish the Fillmore Street Neighborhood Commercial District along Fillmore Street between Bush and McAllister Streets; amending various other Code sections to make conforming and other technical changes; amending the Zoning Map to add the Fillmore Street Neighborhood Commercial District (NCD); affirming the Planning Department's California Environmental Act determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

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

Amendments to Current Law

This ordinance establishes a new Fillmore Street Neighborhood Commercial District (NCD) which modifies certain of the former NC-3 district controls. Residential Conversion is prohibited above the ground floor. Philanthropic Administrative Services, which currently are not permitted in the district, are permitted on the second floor. Buildings on lots located in the 40-X and 50-X height district are permitted an additional 5 feet in height, if that additional height is used to provide a tall ground floor housing active street-fronting residential or non-residential uses. Minimum parking requirements for all uses are eliminated from the district. Maximum permitted parking for residential and non-residential uses are reduced to that of a Neighborhood Commercial Transit (NCT) District. Controls on new Formula Retail uses will be consistent with Citywide policy for Neighborhood Commercial Districts.

Background Information

Fillmore Street between Bush and Fulton has a dense mixed-use character consisting of buildings with residential units above ground-story commercial use. Fillmore Street and Geary Boulevard are important public transit corridors. The commercial district provides convenience goods and services to the surrounding neighborhoods as well as shopping, cultural, and entertainment uses that attract visitors from near and far.

The controls for the Fillmore Street NCD are designed to encourage and promote development that enhances the walkable, mixed-use character of the corridor and surrounding neighborhoods. Most neighborhood- and visitor-serving businesses are strongly

FILE NO.120814

encouraged and controls on new Formula Retail uses will be consistent with Citywide policy for Neighborhood Commercial Districts.

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SAN FRANCISCO PLANNING DEPARTMENT

Certificate of Determination EXCLUSION/EXEMPTION FROM ENVIRONMENTAL REVIEW

Case No.: 2012-1087E
Project Title: Board File No. 120814 (Establishing the Fillmore Street Neighborhood Commercial District)
Zoning: NC-1 (Neighborhood Commercial Cluster), NC-3 (Neighborhood Commercial, Moderate-Scale), RM-3 (Residential, Mixed Districts, Medium Density), RM-4 (Residential, Mixed Districts, High Density), and RH-3 (Residential, House Districts, Three-Family)
Height-Bulk: 40-X, 50-X, 65-A, 130-B, 160-F
Block/Lot/ Lot Size: Various
Project Sponsor: Supervisor Olague, District 5, San Francisco Board of Supervisors
Staff Contact: Heidi Kline – (415) 575-9043
 Heidi.Kline@sfgov.org

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

Reception:
 415.558.6378

Fax:
 415.558.6409

Planning
 Information:
 415.558.6377

PROJECT DESCRIPTION:

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

[Continued on following page.]

EXEMPT STATUS:

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

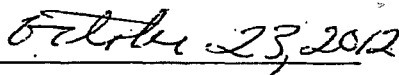
REMARKS:

Please see next page.

DETERMINATION:

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


 Bill Wycko
 Environmental Review Officer


 Date

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

Virna Byrd, M.D.F

PROJECT DESCRIPTION (CONTINUED):

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

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

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

REMARKS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Figure 1 Map showing the Proposed Fillmore Street NCD





SAN FRANCISCO PLANNING DEPARTMENT

July 26, 2013

Ms. Angela Calvillo, Clerk of the Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: **Transmittal of Planning Department Case Number 2013.0936U:
Formula Retail Controls: Today and Tomorrow
Planning Commission Resolution: Recommending to the Board of Supervisors
that the issue of formula retail controls be further studied**

Dear Ms. Calvillo:

On July 25, 2013, the San Francisco Planning Commission conducted a duly noticed public hearing at the regularly scheduled meeting to consider the issue of formula retail, including a presentation about the history of the controls, recent and pending changes to the controls, and topics to study in order to inform future policy. At the hearing, the Planning Commission passed a resolution recommending to the Board of Supervisors that the issue be studied further and that if proposals do move forward in the short term, that the Board resist patchwork changes to the structural components of the formula retail controls. Specifically, Planning Commission Resolution No. 18931 states:

Recommending to the Board of supervisors that the issue of formula retail be studied further to increase understanding of the issue overall and to examine potential economic and visual impacts of the proposed controls versus the absence of new controls. If proposals are to move forward before further study can be done, the commission recommends resisting patchwork changes to structural components of the controls such as the definition of formula retail, for these types of structural changes are best applied citywide.

Please include this transmittal, including Resolution No. 18931 and the Executive Summary (both attached) in the files for recent and pending formula retail proposals, including: BF 120814, introduced by Supervisor Breed; BF 130468, also sponsored by Supervisor Breed; BF 130712 sponsored by Supervisor Kim; BF 120193, sponsored by Supervisor Wiener; and BF 130677, also sponsored by Supervisor Wiener.

Please find attached documents relating to the action of the Planning Commission. If you have any questions or require further information please do not hesitate to contact me.

120193
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Transmittal Materials

CASE NO. 2013.0936U
Formula Retail Controls: Today and Tomorrow

Sincerely,

Handwritten signature in black ink, appearing to read "AM-RG" followed by a horizontal line.

AnMarie Rodgers
Manager of Legislative Affairs

cc:

Supervisor Chiu, District 3, President of the Board of Supervisors, and Member, Land Use Committee
Supervisor Breed, District 5
Supervisor Kim, District 6, and Member, Land Use Committee
Supervisor Wiener, District 8 and Chair, Land Use Committee
Jason Elliot, Mayor's Director of Legislative & Government Affairs
Amy Cohen, Mayor's Office of Economic and Workforce Development

Attachments (two hard copies of the following):

Planning Commission Resolution 18931
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Memorandum to the Planning Commission

HEARING DATE: JULY 25, 2013

Project Name: Formula Retail Controls Today and Tomorrow
Case No.: 2013.0936U
Initiated by: Planning Commission
Staff Contact: Sophie Hayward, Legislative Planner
(415) 558-6372 sophie.hayward@sfgov.org
Jenny Wun, Legislative Intern
Reviewed by: AnMarie Rodgers, Manager, Legislative Affairs
AnMarie.Rodgers@sfgov.org

Recommendation: Recommend Further Study

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STATEMENT OF PURPOSE

On June 13, 2013, Planning Commission President Rodney Fong directed staff to review and analyze planning controls for formula retail uses in San Francisco due to the numerous pending proposals to change these controls. While the Department has requested additional time to develop a thorough proposal, the Commission will consider a pending proposed Ordinance introduced by Supervisor Cohen to establish the Third Street Formula Retail Restricted Use District during the July 25, 2013 hearing.

This report will provide a history of formula retail controls in San Francisco, and will summarize existing controls across zoning districts, highlighting similarities and differences. In addition, this report will outline recent legislative proposals to amend the formula retail controls in individual neighborhoods. It is the Department's goal to develop a series of controls that are clear, concise, and easy to implement that will protect neighborhood character and provide necessary goods and services. Finally, this report will identify topics for additional study and will outline ideas for future amendments to the formula retail controls to better maintain both a diverse array of available goods and services and the unique character of San Francisco's neighborhoods, including Neighborhood Commercial Districts, downtown districts, and industrial areas.

BACKGROUND

History of San Francisco's Formula Retail Controls. In 2004, the Board of Supervisors adopted San Francisco's first formula retail use controls, which added Section 703.3 ("Formula Retail Uses") to the Planning Code to provide both a definition of formula retail and a regulatory framework that intended, based on the findings outlined in the Ordinance, to protect "a diverse

retail base with distinct neighborhood retailing personalities comprised of a mix of businesses.”¹ The Ordinance established the existing definition for formula retail as “a type of retail sales activity or retail sales establishment which, along with eleven or more other retail sales establishments, maintains two or more of the following features: a standardized array of merchandise, a standardized façade, a standardized décor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark.”² This first identification of formula retail in the Planning Code provided the following controls:

- Neighborhood Notification pursuant to Planning Code Section 312 for most permitted uses in Neighborhood Commercial Districts (NCDs);
- Conditional Use (CU) authorization for specific blocks and lots in the area of Cole and Carl Streets and Parnassus and Stanyan Streets; and,
- A prohibition on all formula retail uses within the Hayes-Gough Neighborhood Commercial District.

The 2004 Ordinance established a precedent for formula retail controls; a number of amendments in quick succession added districts in which formula retail uses require CU authorization, including: 2005 amendments that added the Haight Street NCD and the small-scale NCD along Divisadero Street between Haight and Turk Streets, and a 2006 amendment that added the Japantown Special Use District (SUD).³ In addition, a 2005 amendment added a prohibition on formula retail uses in the North Beach NCD.⁴ In 2006, Section 803.6 was added to the Planning Code, requiring CU authorization for formula retail uses in the Western SoMa Planning Area SUD.⁵

In 2007, formula retail controls were further expanded when San Francisco voters approved Proposition G, the so-called “Small Business Protection Act,” which amended the Planning Code by adding Section 703.4, requiring CU authorization for formula retail uses (as defined in the Code) proposed for any NCD.⁶

¹ Ordinance Number 62-04, Board File 031501, available online at <http://sfgov.legistar.com/LegislationDetail.aspx?ID=473759&GUID=A83D8A84-B457-4B93-BCF5-11058DDA5598&Options=ID|Text|&Search=62-04> (July 16, 2013). It is interesting to note that when this Ordinance was originally proposed, the definition of “formula retail” referred to a retail establishment with four or more outlets, rather than eleven or more other establishments (as indicated in “Version 1” of the legislation). In addition, during the legislative review process, the Planning Department was not supportive of the controls, and cited difficulties in implementation and the additional staff required in order to implement the additional review procedures.

² Planning Code Section 703.3(b).

³ Ordinances Nos. 8-05 (Haight Street), 173-05 (Divisadero Street), and 180-06 (Japantown). Available online at <http://sfgov.legistar.com/Legislation.aspx>.

⁴ Ordinance No. 65-05, available online at <http://sfgov.legistar.com/Legislation.aspx>.

⁵ Ordinance No. 204-06. This Section has since been further amended to allow formula retail uses with Conditional Use authorization in the MUG, UMU, Western SoMa SUD, the Chinatown Business District and the Chinatown Residential Neighborhood Commercial District, and to prohibit formula retail uses in the Chinatown Visitor Retail District, and to prohibit formula retail Restaurants in any Chinatown Mixed Use District. The Ordinances are available online at available online at <http://sfgov.legistar.com/Legislation.aspx>.

⁶ The text of the Proposition, as well as arguments for (drafted by then-Supervisors Peskin, Sandoval, Ammiano, Daly, Mirkarimi, Gonzalez, and the nonprofit San Francisco Tomorrow) and against (drafted by then-Supervisors Elsbernd and Alioto-Pier) are available online here: <http://smartvoter.org/2006/11/07/ca/sf/meas/G/> (July 16, 2013).

The passage of Proposition G set the stage for a series of further amendments to the Planning Code that have further limited formula retail uses in a range of zoning districts, through CU authorization requirements and prohibitions, as summarized in Table 1, below.

Voter-Established Controls vs. Typical Planning Code Amendments. Proposition G, a voter-approved ballot proposition, established Planning Code Section 703.4; therefore, the contents of this section can only be changed through a similar ballot process, and may not be amended by the typical legislative process.

The specific provision that may not be altered without a ballot initiative requires that formula retail uses proposed for an NCD requires Conditional Use authorization by the Planning Commission. Conversely, the definition of "formula retail," the use types included in the definition, and the criteria for consideration may be altered through a standard Planning Code Amendment initiated by the mayor, the Board of Supervisors, or the Planning Commission. Furthermore, Section 703.4 specifically notes that the Board of Supervisors may adopt more restrictive provisions to regulate formula retail in any NCD.

The Way It Is Now:

Definition. The Planning Code includes an identical definition of "Formula Retail" in three locations: Section 303(i)(1), 703.3, and 803.6(c). "Formula Retail" is defined 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 façade, a standardized décor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark." As noted above, this definition was first established in Section 703.3.

Use Types Subject to the Definition of Formula Retail. Section 303(i)(2) refines the definition of formula retail to include the following specific retail uses:

- Bars (defined in Section 790.22);
- Drive-Up Facilities (defined in Section 790.30);
- Eating and Drinking Use, Take Out Food, Limited Restaurant, and Restaurants (defined in Sections 790.34, 790.122, 790.90, and 790.91);
- Liquor Store (defined in Section 790.55);
- Sales and Service, Retail (defined in Section 790.104);
- Financial Service (defined in Section 790.110); and,
- Movie Theatre, Amusement and Game Arcade (defined in Sections 790.64 and 790.4).

The formula retail controls described in Articles 7 and 8 refer Section 303(i)(2) for the above listed uses. The exception to this list is "Trade Shop," a use defined in Section 790.124, which is only subject to the formula retail controls when proposed in the Taraval Street NCD, Noriega Street NCD and the Irving Street NCD.⁷

⁷ Sections 739.1 and 740.1. Section 790.124 defines Trade Shop as: "A retail use which provides custom crafted goods and/or services for sale directly to the consumer, reserving some storefront space for display and retail service for the goods being produced on site ..." includes: repair of personal apparel, accessories, household goods, appliances, furniture and similar items, but excluding repair of motor vehicles and structures; upholstery services; carpentry; building,

Zoning Districts that Control Formula Retail. Retail uses that fall into the category of formula retail, as described above, may be permitted, prohibited, or may require CU authorization, depending on the zoning district in which the use is proposed. In addition, there are specific controls or combinations of controls that apply only in certain zoning districts. Controls for formula retail uses are summarized in Tables 1 and 2 below.

Table 1: Summary of Basic Controls for Formula Retail Uses

Formula Retail Not Permitted	Formula Retail Requires a CU	Formula Retail Permitted
Hayes-Gough NCT	All Neighborhood Commercial Districts listed in Article 7	C-2, C-3 (all), C-M, M-1, M-2, PDR-1-G, PDR-1-D, PDR-1-B, PDR-2 (Section 218)
North Beach NCD	RC-3 and RC-4 (Section 209.8(d))	Potrero Center Mixed-Use SUD (Section 249.40)
RH-1(D)-3, RM-1-4, RTO, RTO-M (Section 209.8)	Japantown SUD (249.31)	South Park District (Section 814)
Chinatown Visitor Retail District (Section 811)	Bayshore Boulevard Home Improvement SUD (249.65, when 10,000 square feet or larger.)	RSD (Section 815)
Residential Enclave District (Section 813)	Chinatown Community Business District (Section 810)	SLR (Section 816)
RED-MX (Section 847)	Chinatown Residential NCD (Section 812.1)	SLJ (Section 817)
	Western SoMa SUD (Section 823, including specific review criteria)	SSO (Section 818)
	MUG District (Section 840)	Rincon Hill Downtown Residential District (Section 827)
	UMU (Section 843)	Transbay Downtown Residential District (Section 828)
	WMUG (Section 844)	Southbeach Downtown Residential District (Section 829)
	SALI (Section 846), with size limits	MUR (Section 841)
	WMUO (Section 845), with size limits	MUO (Section 842)

Table 1 summarizes the basic controls for Formula Retail by zoning district.

As illustrated above, formula retail uses typically require CU authorization in NC districts, are not permitted in residential districts, and are permitted in downtown and South of Market industrial districts.

Within a number of zoning districts, however, formula retail controls are further refined and differ from the basic uses and controls that apply to formula retail, as summarized below in Table 2. These controls have typically been added in response to concern regarding over-concentration of certain uses, perceived threats to independent businesses, or the impacts to neighborhood character caused by large use sizes within a geographic area. Examples of these specific controls

plumbing, electrical, painting, roofing, furnace or pest control contractors; printing of a minor processing nature; tailoring; and other artisan craft uses, including fine arts uses.

include the stipulation that Trade Shops (defined in Section 790.124) are subject to formula retail controls in certain NC districts in the Sunset, and that Pet Supply stores are subject to the controls on Geary Boulevard – a district that does not restrict many other uses categorized as formula retail.

Table 2: Summary of Formula Retail Controls Applicable to Individual Zoning Districts

Zoning Districts with Specific FR Controls	Summary of Control or Controls	Underlying FR Control
Upper Fillmore NCD (Section 718)	FR Restaurants/Limited Restaurants NP	FR Requires CU
Broadway NCD (Section 714)	FR Restaurants/Limited Restaurants NP	FR Requires CU
Mission Street FR Restaurant SUD (Section 781.5)	FR Restaurants/Limited Restaurants NP	FR Requires CU
Taraval Street Restaurant SUD	FR Restaurants/Limited Restaurants NP	FR Requires CU
Geary Boulevard FR Retail Pet Store and Restaurant SUD (Section 781.4)	FR Pet Supply Store NP and FR Restaurants/Limited Restaurants NP	FR Requires CU
Taraval Street NCD (Section 741)	Trade Shops are subject to FR Controls	FR Requires CU
Noriega Street NCD (Section 739)	Trade Shops are subject to FR Controls	FR Requires CU
Irving Street NCD (Section 740)	Trade Shops are subject to FR Controls	FR Requires CU
WMUO (Section 845)	FR NP if use is over 25,000 square feet	FR Requires CU
SALI (Section 846)	FR NP if use is over 25,000 square feet	FR Requires CU

Table 2 summarizes the more specific controls that apply in certain zoning districts.

As Table 2 indicates, a number of NCDs and SUDs have adopted controls specifically geared toward controlling formula retail restaurants, as well as more limited concern regarding formula retail pet supply stores and trade shops. Use size in association with formula retail has been identified as an issue to closely manage in the south of market districts.

Conditional Use Criteria. When hearing a request for CU authorization for a formula retail use, Section 303(i)(3) outlines the following five criteria the Commission is required to consider in addition to the standard Conditional Use criteria set for in Section 303(c):

1. The existing concentrations of formula retail uses within the district.
2. The availability of other similar retail uses within the district.
3. The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the district.
4. The existing retail vacancy rates within the district.
5. The existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the district.

Changes of Use. Planning Code Section 303(i)(7) requires that a change of use from one formula retail use to another formula retail use requires a new Conditional Use authorization. In addition, a new Conditional Use authorization is required when the use remains the same, but the operator changes, with two exceptions:

1. Where the formula use establishment remains the same size, function and with the same merchandise, and

2. Where the change in the formula retail operator is the result of the "business being purchased by another formula retail operator who will retain all components of the existing retailer and make minor alterations to the establishment(s) such as signage and branding."

When the exceptions apply and no new Conditional Use authorization is required, all conditions of approval that were imposed with the first authorization remain associated with the entitlement.

The Way It Would Be:

Active or Pending Legislation, Policies, or Decisions Related to Formula Retail. The Commission is expected to consider the contents of this report on July 25, 2013. During this same hearing, the Commission also is expected to consider a draft Ordinance from Supervisor Cohen that would enact two changes regarding formula retail [Board File 130372]. This amendment would first create the Third Street Formula Retail Restricted Use District (RUD) along Third Street from Williams Avenue to Egbert Avenue. Second, the proposed RUD would require that any new formula retail use on Third Street between Williams Avenue and Egbert Avenue seek CU authorization to operate. If any existing formula retail use has not already procured a CU permit to operate as a formula retail use, any alteration permits for a new formula retail use would require CU authorization. Any expansion or intensification of an existing Formula Retail use would also require CU authorization.

In addition to Supervisor Cohen's pending ordinance described above, there are seven other proposals or pending modifications formula retail controls in the City. The following is a summary of active formula retail control proposals:

1. **Commission Policy for Upper Market.** This policy (established by Commission Resolution Number 18843 on April 11, 2013) provides the first quantitative measure for concentration. Under the law, concentration is to be considered but without guidance, concentration levels have been interpreted differently. Under this enacted policy, the Department recommends disapproval if certain concentrations are reached.
2. **Supervisor Breed** would create the Fillmore [BF 120814] and Divisadero [BF 120796] NCDs which, among other controls, originally sought to prohibit new formula retail uses. Her new proposal would seek to weigh the community voice over other considerations (including staff recommendation); generally weigh the hearing towards disapproval; legislate a requirement for pre-application meeting; and codify our current formula retail policy for Fillmore and Divisadero. While the commission recommended against codifying the formula retail policy and against deferring the commission recommendation to community groups, the Supervisor is still considering how to best amend this proposal.
3. **Supervisor Breed** would also amend the definition of formula retail but only in the Hayes-Gough NCT [BF 130468]. The legislation proposes to modify the definition of formula retail to include formula retail that is a type of retail sales activity or retail sales establishment and has eleven or more other retail sales establishments located *anywhere in the world* (emphasis added). The definition of formula retail would also include a type of retail sales activity or retail sales establishment where fifty percent (50%) or more of the stock, shares, or any

similar ownership interest of such establishment is owned by a formula retail use, or a subsidiary, affiliate, or parent of a formula retail use, even if the establishment itself may have fewer than eleven retail sales establishments located anywhere in the world.

4. **Supervisor Kim** introduced interim controls [BF 130712] at the July 9th, 2013 Board of Supervisors' hearing that would impose interim zoning controls requiring conditional use authorization for certain formula retail uses, as defined, on Market Street, from 6th Street to Van Ness Avenue, subject to specified exceptions for grocery stores, for 18 months.
5. **Implications from recent Board of Appeals hearing.** The Board of Appeals recently ruled (Appeal No. 13-030) that if a company has signed a lease for a location (even if the location is not yet occupied) those leases count that toward the 11 establishments needed to be considered formula retail. The Board discussed, but did not act on web-based establishments.
6. **Mobile Food Facilities.** Supervisor Wiener's recently approved ordinance amended the Department of Public Work's code [BF 120193] to restrict food trucks that are *associated* with formula retail establishments in the public right of way. The change of note is that for this restriction, the formula retail definition includes "affiliates" of formula retail restaurants, which includes an entity that is owned by or has a financial or contractual agreement with a formula retail use.
7. **Interim Controls in Upper Market.** On June 25, 2013, Supervisor Wiener introduced interim controls for Upper Market [BF 130677]. Although not specifically related to formula retail this resolution seeks to require CU for uses that are not currently regulated by formula retail controls but that have been suggested for inclusion in formula retail definition in the same way that financial services were recently added to the definition. Centers around 16th and Market would require a CU for limited financial and business services for 18 months.

REQUIRED COMMISSION ACTIONS

No action is required. The proposed resolution is before the Commission so that it may recommend further study of the issue.

ISSUES AND CONSIDERATIONS

As has been noted in recent case reports by the Department that address specific proposals and projects that include a formula retail component, San Francisco has struggled with the how best to define, manage, and evaluate chain establishments since the 1980s, when the NCDs were added to the Planning Code. The NCDs districts were specifically created to protect and maintain the unique character of these districts. That said, there are districts and neighborhoods that want to encourage access to the goods and services provided by certain forms of formula retail, or by specific companies that are considered formula retail; there are also neighborhoods that have banned formula retail of all kinds in order to protect the character derived from independent businesses.

In this section, we consider the definition of formula retail, statistics related to CU authorization applications since the implementation of the first formula retail controls, a review of the economic impacts of formula retail, and the approach to formula retail controls taken in other jurisdictions.

Formula Retail Defined: Chain Stores, National Brands, and Local Favorites

Existing formula retail controls apply to businesses that one would expect to consider "chain stores," such as so-called big box retailers, as well as to businesses that may be surprising, such as smaller-scale businesses with local ownership, but with eleven or more brick and mortar establishments. The broadest definition of "Formula Retail" included in the Planning Code is:

[A use] hereby defined 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 façade, a standardized décor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark.⁸

The definition currently appears in three places in the Planning Code: Sections 303(i), 703.3(c), and 803.6, and captures many of the types and sizes of businesses generally associated with the term "chain store":

- "Big box" retailers such as Walmart, HomeDepot, and CVS;
- Fast food restaurants such as Subway, McDonalds, and casual dining establishments such as TGI Fridays and Chipotle;
- Nationally recognized brands such as the Gap, Footlocker, and AMC Movie Theaters.

As noted in the Finding 9 of Section 703.3(1), which outlines the general controls applicable within the City's NCDs, formula retail establishments 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[...]" The controls are explicit in their intent to provide additional oversight to national brands that may fit general use size limitations, but may also pose a threat to the unique visual character of San Francisco's neighborhood commercial districts.

However, the definition also captures a number of local brands and smaller retailers that may not typically be associated with the term chain store, such as:

- La Boulange Bakery, which has 20 locations, all in the Bay Area;
- Pet Food Express, which has 47 stores, all in the Bay Area;
- Blue Bottle Coffee, which has 11 locations: six in the Bay Area, and five in New York City;
- Benefit Cosmetics, which has six Bay Area locations, as well as five in the Chicago area, and seven in the northeast including New York, Massachusetts, and Connecticut.

⁸ Planning Code Sections 703.3 and 803.6

Conversely, the definition does not apply to a number of establishments that are nationally known brands with standardized signage, a standardized décor, and a trademark, such as:

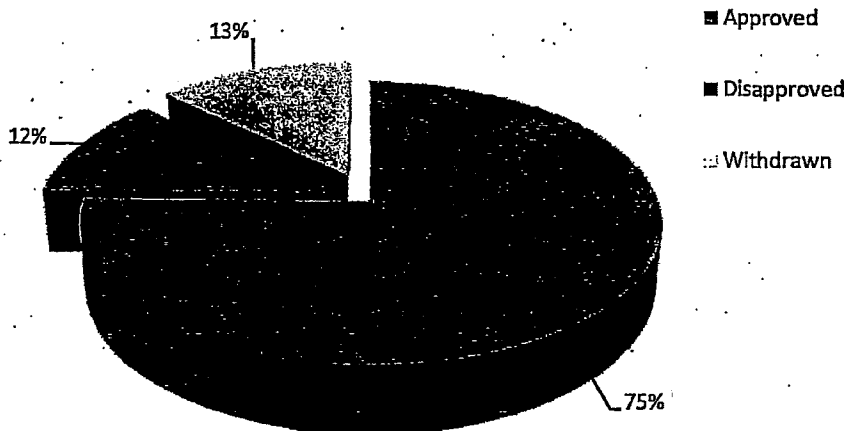
- Uniqlo, Boots Pharmacy, and David's Teas: three internationally known stores and brands with fewer than 11 stores or retail outlets in the United States;
- High end clothiers that are found in many department stores, with few brick and mortar stores, such as Gant, Jack Spade, and Joie;
- Chevron Gas Station and Equinox Gym meet threshold criteria for the number of locations as well as standardized branding, but do not fall into the types of "retail" to which the controls apply.

Data Related to Applications for CU Authorization for Formula Retail in San Francisco

Of the cases that have been filed with the Department and resolved since the enactment of San Francisco's formula retail controls in 2004, there have been approximately 93 formula retail Conditional Use cases. Of those 12 have been withdrawn, 11 have been disapproved, 70 have been approved. Not including currently active cases,

- 25% of all Formula Retail Conditional Use applications have been either withdrawn by the applicant or disapproved by the Commission and
- 75% of all Conditional Use applications have been approved by the Planning Commission.

**Actions on Conditional Use Applications
for Formula Retail**



This pie-chart shows the results of the 93 CU applications for formula retail that have been resolved. In addition to the closed cases shown above, there are currently 12 applications which are pending a hearing before the Planning Commission.

Survey of Economic Impacts of Formula Retail Uses and Non-Formula Retail Uses

During a staff review of existing research and study of formula retail, the Department found that most of the studies done to date focused on big box retail. The Institute for Local Self-Reliance maintains a collection of research, some of which was relevant information for San Francisco. Attachment C contains a survey of material, some published in journals such as the Cambridge Journal of Regions and Economy and Society, Economic Development Quarterly, some not. The majority of the relevant research has been completed by Civic Economics and The Institute for Local Self-Reliance, as commissioned work. A review of existing findings of this work showed several case studies that compare economic impacts from formula retail uses and non-formula retail uses, including one study conducted in San Francisco⁹. Although most studies investigate economic impacts in smaller cities with less density and intense uses than San Francisco, the studies conclude that non-formula retail uses generate greater economic impacts for the local economy.

Below, the department reviews two recent studies examining formula retail and non-chain stores: an overview of other studies by Ridley & Associates in 2008 and the Civic Economics that was specific to San Francisco in 2007.¹⁰ Both of these studies found that both formats have economic advantages. The Ridley & Associates study compared the economic impacts of "local stores" vs. "chain stores" and established three major findings:

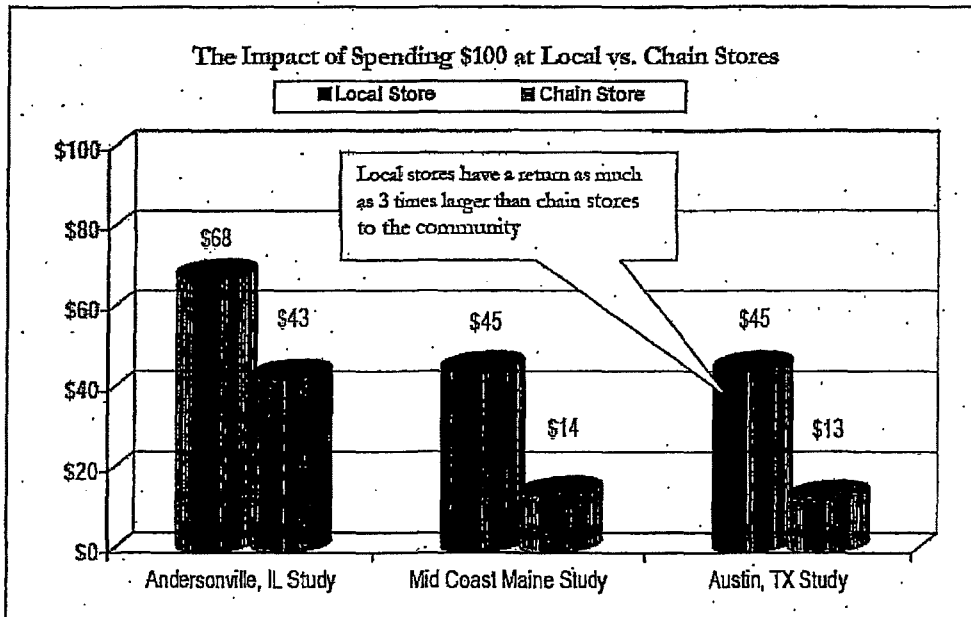
- First, formula retailers provide goods and services at a more affordable cost and can serve as retail anchors for developing neighborhoods.
- Second, these formula retailers can also attract new customers, and offer a greater selection of goods and services.
- Third, conversely, independent businesses generate a higher investment return, and overall economic growth, for the local economy in comparison to formula retailers. According to the report, local stores generate more economic growth because they tend to pay higher wages; purchase goods and services from local businesses at twice the rate as chain stores; and employees and owners tend to live in the local area, therefore returning their earnings back to the local community.

Looking specifically at San Francisco, the Civic Economics study stated that the increased retail sales generated by independent merchants generate additional taxable income for public services. The study highlights that independent restaurants tend to generate the most economic growth for the local economy due to the fact they function like small manufacturing establishments and pay higher wages. Other independent merchants that generate less pronounced economic growth include book stores, toy stores and sporting goods stores. Figure 1 illustrates the difference in economic growth generation between chain and independent retailers in three communities:

⁹ Institute for Local Self-Reliance. "Key Studies on Big Box Retail and Independent Business". <http://www.ilsr.org/key-studies-walmart-and-bigbox-retail/> (June 28, 2013).

¹⁰ Ridley & Associates, Inc. "Are Chain Stores Bad?" 2008. http://www.capecodcommission.org/resources/economicdevelopment/Are_Chain_Stores_Bad.pdf and Civic Economics. "The San Francisco Retail Diversity Study." May 2007. <http://civiceconomics.com/app/download/5841704804/SFRDS+May07.pdf>

Anderson, Illinois, Maine, and in Austin, Texas. The Department believes that further research is needed in this area.



This graphic prepared by Ridley and Associates illustrates the higher investment return to the community by local stores.

Formula Retail Controls Across the Nation

The proliferation of formula retail is occurring throughout the nation. Several cities are in the process of or have recently adopted formula retail regulations. (See Attachment B for a table of cities with such controls compiled by the Institute for Local Self-Reliance.) Staff review of these controls reveal that concerns about formula retail include: 1) preservation of the neighborhood character; 2) maintenance of diverse store fronts, goods and services. 3) activation of streetscapes and 4) support for potential economic advantages of independent businesses. Many of the ordinances do not seek to prohibit every formula establishment, but instead seek to prevent a proliferation of formula retail may disrupt the culture of a neighborhood and/or discourage diverse retail and services.

Formula retail controls have been enacted in states including Texas, Florida, Idaho and Massachusetts. Cities that have adopted formula retail laws tend to be smaller than San Francisco and are often located in California. Other than San Francisco, the largest city that has an enacted law is Fairfield Connecticut which has a population of 57,000. In addition to whole cities, a portion of New York City, the Upper West Side neighborhood, has enacted controls that while not formula retail controls per se, do seek to limit the size of establishments and impose

aesthetic regulation of transparency, largely as a response to a perceived over-proliferation of banks¹¹.

Generally, other jurisdictions define formula retail in a manner similar to San Francisco. Typical definitions include retail establishments that are required to operate using standardized merchandise, trademarks, logos, uniform apparel, and other standardized features. To date, zoning tools have largely required special permits (similar to San Francisco's CU authorization), instilled a ban, or have limited the number of establishments or the size of the establishments permitted. As described above, San Francisco defines formula retail as eleven or more national establishments, whereas Malibu's definition captures retail establishments with six or more other locations in Southern California.¹² On the other end of the spectrum, Chesapeake City's threshold for formula retail is 50 or more establishments, regardless of location in the United States.

This report explores controls from two cities. One set of controls enacted in New York City represents an attempt to encourage "active and varied" retail in a large dense, urban area similar to San Francisco. The other set of controls passed in the small town of Coronado California, is important in that it withstood a court challenge.

1. Upper West Side, New York City.

San Francisco is often compared to New York City (NYC) in regards to the intensity of land uses, density and urbanity. While not regulating formula retail per se, in 2012 NYC City Council passed a zoning text and map amendment to promote an "active and varied" retail environment in the Upper West Side (UWS) of Manhattan. The UWS is typified by high residential density and limited commercial space. After the community board and elected officials approached New York City Department of City Planning (NYCDP) with concerns that the current retail landscape and the overall aesthetic of the neighborhood were threatened, the New York Department of City Planning conducted a block-by-block survey of the area, which illustrated that banks disproportionately occupied the existing retail frontages of the limited commercial space.¹³ At that time, 69 banks had in retail frontage in the UWS. The banks uses often consolidated between 60-94' of street frontage, while the smaller, neighborhood-serving uses featured storefronts that were 10-17'¹⁴.

The adopted Special Enhanced Commercial Districts in the UWS provide stricter controls for the two neighborhood-serving commercial corridors, and less restrictive controls for the regional-commercial hub. The controls restrict the size of street frontages for banks as well as residential lobbies and non-retail uses. Highlights of the adopted controls include:

- a. For every 50' of street frontage, there must be at least two store fronts;
- b. No single store may include more than 40' of street frontage. (Grocery stores, houses of worship and schools are exempt from restrictions.)

¹¹ New York City Department of City Planning. "Special Enhanced Commercial District Upper West Side Neighborhood Retail Street." Accessed July 15, 2013. <http://www.nyc.gov/html/dcp/html/uws/index.shtml>

¹² Malibu's ordinance defines "Southern California" as the counties of San Luis Obispo, Kern, San Bernardino, Santa Barbara, Ventura, Los Angeles, Orange, Riverside, San Diego, and Imperial.

¹³ New York City Department of City Planning. "Special Enhanced Commercial District Upper West Side Neighborhood Retail Street." Accessed July 15, 2013. <http://www.nyc.gov/html/dcp/html/uws/index.shtml>

¹⁴ Upper West Side Neighborhood Retail Streets - Approved! Presentation - updated on June 28, 2012, reflecting City Council adoption of proposal" Accessed July 16, 2013. <http://www.nyc.gov/html/dcp/html/uws/presentation.shtml>

- c. Banks and residential lobbies are limited to 25' of ground floor frontage.
- d. A 50% transparency requirement is established.¹⁵

The intent of this district is to maintain and encourage a pedestrian friendly neighborhood and the retail diversity of the district, while protecting the neighborhood-serving retailers.

2. Coronado, California

Coronado is an affluent resort city of 24,000 people located in San Diego County. It is described to have a village atmosphere, "in which its housing, shops, work places, schools, parks and civic facilities co-exist in relative harmony—its streets invite walking and bicycling and its eclectic architecture styles create a sense of timelessness that have contributed to a strong sense of community."¹⁶ Coronado has two zoning ordinances that regulate formula retail establishments: one establishes limits on formula retail restaurants; the other requires conditional use authorization for formula retail stores. The Formula Restaurant Ordinance allows no more than ten formula restaurants to be approved in the city. New formula retail restaurants must obtain a special use permit, may not locate on a corner, and must meet adopted design standards.

In December 2000, Coronado adopted a formula retail ordinance related to commercial stores. The ordinance requires that formula retail businesses obtain a special use permit from the city. Approval hinges on demonstrating that the store will contribute to an appropriate balance of local, regional, or national-based businesses and an appropriate balance of small, medium, and large-sized businesses. Formula retail businesses must be compatible with surrounding uses and occupy no more than 50 linear feet of street frontage.

Coronado's formula retail ordinance was challenged in court shortly after it was enacted, but a California Appeals Court upheld the law in June 2003. In its decision, the court stated that the ordinance does not violate the US Constitution's commerce and equal protection clauses, and is a valid use of municipal authority under California state law.¹⁷ Specifically, the court stated,

"[The] primary purpose was to provide for an economically viable and diverse commercial area that is consistent with the ambiance of the city, and that it believed the best way to achieve these goals was to subject to greater scrutiny those retail stores that are contractually bound to use certain standard processes in displaying and/or marketing their goods or services, and to limit

¹⁵ NYC Zoning Resolution 132-20 "Special Use Regulations" – Special Enhanced Commercial Districts: EC 2 (Columbus and Amsterdam Avenues) and EC 3 (Broadway). Available online at <http://www.nyc.gov/html/dcp/pdf/zone/art13c02.pdf> (July 17, 2013).

¹⁶ Coronado's Formula Retail Ordinance. "<http://www.flsr.org/rule/formula-business-restrictions/2312-2/>"

¹⁷ Ibid.

the frontage area of these businesses to conform with existing businesses.”¹⁸

By upholding Coronado’s right to enact controls that provided strict oversight over formula retail establishments, the Court sent a signal to other jurisdictions considering local controls.

RECOMMENDATION

The Department recommends that the Commission recommend that the issue of formula retail be studied further to increase understanding of the issue as a whole, and to examine potential economic and visual impacts of the proposed controls compared to the absence of new controls. If pending proposals move forward before the Department completes further study, the Department recommends that the Commission recommend resisting patchwork changes to structural components of the controls (such as modifying the definition of formula retail); these types of structural changes are best applied citywide.

BASIS FOR RECOMMENDATION

The goal of this report is to lay the groundwork for a set of controls that appropriately and accurately evaluates the merits of formula retail and manages its impacts – positive and negative. The Department seeks a solution that will consolidate controls in a manner that is clear to the public, and consistently implemented by staff. Further, the Department seeks to develop criteria based on sound economic data and land use policy in order to protect the diversity of goods and services available to residents and visitors as well as the economic vitality of commercial districts large and small.

Formula retail controls in San Francisco have evolved over the last nine years, and as indicated by the diversity of pending legislative proposals, many elected officials believe the controls need updating. As the issues and implications are numerous, the department recommends that changes be made based upon data and sound research. To assist with this effort, the Director has asked staff to seek consultant assistance on a study of the issues early this fall.

There are at least six discreet topics that staff grapples with and that the Department seeks to understand better, including: 1) the structure of the controls including the definition of use types, size, and number of establishments, 2) the criteria for evaluation, 3) visual impacts, 4) economic impacts, and 5) geographic boundaries of the controls.

1. Structural Controls: Definition, Use Types, and Size

All formula retail use types are currently considered in the same manner, and the criteria for evaluation are universally applied: a clothing store is evaluated using the same criteria as are used to consider a proposed new grocery store or a fast food restaurant. This begs the question: should the formula retail controls treat all use types equally? Are there formula

¹⁸ The Malibu Times, “Public Forum: Chain Stores, formula retail ordinances and the future of Malibu”. Posted on March 27, 2013. Retrieved from: http://www.malibutimes.com/opinion/article_145150ca-9718-11e2-892c-001a4bcf887a.html on July 16, 2013.

retail use types that should be encouraged, and others that should be discouraged? Do all formula retail uses have the same impacts in every location?

The Department would like to explore whether uses such as grocery stores and pharmacies provide needed neighborhood-serving goods and services to underserved areas, and whether there exist a sufficient number of independent retailers to provide such goods and services. Proposed amendments to the formula retail controls may target specific uses, such as grocery stores, for specific underserved areas and provide a set of criteria and/or incentives to encourage use types that provide essential goods or services in appropriate locations. Based upon the current controls, on the other hand, it appears that formula retail restaurants are less beneficial, perhaps having a greater impact on neighborhood character than other use types.

Conversely, the range of use types and sizes captured by the existing definition of formula retail may decrease the availability of neighborhood-serving goods and services, and lead to gentrification. Can the presence of upscale formula retail lead to gentrification? A 2002 report from the Institute for Local Self Reliance (ILSR) addresses the role of formula retail in gentrification, and specifically addresses the role of protecting neighborhood-serving retailers.¹⁹ Stacy Mitchell of ILSR notes, "[...]And of course there are plenty of formula businesses that are very expensive, such as Whole Foods, Restoration Hardware, and many clothing chains. (Indeed, these are probably the kinds of formula businesses that would locate in Hayes Valley if given the chance.)"²⁰

Further, many proposals seek to expand the definition of formula retail. Perhaps the trigger of eleven national establishments could be revised, or perhaps the definition should also consider the prevalence of an establishment within San Francisco. It seems increases in the square footage, street frontage or number of formula retail establishments within San Francisco may dilute the City's unique character.

2. Criteria for Evaluation

As noted throughout this report, the same five criteria are used to evaluate all forms of formula retail proposed in districts that require CU authorization. The Department proposes to consider gradations of criteria that address concentration on one hand, and use types on the other.

Should local retailers with eleven establishments be subject to the same criteria as Walmart? Or, does it make more sense to establish a simpler set of criteria for smaller outlets that are not part of large retailers that perhaps already have a significant presence in the city, and to impose a more rigorous set of criteria on larger stores? Is "eleven" the appropriate number to define a business as a formula retail establishment?

A recently adopted Commission policy considers the existing concentration of formula retail uses within the Upper Market NCT when evaluating new formula retail proposals in the district. This approach will be reviewed as the Department's proposal is developed.

¹⁹"Tackling the Problem of Commercial Gentrification," November 1, 2002, available online at <http://www.ilsr.org/retail/news/tackling-problem-commercial-gentrification/> (July 17, 2013).

²⁰ Stacy Mitchell. Institute for Local Self Reliance. E-mail communication. July 17, 2013.

3. Visual Impacts

The unique character of San Francisco neighborhoods is derived not only from the diversity of goods and services offered, but also from the appearance of the streetscape. While the term "formula retail" may conjure images of large big box chain stores, formula retail establishments may also be small, upscale boutiques. The common thread is that formula retail businesses all have a standardized brand used across a minimum of eleven locations. Does this level of standardization allow for a sense of place that can respond to the unique neighborhood character of a particular location?

4. Economic Impacts

While one study of potential economic impacts of formula retail has been completed in San Francisco (the previously cited Civic Economics Report), the Department would like to examine the issue more specifically with neighborhood case studies comparing neighborhoods with and without controls to assess vacancy rates, commercial rents, turnover rates, and the availability of services and goods appropriate to the neighborhood.

The Department intends to explore ways to incorporate use size limits, street frontage maximums, transparency thresholds, and signage considerations into our formula retail controls as ways to further protect and enhance the visual character of neighborhoods. Until this study can be completed, the Department is wary of enacting a patchwork of different formula retail controls throughout the city without specific evidence to warrant such changes. For this reason, the Department recommends minimal changes until a study can be completed to clarify impacts of formula retail controls to neighborhood vitality and character.

5. Geographic Boundaries of Controls

Two pending proposals would extend formula retail controls beyond the traditional neighborhood commercial districts and mixed use districts and into more the industrial production, distribution, and repair districts [Supervisor Cohen, BF 130372] and the city's downtown C-3 district [Supervisor Kim, BF130712]. The department seeks to inform potential geographic expansion with new information gleaned from exploration of the issues above.

If the Commission agrees, the Department proposes to develop a more robust set of amendments to bring forward to the Commission for consideration in the fall of 2013 to ensure that neighborhood-serving retailers thrive, the visual character of individual neighborhood commercial districts is maintained, and essential goods and services are available to residents and visitors alike.

ENVIRONMENTAL REVIEW

The proposal to conduct a study prior to further changes to existing controls would result in no physical impact on the environment. This proposal is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

PUBLIC COMMENT

As of the date of this report, the Planning Department has received an email from Paul Wermer summarizing his understanding of existing community sentiment as well as his own proposal for the regulation of formula retail. The letter is attached.

RECOMMENDATION: Recommendation of Further Study
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SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 18931

HEARING DATE: JULY 25, 2013

1650 Mission St.
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San Francisco,
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Date: July 25, 2013
Case No.: 2013.0936U
Initiated by: Planning Commission
Staff Contact: Sophie Hayward, Legislative Planner
(415) 558-6372 sophie.hayward@sfgov.org
Jenny Wun, Legislative Intern
Reviewed by: AnMarie Rodgers, Manager, Legislative Affairs
AnMarie.Rodgers@sfgov.org

Recommendation: Recommend Further Study

RECOMMENDING TO THE BOARD OF SUPERVISORS THAT THE ISSUE OF FORMULA RETAIL BE STUDIED FURTHER TO INCREASE UNDERSTANDING OF THE ISSUE OVERALL AND TO EXAMINE POTENTIAL ECONOMIC AND VISUAL IMPACTS OF THE PROPOSED CONTROLS VERSUS THE ABSENCE OF NEW CONTROLS. IF PROPOSALS ARE TO MOVE FORWARD BEFORE FURTHER STUDY CAN BE DONE, THE COMMISSION RECOMMENDS RESISTING PATCHWORK CHANGES TO STRUCTURAL COMPONENTS OF THE CONTROLS SUCH AS THE DEFINITION OF FORMULA RETAIL, FOR THESE TYPES OF STRUCTURAL CHANGES ARE BEST APPLIED CITYWIDE.

PREAMBLE

Whereas, in 2004, the Board of Supervisors adopted San Francisco's first Formula Retail Use controls, which added Section 703.3 ("Formula Retail Uses") to the Planning Code to provide both a definition of formula retail and a regulatory framework that intended, based on the findings outlined in the Ordinance, to protect "a diverse retail base with distinct neighborhood retailing personalities comprised of a mix of businesses."; and

Whereas, in 2007, formula retail controls were further expanded when San Francisco voters approved Proposition G, the so-called "Small Business Protection Act," which amended the Planning Code by adding Section 703.4, requiring Conditional Use authorization for formula retail uses (as defined in the Code) proposed for any Neighborhood Commercial District; and

Whereas, since the passage of Proposition G, controls for formula retail have been amendment multiple times; and

Whereas, currently there are no less than eight proposals to further amend formula retail controls that are under consideration; and

Whereas, the San Francisco Planning Commission (hereinafter "Commission") wants to ensure that changes to formula retail are fully vetted and researched; and

Whereas, the proposed policy is not an action subject to CEQA; and

Whereas, on July 25, 2013 the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Policy and adopted the proposed policy; and

Whereas, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the public, Department staff, and other interested parties; and

Whereas, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

MOVED, that the Commission recommends that the issue of formula retail be studied further to increase understanding of the issue overall and to examine potential economic and visual impacts of the proposed controls verses the absence of new controls. If proposals are to move forward before further study can be done, the Department recommends that the Commission recommend resisting patchwork changes to structural components of the controls such as the definition of formula retail, for these types of structural changes are best applied citywide.

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:

- The Commission seeks a solution that will consolidate controls in a manner that is clear to the public, and consistently implemented by staff.
- The Commission seeks to develop criteria based on sound economic data and land use policy in order to protect the diversity of goods and services available to residents and visitors as well as the economic vitality of commercial districts large and small.
- Formula retail controls in San Francisco have evolved over the last nine years, and as indicated by the diversity of pending legislative proposals, many elected officials believe the controls need updating.
- As the issues and implications are numerous, the Commission recommends that changes be made based upon data and sound research. To assist with this effort, the Director has asked staff to seek consultant assistance on a study of the issues early this fall.
- The topics that staff are grappling with and that the Commission would seek to understand better at least six topics including: 1) the very structural of the controls such as definition use

Resolution No. 18931
Hearing Date: July 25, 2013

CASE NO. 2013.0936U
Formula Retail Controls

types and size, 2) the criteria for evaluation, 3) visual impacts, 4) economic impacts, and 5) geographic boundaries of the controls.

- The Commission has directed Planning Department staff to include public involvement in the process of developing future policy recommendations.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on July 25, 2013.

Jonas P Ionin
Acting Commission Secretary

AYES: Commissioners Borden, Moore, Sugaya, and Wu

NAYS: None

ABSENT: Commissioners Antonini, Fong, and Hillis

ADOPTED: July 25, 2013



SAN FRANCISCO PLANNING DEPARTMENT

June 17, 2013

Ms. Angela Calvillo, Clerk
Supervisor London Breed
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

**Re: Transmittal of Board File No. 120814, Version 2; Planning Case No. 2012.1183TZ
Fillmore Street NCD
Planning Commission Recommendation: *Approval with modifications***

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Dear Ms. Calvillo and Supervisor Breed;

On June 13, 2013, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Supervisor Breed.

The proposed Ordinance would create a new named Neighborhood Commercial District along Fillmore Street from Bush Street to McAlister Street.

The proposed Ordinance would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15061(b)(3) of the CEQA Guidelines.

At the June 13, 2013 hearing, the Commission adopted Resolution Number 18907 with a *recommendation of approval with modifications to the Board of Supervisors for the proposed ordinance*. This recommendation is based on the proposed Ordinance as well as a memo sent by Supervisor Breed to the Planning Commission outlining some proposed changes to the Ordinance (see attachment).

Specifically, the Commission recommended that the Board of Supervisors modify Supervisor Breed's proposed Ordinance [Board File No. 120814] by incorporating the changes proposed by the Planning Commission, which are as follows:

1. Recommend that the Board of Supervisor codify the pre-application meeting requirement in the Planning Code, by adding the following language to Planning Code Sections 303(i), 703.3 and 803.6 that states:

"Prior to accepting a Conditional Use application for Formula Retail, the Planning Department will verify that the applicant has conducted a pre-application meeting, per the specifications outlined in the Planning Commission's Pre-Application Meeting policy."

2. Recommend that a criteria be added to Section 303(i)(3) stipulating that the Planning Commission shall pay attention to the input of the community and merchants groups. This

recommendation removes the "particular" from the language proposed by Supervisor Breed and makes it apply to all Formula Retail Conditional Use applications

3. Recommend that the Board of Supervisor not codify a "Planning staff predilection for disapproval such that staff only recommends approval of a formula retail application if there is a demonstrated overriding need or public support for the particular use."
4. Eliminate the Formula Retail ban from the proposed Ordinance and state that the Commission will proceed with adopting a similar policy for the Fillmore NCD that was adopted for the Upper Market Neighborhood.

The Department recommends that the legislative sponsors advise the City Attorney at your earliest convenience if you wish to incorporate any changes recommended by the Commission. This electronic copy is our transmittal to the Board of Supervisors. Per instructions by the Clerk of the Board, no hard copies will be provided; however hardcopies will be provided upon request. Attached are documents relating to the Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,



AnMarie Rodgers
Manager of Legislative Affairs

cc: Alisa Miller, Assistant Clerk
Conor Johnston, Aide to Supervisor Breed
Judith A. Boyajian, Deputy City Attorney

Attachments [one copy of each of the following]
Planning Commission Resolution Number 18907
Planning Commission Executive Summary
Memo from Supervisor Breed



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 18907

HEARING DATE: JUNE 13, 2013

Project Name: Amendments relating to the proposed Fillmore Street NCDs
Case Number: 2012.1183TZ [Board File No. 12-0814]
Initiated by: Supervisor Breed/ Reintroduced February 26, 2013
Staff Contact: Aaron Starr, Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE WITH MODIFICATIONS THAT WOULD AMEND THE SAN FRANCISCO PLANNING CODE BY: 1) ADDING SECTION 744.1 TO ESTABLISH THE FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT ALONG FILLMORE STREET BETWEEN BUSH AND FULTON STREETS; 2) AMENDING SECTION 151.1, A PORTION OF TABLE 151.1, SECTION 263.20 AND SECTION 607.1(F) TO MAKE CONFORMING AND OTHER TECHNICAL CHANGES; 3) AMENDING SHEETS ZN02 AND ZN07 OF THE ZONING MAP TO REZONE SPECIFIED PROPERTIES TO THE FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT; AND 4) ADOPTING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.1.

PREAMBLE

Whereas, on July 31, 2012, former Supervisor Olague reintroduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 12-0814 which would amend the San Francisco Planning Code by: 1) adding Section 744.1 to establish the Fillmore Street Neighborhood Commercial District along Fillmore Street between Bush and Fulton Streets; 2) amending Section 151.1, a portion of Table 151.1, Section 263.20 and Section 607.1(f) to make conforming and other technical changes; 3) amending Sheets ZN02 and ZN07 of the Zoning Map to rezone specified properties to the Fillmore Street Neighborhood Commercial District; and 4) adopting environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1; and

Whereas on November 7, 2013 Supervisor Breed was elected Supervisor for District 5 and once in office took over sponsorship of the Ordinance; and

Whereas Supervisor Breed reintroduced the Ordinance on February 26, 2013 as "Version Two"; and

Whereas on April 25, 2013, Supervisor Breed send the Planning Department a memo outlining additional modifications to the proposed Ordinance; and

Whereas, on June 13, 2013, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

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

Whereas, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties; and

Whereas, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the Commission has reviewed the proposed Ordinance; and

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

The proposed modifications include:

1. Recommend that the Board of Supervisor codify the pre-application meeting requirement in the Planning Code, by adding the following language to Planning Code Sections 303(i), 703.3 and 803.6 that states:

"Prior to accepting a Conditional Use application for Formula Retail, the Planning Department will verify that the applicant has conducted a pre-application meeting, per the specifications outlined in the Planning Commission's Pre-Application Meeting policy."

2. Recommend that a criteria be added to Section 303(i)(3) stipulating that the Planning Commission shall pay attention to the input of the community and merchants groups. This recommendation removes the "particular" from the language proposed by Supervisor Breed and makes it apply to all Formula Retail Conditional Use applications
3. Recommend that the Board of Supervisor not codify a "Planning staff predilection for disapproval such that staff only recommends approval of a formula retail application if there is a demonstrated overriding need or public support for the particular use."
4. Eliminate the Formula Retail ban from the proposed Ordinance and state that the Commission will proceed with adopting a similar policy for the Divisadero NCD that was adopted for the Upper Market Neighborhood.
5. Make the following change to the proposed Fillmore Street NCD Use Table:

744.25	Drive-Up Facility	§ 790.30	#-(remove #)
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Pending ordinances which should be accommodated in this draft ordinance: This note is being provided as a courtesy to the City Attorney and the Clerk of the Board to help identify other Ordinances which may present conflicting amendments as the legislative process proceeds.

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

FINDINGS

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

- Individually named neighborhood commercial districts help to preserve and enhance the character of a neighborhood and a sense of identity.
- This neighborhood was under the authority of the Redevelopment Agency for several decades and this stretch of Fillmore Street experienced a concentrated period of development in the late 1980s and early 1990s. While the new development kept the density, the new buildings did not maintain the historic ties to the street that the historic ground floor commercial spaces once had. Many of the new buildings face the street with arcades, utility boxes and non-active uses on the ground floor, which has a negative effect on visual interest and street activity.
- In the last decade the neighborhood underwent another wave of urban renewal in the form of a new "Jazz District." In many ways this effort was successful in bring increased nightlife activity back to the area; however the street still suffers from a lack of activity and vitality during the day. Creating a named Neighborhood Commercial District for the Fillmore is a positive first step improving the vitality of this commercial street because it provides a mechanism for the community to further build upon its identity.
- The Commission's role in evaluating Formula Retail applications is to take staff's professional analysis and public comment into consideration when making its decision. Strict Formula Retail bans or numerical caps remove the Commission's ability to take community sentiment into consideration.
- The Commission finds that Pre-application meetings are an important community outreach tool. They provide an opportunity for the community to hear and comment on proposals prior to their submittal to the Planning Department and they allow the applicant an opportunity to hear any concerns from the community prior to finalizing their proposal.
- Stipulating as a criteria that the Planning Commission shall pay attention to the input of the community and merchants groups for Formula Retail Conditional Use applications will reinforce

the applicant's responsibility to conduct appropriate levels of community outreach and give the issue greater attention in Staff's analysis of the project; however the Commission does not recommend making this a weighted criteria. Placing greater emphasis on community input would hamper the Commission's ability to weigh all of the criteria when making its decision. Certain public policy goals may be more important in any one case and the Commission is the Charter-authorized body to apply discretion to planning issues. As part of that the Commission is required to consider all factors when making its decision.

- The Commission finds that codifying a "planning staff predilection for disapproval unless there is overwhelming need or public support for the particular use" would be impractical to implement because it's a highly subjective criterion. Further, a requirement like this would remove Staff's impartiality and require planners to base their recommendation of approval or disapproval on a highly subjective criterion.
- Removing parking maximums is consistent with the City's Transit First policy, the General Plan and because it will help increase the supply of affordable housing in the City. Requiring that each unit have parking adds considerable cost to the dwelling unit. It also takes away space that could otherwise be dedicated to commercial storefronts or other residential amenities.

1. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

I. COMMERCE & INDUSTRY ELEMENT

THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN SETS FORTH OBJECTIVES AND POLICIES THAT ADDRESS THE BROAD RANGE OF ECONOMIC ACTIVITIES, FACILITIES, AND SUPPORT SYSTEMS THAT CONSTITUTE SAN FRANCISCO'S EMPLOYMENT AND SERVICE BASE.

OBJECTIVE 4

IMPROVE THE VIABILITY OF EXISTING INDUSTRY IN THE CITY AND THE ATTRACTIVENESS OF THE CITY AS A LOCATION FOR NEW INDUSTRY.

Policy 6.2

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

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

Policy 6.6

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

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

2. The proposed replacement project is consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

- A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

The proposed Ordinance does not propose significant changes to the controls in the subject Neighborhood Commercial Districts. However, creating named NCDs will allow the district to respond more easily to emerging issues that may impact opportunities for resident employment in and ownership of neighborhood-serving retail uses.

- B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

The proposed legislation would create individually named Neighborhood Commercial Districts on Fillmore Street, which help to preserve and enhance the character of the various neighborhoods.

- C) The City's supply of affordable housing will be preserved and enhanced:

The proposed Ordinance will have no adverse effect on the City's supply of affordable housing.

- D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

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

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

Preparedness against injury and loss of life in an earthquake is unaffected by the proposed Ordinance. Any new construction or alteration associated with a use would be executed in compliance with all applicable construction and safety measures.

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

Landmarks and historic buildings would be unaffected by the proposed Ordinance. Should a proposed use be located within a landmark or historic building, such site would be evaluated under typical Planning Code provisions and comprehensive Planning Department policies.

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed Ordinance. It is not anticipated that permits would be such that sunlight access, to public or private property, would be adversely impacted.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on June 23, 2013.

Jonas P Ionin
Commission Secretary

AYES: Commissioners Borden, Hillis, Moore, Sugaya and Wu

NAYS: Commissioner Antonini

ABSENT: Commissioner Fong

ADOPTED: June 13, 2013



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Zoning Map & Planning Code Text Change

HEARING DATE: JUNE 13, 2013

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

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415.558.6377

PLANNING CODE AMENDMENT

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

The Way It Is Now:

- There is a Neighborhood Commercial, Moderate-Scale (NC-3) zoning district that runs along Fillmore Street from Bush to McAllister that also includes parcels that front on Webster, Turk, Geary, Sutter and Bush Streets.
- NC-3 Zoning Districts have minimum parking requirements that are outlined in Planning Code Section 151.
- In NC-3 Districts, residential conversion is permitted on the ground floor and requires Conditional Use authorization on the second and third floors.
- Philanthropic Administrative Services are only permitted in the Upper Fillmore Neighborhood Commercial District.
- The subject area is within the Fringe Financial Services Restricted Use District, which prohibits new check caching services.
- Formula Retail requires Conditional Use authorization

The Way It Would Be:

The proposed legislation would:

- Create a new named Neighborhood Commercial District (NCD) primarily along Fillmore Street from Bush to McAllister.
- Institute maximum parking controls within the Fillmore Street NCD, as outlined under Section 151.1. The new controls would permit up to one car for each two dwelling units, require Conditional Use authorization for up to 0.75 cars for each dwelling unit, and prohibit parking above 0.75 cars for each dwelling unit. Commercial uses would be governed by the standard maximum parking controls in Section 151.1
- Provide a 5 foot height bonus for properties zoned 40-X along Fillmore Street.
- Prohibit residential conversion on the second and third floors.
- Allow Philanthropic Administrative Services on the second floor as of right.
- Per the way the Ordinance is currently drafted, all Formula Retail would be banned from the new NCD. However, Since the revised Ordinance was introduced, Supervisor Breed sent the Department a memo detailing a revised proposal (see Exhibit E) that would eliminate the proposed Formula Retail ban in favor of codifying pre-application meetings, additional Conditional Use findings and having the Commission extend its policy on Formula Retail concentration in the Upper Market neighborhood to the Fillmore NCD.

Since the revised Ordinance was introduced, Supervisor Breed sent the Department a memo detailing a revised proposal (see Exhibit E) that would eliminate the proposed Formula Retail ban in favor of codifying pre-application meetings, additional Conditional Use criteria¹ and having the Commission extend its policy on Formula Retail concentration in the Upper Market neighborhood to the Fillmore NCD. The additional conditional use criteria are as follows:

- Include a weighted condition in the Conditional Use stipulating that the Planning Commission shall pay particular attention to the input of the community and merchants groups and have a strong predilection toward disapproval.
- Codify a Planning staff predilection for disapproval such that staff only recommends approval of a formula retail application if there is a demonstrated overriding need or public support for the particular use.

ISSUES AND CONSIDERATIONS

NC-3 and Named Neighborhood Commercial Districts

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

¹ Supervisor Breed's memo uses the term "condition," however the Planning Code uses the term "criteria" when referring to the issues the Commission shall consider in assessing conditional use applications. For consistency with the Planning Code, the Department also uses the term criteria in this memo.

commercial streets, although the districts may include small as well as moderately scaled lots. Buildings typically range in height from two to four stories with occasional taller structures.

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

Japantown Planning Process

The Japantown Economic and Social Heritage Strategy (formerly Japantown Better Neighborhoods Plan) will include multiple strategies for preserving and supporting Japantown's social heritage and stimulating its economy. One of these strategies will be the creation of a Japantown Neighborhood Commercial – Transit (NCT) District along those portions of Post and Buchanan Streets that are reflective of Japanese and Japanese American culture and commerce. None of the properties included in the proposed Fillmore NCD are being considered for inclusion in the Japantown NCT.

NCD Height Controls

San Francisco's commercial height districts tend to be base ten numbers such as 40, 50, etc. These base ten districts may lead to buildings that are similar in height to the neighboring buildings but that are lesser in human comfort than buildings of similar scale built prior to the City's height limits. This is due to the desire to maximize the number of stories in new projects. Recent community planning efforts have highlighted some failings of these base 10 height districts. The 2008 Market & Octavia² and Eastern Neighborhoods³ Plans recognize that the base ten height limits in neighborhood commercial districts often encourage inferior architecture. For this reason, both of these plans sought to encourage more active and attractive ground floor space by giving a five foot height bonus to buildings which meet the definition of "active ground floor" use. This five foot increase must be used for adding more space to the ground floor.

In 2008, Supervisor Sandoval sponsored a similar text amendment that extended this height increase outside of established plan areas to provide for a maximum five foot special height exception for active ground floor uses in the NC-2 and NC-3 designated parcels fronting portions of Mission Street⁴. Another amendment introduced by Supervisor Avalos in 2009 that now allows a maximum five foot height increase in certain NC-1 parcels in District 11⁵. Most recently, Geary Boulevard, Inner Clement, Outer

² Ord. 72-08, File No. 071157, App. 4/3/2008.

³ Ord. 297-08, 298-08, 299-08 and 300-08, App. 12/19/2008.

⁴ Ord. 321-08, File no. 081100, App. 12/19/2008.

⁵ Ord. 5-10, File No. 090319, App. 1/22/2010

Clement, the new Outer Sunset NCDs, 24th-Noe Street NCD and NC-2 zoned portions of Balboa Street were added to the list of zoning districts that allow the 5' height bonus.

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

Parking Requirements

A recent study done by Michael Manville at UCLA found that there is a strong correlation between the elimination of parking mandates and increase housing supply⁶. The study found that when parking requirements are removed, developers provide more housing and less parking, and also that developers provide different types of housing: housing in older buildings, in previously disinvested areas, and housing marketed toward non-drivers. Minimum parking requirements result in more space being dedicated to parking than is really needed; height limits, setback requirements, open space requirements and other development regulations leave less space for actual housing units. Further, because of the active street frontage requirements in the Planning Code, parking in newer buildings is typically provided underground, and underground parking spaces are expensive costing between \$30,000 and \$50,000 each or more. Developers recoup those costs by including it in the cost of housing.

Formula Retail: Past and Present

The City has been struggling with how to regulate Formula Retail at least since the 1980s when the Neighborhood Commercial (NC) Districts were added to the Code. At that time, the main concern was over chain fast-food restaurants, so various restaurant definitions were added to the Code to either prohibit larger chain fast-food restaurants or limit them through the Conditional Use process. In 2004, the Board of Supervisors adopted San Francisco's first official Formula Retail use controls that established a Formula Retail definition and prohibited Formula Retail in one district while requiring Conditional Use authorization in another. In 2007, San Francisco voters approved Proposition G, which required any Formula Retail use desiring to locate in any NC district to obtain Conditional Use authorization. Most recently the Board of Supervisors passed an Ordinance (BF 120047) expanding the definition of Formula Retail so that it included Financial Services (most commonly, banks) and expanded the Formal Retail Controls to the Western SOMA Plan (BF 130002). Yet despite these efforts, Formula Retail proliferation continues to be a concern in many communities.

Formula Retail Bans

Of the 27 individually named neighborhood commercial districts only two, the Hayes Valley NCD and the North Beach NCD, have chosen to ban Formula Retail entirely. In the Mixed Use Districts, Formula Retail is also banned in the Chinatown Visitor Retail District (CVRD) and the Residential Mix- Enclave (RED-MX) District. Some NCDs have adopted more targets controls that ban Formula Retail Restaurants and Limited Restaurants. Outright bans are a simple and effective solution to the problem of over concentration, but it does present some challenges. Banning Formula Retail means that most if not all large groceries stores and banks are prohibited from moving into a neighborhood because there are very few large grocery stores and banks that are not Formal Retail. This problem could be further exacerbated if the list of uses included in the Formula Retail definition is expanded, as was recently done for Financial

⁶ http://www.its.ucla.edu/research/rpubs/manville_aro_dec_2010.pdf

Services. Once the ban is in place it's very difficult to overturn should the needs of a neighborhood change.

Another difficulty with Formula Retail bans is that not all Formal Retail is valued equally by the community. The Department evaluates each application based on the Planning Code and the General Plan, and cannot place a value judgment on the type of business or its business model; however, community members often decide which Formula Retail to support or oppose based on those factors. The Commission's role is to take staff's professional analysis as well as public comment into consideration when making its decision. Strict Formula Retail bans remove the Commission's ability to take community sentiment into consideration and prohibit some desirable locally owned or unique business from establishing in these neighborhoods that a community may want or need.

Upper Market Formula Retail Controls

On April 11, 2013 the Planning Commission adopted a Policy that established a method to determine the appropriate level of concentration of Formula Retail in the Upper Market Neighborhood. Under the proposed policy, Planning Department staff would recommend disapproval of any project that brings the concentration of Formal Retail within 300 feet of the subject property to 20% or greater. The Department would still evaluate the proposed Formula Retail application based on the other applicable criteria in the Planning Code to aid the Commission's deliberation, and the Commission would still retain its discretion to approve or disapprove the use. If the concentration were determined to be lower than 20%, the Department would evaluate the proposed Formula Retail application based on the other applicable criteria in the Planning Code and recommend approval or disapproval accordingly. Please see Exhibit B for a complete outline of the policy.

Pre-Application Meeting Requirements

The Pre-application meeting requirement is a Commission policy that was adopted as part of the larger Discretionary Review reform process in 2010. Pre-application meetings are intended to initiate neighbor communication to identify issues and concerns early on; provide the project sponsor the opportunity to address neighbor concerns about the potential impacts of the project prior to submitting an application; and, reduce the number of Discretionary Reviews (DRs) that are filed.

The policy requires applicants to host a pre-application meeting prior to submitting any entitlement for a project subject to Section 311 or 312 notification that is either new construction, a vertical addition of 7 feet or more, a horizontal addition of 10 feet or more, decks over 10 feet above grade or within the required rear yard; or any Formula Retail uses subject to a Conditional Use Authorization.

Pre application meetings are subject to the following rules:

- Invite all Neighborhood Associations for the relevant neighborhood.
- Invite all abutting property owners and occupants, including owners of properties directly across the street from the project site to the meeting.
- Send one copy of the invitation letter to the project sponsor as proof of mailing.
- Invitations to the meeting should be sent at least 14 calendar days before the meeting.
- Conducted the meeting at either the project site, an alternate location within a one-mile radius of the project site or, at the Planning Department. Meetings are to be conducted from 6:00 p.m. -9:00 p.m., Mon.-Fri.; or from 10:00 a.m.-9:00 p.m., Sat-Sun, unless the Project Sponsor has selected a

Department Facilitated Pre-Application Meeting. Facilitated pre-application meetings will be conducted during regular business hours.

Other Pending Proposals

In addition to this Ordinance and the Fillmore Street NCD Ordinance, two other Ordinances have been introduced at the Board of Supervisors that would modify the Formal Retail controls. The following are a summary of those proposals that have been introduced at the Board:

Supervisor Breed would also amend the definition of Formula Retail but only in the Hayes-Gough District. The legislation proposes to modify the definition of formula retail for the Hayes-Gough NCT only, to include formula retail that is a type of retail sales activity or retail sales establishment and has eleven or more other retail sales establishments located anywhere in the world. The definition of formula retail would also include a type of retail sales activity or retail sales establishment where fifty percent (50%) or more of the stock, shares, or any similar ownership interest of such establishment is owned by a formula retail use, or a subsidiary, affiliate, or parent of a formula retail use, even if the establishment itself may have fewer than eleven retail sales establishments located anywhere in the world.

Supervisor Cohen is proposing to create a "Third Street Formula Retail RUD". The legislation would require that any new formula retail use on Third Street between Williams Avenue and Egbert Avenue seek conditional use authorization to operate. If any existing formula retail use has not already procured a conditional use permit to operate as a formula retail use, any alteration permits for a new formula retail use would require conditional use authorization. Any expansion or intensification of an existing formula retail use would also require conditional use authorization.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department recommends that the Commission recommend *approval with modification* of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The proposed modifications include:

1. Recommend that the Board of Supervisor codify the pre-application meeting requirement in the Planning Code, by adding the following language to Planning Code Sections 303(i), 703.3 and 803.6 that states:

"Prior to accepting a Conditional Use application for Formula Retail, the Planning Department will verify that the applicant has conducted a pre-application meeting, per the specifications outlined in the Planning Commission's Pre-Application Meeting policy."

2. Recommend that a criteria be added to Section 303(i)(3) stipulating that the Planning Commission shall pay attention to the input of the community and merchants groups. This recommendation removes the "particular" from the language proposed by Supervisor Breed and makes it apply to all Formula Retail Conditional Use applications

3. Recommend that the Board of Supervisor not codify a "Planning staff predilection for disapproval such that staff only recommends approval of a formula retail application if there is a demonstrated overriding need or public support for the particular use."
4. Eliminate the Formula Retail ban from the proposed Ordinance and state that the Commission will proceed with adopting a similar policy for the Divisadero NCD that was adopted for the Upper Market Neighborhood.
5. Make the following change to the proposed Fillmore Street NCD Use Table:

744.25	Drive-Up Facility	§ 790.30	#-(remove #)
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BASIS FOR RECOMMENDATION

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

Parking Maximums

The Department supports the removal of the parking minimums because it is consistent with the City's Transit First policy, the General Plan and because it will help increase the supply of affordable housing in the City. Requiring that each unit have parking adds considerable cost to the dwelling unit. It also takes away space that could otherwise be dedicated to commercial storefronts or other residential amenities.

Recommendation 1: Codify Neighborhood Meeting requirements

Pre-application meetings are an important community outreach tool. They provide an opportunity for the community to hear and comment on proposals prior to their submittal to the Planning Department and they allow the applicant an opportunity to hear any concerns from the community prior to finalizing their proposal. Per Planning Commission Policy, Formula Retail applicants are already required to conduct pre-application meetings. This policy was adopted as part of the larger Discretionary Review reform process in 2010. The intent behind making the pre-application meeting a policy rather than codifying it in the Planning Code was to test out the effectiveness of pre-application meetings and their associated requirements; Planning Commission policies are easily amended while Planning Code requirements are not. The Department supports the Supervisor's intent to codify the pre-application meeting requirement for Formula Retail applications. The Department would like retain the ability to amend certain procedural issues in administering the pre-application requirement through commission policy should the need arise, therefore, Department recommends codification of this requirement with the language described above.

Recommendation 2: Add Specific Criteria to Consider Community Impact.

While taking community input into consideration is implied in the Conditional Use process, the Department finds that making it a criteria for Formula Retail Conditional Use applications will reinforce the applicant's responsibility to conduct appropriate levels of community outreach and give the issue greater attention in Staff's analysis of the project; however staff does not recommend making this a weighted criteria that requires the Commission to pay particular attention to community input. The purpose of a CU process is to allow uses that would otherwise be prohibited if the Commission finds that the proposal is necessary or desirable. Placing greater emphasis on community input would hamper the Commission's ability to weigh all of the criteria when making its decision. Certain public policy goals may be more important in any one case and the Commission is the Charter-authorized body to apply discretion to planning issues. As part of that the Commission is required to consider all factors when making its decision.

If the Commission or the Board decides that a weighted condition of this type is necessary for Formal Retail, the Department would strongly recommend that it be done city-wide. Creating special Formula Retail criteria for the Divisadero Street NCD would set a precedent for special criteria in other NCDs, and the Department wants to avoid creating a patchwork of controls throughout the city. The Department would prefer an outright ban on Formula Retail in the Divisadero Street NCD, as proposed in the revised ordinance, over special conditional use criteria on for the Divisadero Street NCD. The Department is open to working with Supervisor Breed on reevaluate our citywide Formula Retail Controls, but we strongly advise against making special criteria for any one NCD.

Recommendation 3: Maintain the Commission's Role in Assessing Community Support

Staff finds that codifying a "planning staff predilection for disapproval unless there is overwhelming need or public support for the particular use" would be impractical to implement because it's a highly subjective criterion. For the Department to provide an impartial analysis we would need some way to quantify an overriding need or public support. Even if we had a quantifiable way to do that, would the Department then be required to make a distinction between public support from residents or businesses of immediate vicinity verses other places in the City? Public support has always been a crucial factor in how the Commission makes its decisions, but the Commission, not the Department, has always been the entity that evaluates the quality and quantity of that support. Staff recommendations are made based on our impartial analysis of the project; a requirement like this would remove that impartiality and require planners to base their recommendation of approval or disapproval on a highly subjective criterion.

Recommendation 4: Apply the Commission Policy to the Divisadero Street NCD

Adopting a Commission policy that sets a maximum concentration rather than placing an outright ban on Formula Retail in the Planning Code gives the Commission more flexibility when making its decision by being able to take community sentiment into consideration.

Recommendation 5

This is a clerical correction. The # sign refers you to the Specific Provisions for the Fillmore Street NCD chart at the end of the use table; however there is no specific provision listed for Drive-up Facilities in this table. Drive-up facilities are prohibited.

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

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

ENVIRONMENTAL REVIEW

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

PUBLIC COMMENT

As of the date of this report, the Planning Department has received several inquiries about the proposed legislation from members of the public. Representatives of Safeway supermarket have contact our office and expressed concerns over the proposed parking ratio, sign controls and the proposed ban on Formula Retail.

RECOMMENDATION:	Recommendation of Approval with Modification
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 120814, Version 2
- Exhibit C: Map of Proposed District
- Exhibit D: Environmental Determination
- Exhibit E: Adopted Upper Market Formula Retail Controls.
- Exhibit F: Memo from Supervisor Breed



LONDON N. BREED

The original iterations of our Fillmore and Divisadero Neighborhood Commercial District legislation, files 120814 and 120796 respectively, included outright formula retail bans. Supervisor Breed is committed to protecting local small businesses and fostering unique commercial communities. In District 5 we have had tremendous success with a formula retail ban in Hayes Valley. However, after careful deliberation with merchants and residents along Fillmore and Divisadero, as well as consultation with Planning staff and the City Attorney, Supervisor Breed has elected to revise the formula retail approach in these NCDs.

The Supervisor wants the process for these NCDs to be strongly biased against formula retail uses, but to nonetheless allow formula retail under certain circumstances. If there is a manifest need for the use and demonstrable community support, then the formula retail should be considered for a conditional use. Supervisor Breed believes this will give our communities more flexibility to meet their needs, without having to perpetually re-fight the same battles against formula retailers who do not meet their needs.

The Supervisor is actively working with the City Attorney's office to amend the NCDs. In lieu of a formula retail ban, the amended legislation will:

1. **Require a pre-application notice** for any formula retail applicant, such that prior to applying for Conditional Use the applicant will be required to conduct substantive meetings with the relevant neighborhood and merchant groups. This requirement will be codified.
2. **Include a weighted condition in the Conditional Use** stipulating that the Planning Commission shall pay particular attention to the input of the community and merchants groups and have a strong predilection toward disapproval.
3. **Codify a Planning staff predilection for disapproval** such that staff only recommends approval of a formula retail application if there is a demonstrated overriding need or public support for the particular use.
4. **Incorporate Planning's recently-developed 20% within 300' guidelines** such that Planning staff will recommend disapproval whenever 20% or more of the existing retail frontage within a 300 foot radius of the applicant's site is already formula retail use.

We believe these changes will make the Divisadero and Fillmore NCDs more effective, more flexible, and more reflective of the communities they serve. Supervisor Breed welcomes your feedback and thanks you for your consideration and your service to San Francisco.



SAN FRANCISCO
CHAMBER OF COMMERCE

July 29, 2013

The Honorable David Chiu, President
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Suite #244
San Francisco, CA 94102-4689

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RE: Holding Formula Retail Legislation Until City's Economic Analysis is Completed

Dear President Chiu;

Yesterday, during the public hearing on formula retail, the San Francisco Planning Commission approved its staff recommendation that policies dictating permitting decisions for formula retail use be evaluated through a comprehensive economic study. The study, which will analyze formula and non-formula use in individual neighborhoods and citywide, will be conducted by an independent consultant and results and recommendations are expected this fall.

The San Francisco Chamber of Commerce, representing over 1500 businesses, including formula and non-formula retailers as well as many small local businesses, agrees that a study of San Francisco's formula retail use is critical to understanding the value, benefits and impacts of both formula and non-formula retail in our commercial areas and on the city's economic vitality as a whole. We also agree with staff's request at the hearing that legislation proposed by several members of the Board of Supervisors to alter the definition of formula retail and/or related controls in their districts be held until the study has been completed, recommendations made and publicly vetted, and new citywide policies approved.

There are currently eight individual ordinances in San Francisco's legislative pipeline (with introduction of the 9th anticipated next week from Supervisor Mar) related to formula retail. This patchwork of new policies, should they all be approved, will create confusion and a lack of uniformity of formula retail controls district by district. The better approach is to wait until the economic study produces facts and data upon which policy decisions related to all retail use can be made.

The San Francisco Chamber of Commerce requests that all formula retail-related legislation, resolutions and other policy actions be held until the economic study is complete and new policies are adopted citywide.

Sincerely,

Jim Lazarus
Senior Vice President for Public Policy

cc: BOS Clerk (distribute to all supervisors); Rodney Fong, SF Planning Commission President; John Rahaim, SF Planning Director; AnMarie Rogers, SF Planning Manager Legislative Affairs; Mayor Ed Lee



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2013 AUG 30 PM 2:18

1700 NORTH MOORE STREET
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T (703) 841-2300 F (703) 841-1184
WWW.RILA.ORG

August 28, 2013

Angela Calvillo, Clerk of the Board
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room #244
San Francisco, CA 94102

File 130788 LU

BOS-11

CPAQ-e*

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Re: Economic Analysis for Formula Retail Legislation

Dear Board Member Calvillo;

I am writing on behalf of the Retail Industry Leaders Association (RILA) to express our membership's concern about the legislation put forward by the San Francisco Board of Supervisors' before the economic study on formula retail in the city is completed. We encourage the Board to carefully evaluate those results and consider the implications of discriminatory legislation for formula retailers in the community

By way of background, RILA is the trade association of the world's largest and most innovative retail companies. RILA promotes consumer choice and economic freedom through public policy and industry operational excellence. Its members include more than 200 retailers, product manufacturers, and service suppliers, which together account for more than \$1.5 trillion in annual sales, millions of American jobs and operate more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

RILA's member companies operate hundreds of individual locations in the city of San Francisco. Enacting premature legislation before a full economic analysis is conducted is detrimental to these retailers and has potential to drive out future plans for new development in the city, creating missed opportunities for new jobs and lost tax revenues.

In closing, RILA requests that all formula retail-related legislation, resolutions and other policy actions be held until the economic study is complete. San Francisco's retailers provide good jobs and benefits for employees and offer affordable products and services at convenient locations. We urge you to weigh these important points when evaluating all policy decisions.

Sincerely,

Joe Rinzel
Vice President, State Government Affairs
Retail Industry Leaders Association (RILA)

cc: David Chiu, SF Board of Supervisors President; Rodney Fong, SF Planning Commission President; John Rahaim, SF Planning Director; AnMarie Rogers, SF Planning Manager Legislative Affairs; Mayor Ed Lee

Sedgwick_{LLP}

Anna Shimko
anna.shimko@sedgwicklaw.com

January 8, 2013

Via E-mail

President Rodney Fong and Members of the
San Francisco Planning Commission
San Francisco Building Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: Proposed Amendments Relating to the Proposed Fillmore Street Neighborhood Commercial District
Case No. 1183TZ, Board File 120814
File No.: 02954-124423

Dear President Fong and Members of the San Francisco Planning Commission:

This firm represents Safeway, Inc. ("Safeway"), which as you know owns and operates several grocery stores in the City of San Francisco, including a store at 1335 Webster Street (the "Grocery Store"), just south of Geary Street. The Grocery Store and its associated parking are located within the boundaries of the proposed Fillmore Neighborhood Commercial District (the "Fillmore NCD"), the legislation for which (the "Legislation") was originally proposed by former Supervisor Christina Olague and is scheduled to be considered at your hearing on January 10, 2013. Inclusion of the Grocery Store and its associated parking (the "Safeway Parcel") in the Fillmore NCD would be inconsistent with the goals and policies of the Legislation, which is intended to create a "small-scale" neighborhood commercial district along Fillmore Street. Furthermore, inclusion of the Safeway Parcel would mean that the signage and parking elements of the significant Safeway remodel approved by both the community and the City and completed in 2008 would be considered nonconforming uses and/or structures; as a result, Safeway's ability to make future signage and parking modifications – even those as simple as changing the logo on a sign – would be severely and adversely impacted. For these reasons, we ask that if you recommend that the Board of Supervisors approve the Legislation, you also amend to the Legislation to remove the Safeway Parcel from the Fillmore NCD.

Safeway's representatives have previously met to discuss their concerns with Supervisor Olague and her staff, who expressed interest in working with Safeway and the community to formulate a solution that would eliminate any negative impacts to merchants as a result of the establishment of the Fillmore NCD. Supervisor Olague thereafter requested, and was granted, a continuance to undertake neighborhood outreach with respect to the Legislation, in which Safeway was invited to participate. Unfortunately, that neighborhood outreach has not yet occurred. While it would be logical to further continue this item to allow Safeway, other interested parties, and the newly-elected Supervisor Breed the

President Rodney Fong and Members of the San Francisco Planning Commission

Re: Proposed Amendments Relating to the Proposed Fillmore Street Neighborhood Commercial District
Case No. 1183TZ, Board File 120814

January 8, 2013

Page 2

opportunity to further discuss refining the Legislation, it is our understanding that your hearing on the Legislation must take place no later than January 10. Consequently, consistent with the Planning Department's recommendations to remove certain other parcels from the Fillmore NCD due to their inconsistency with the intent of the Legislation, Safeway now respectfully requests that the Planning Commission also embrace Safeway's proposal to eliminate the Safeway Parcel from the Fillmore NCD due to its inconsistency with the Legislation. The removal of the Safeway Parcel from the district would be easily accomplished by the simple text change proposed at the end of this letter, especially in light of the fact that the Safeway Parcel is on the geographic edge of the proposed Fillmore NCD, and thus could be removed from the district easily without affecting the district's overall geographic composition.

Background

By way of background, you were first scheduled to consider the Legislation – which would create a “named commercial district” along the Fillmore Street corridor between Bush Street and approximately Fulton Street – on November 29, 2012. Among other things, the Legislation effectively would restrict commercial signage and parking by 1) decreasing by approximately 33% the amount of permitted wall, projecting, and freestanding signage and decreasing by approximately 25% the amount of awning signage that any business may maintain, and 2) imposing a maximum (as opposed to a minimum) parking requirement on properties within the district. These regulations are not consistent with current conditions on the Safeway Parcel.

In 2008, after working with the community and the Redevelopment Agency for four years, Safeway completed an extensive remodel of its Webster Street grocery store. Through this remodel, the exterior of the Safeway was redesigned to better blend with the color schemes and architecture in the immediately surrounding areas. Additionally, the parking area located between the Safeway store and Geary Boulevard, which serves the parking needs of Safeway patrons as well as the needs of patrons of the surrounding retail establishments and an office building, was upgraded to meet current storm water, ADA, and lighting requirements. Safeway also installed more aesthetically pleasing and modernized signage. Consistent with the currently-applicable NC-3 zoning, the Grocery Store now has over 126 square feet of wall signage, whereas the Legislation only would permit 100 square feet – representing a reduction of more than 20%. The parking area – which also serves adjacent shops and an office building – currently contains 273 spaces, whereas under the Legislation, only approximately 160 spaces would be permitted. For these reasons and the other reasons discussed in more detail below, inclusion of the Safeway Parcel in the Fillmore NCD is unwarranted and in fact contrary to the best interests of the Fillmore NCD.

The Safeway Parcel is Inconsistent with the Goals of the Proposed Fillmore NCD

The creation of “named commercial districts” such as the proposed Fillmore NCD is intended to “allow for more tailored controls and help to protect or enhance unique characteristics associated with a neighborhood.” (Executive Summary prepared for the November 29, 2012 hearing on the Amendments Relating to the Proposed Fillmore NCD (“Department Executive Summary”), page 2.) As the Department explains, Named Commercial Districts, such as the proposed Fillmore NCD, “are generally of the same scale and intensity as Neighborhood Commercial, Small-Scale (NC-2) Districts.” (Department Executive Summary at 2.) The City's Planning Code (“Planning Code”) Section 711.1 defines NC-2 Districts as follows:

President Rodney Fong and Members of the San Francisco Planning Commission
Re: Proposed Amendments Relating to the Proposed Fillmore Street Neighborhood Commercial District
Case No. 1183TZ, Board File 120814

January 8, 2013

Page 3

NC-2 Districts are intended to serve as the City's Small-Scale Neighborhood Commercial District. These Districts are linear shopping streets which provide convenience goods and services to the surrounding neighborhoods as well as limited comparison shopping goods for a wider market. The range of comparison goods and services offered is varied and often includes specialty retail stores, restaurants, and neighborhood-serving offices." (Planning Code § 711.1 (emphasis added).)

As explained in the Department Executive Summary, the Fillmore NCD – consistent with the definition of NC-2 districts – is intended primarily to encompass the parcels lining the relatively narrow Fillmore Street from Bush Street to approximately Fulton Street. (Draft Ordinance at 2.) In evaluating establishment of the proposed Fillmore NCD, the Department has expressly recommended against including parcels that would expand the Fillmore NCD to include properties that contain buildings and uses that are not consistent with the character of a neighborhood commercial district. Specifically, the Planning Department recommends the removal from the Fillmore NCD of "all parcels that are not currently zoned NC-3 as well as the Kabuki Cinema lot (Assessor's parcel 0701/001)." (Department Executive Summary, page 4.)

The operation of a single, large-scale grocery store on the Safeway Parcel is also inconsistent with the character of an NC-2 district, as it constitutes a more moderate scale of neighborhood commercial activities, consistent with its existing NC-3 zoning designation. Parcels designated NC-3 "are intended to offer a wide variety of comparison and specialty goods and services to a population greater than the immediate neighborhood, additionally providing convenience goods and services to the surrounding neighborhoods," and are typically distinguished by large-scale lots along wide streets that are occupied by larger buildings. (Department Executive Summary at 2.) The uses on these lots are single, sizeable commercial enterprises. (Department Executive Summary at 2.)¹ The Grocery Store serves not only the immediately-surrounding Western Addition, but also Japantown, Pacific Heights, and all of the cross-City traffic traveling along Geary, which is approximately 475 feet away. The intent of the Legislation, to develop small-scale neighborhood, is thus at cross-purposes with the fundamental nature of the Safeway Parcel, which serves a more widespread area. The Safeway Parcel is quintessentially "NC-3" in character, and should remain as such.

The Inclusion of the Safeway Parcel Would Be Detrimental to the Success of the Fillmore NCD

Placing the Grocery Store within the Fillmore NCD would not only fail to help in achieving the goals of the Legislation, but it could substantially obstruct those goals. The Grocery Store's success – which will itself help to revitalize Fillmore Street's character by drawing additional potential customers to the area – is heavily reliant upon Safeway's large customer base, which relies in no small part upon

¹ Unlike the Safeway parcel, the other NC-3 parcels that would be rezoned through establishment of the Fillmore NCD support uses that are compatible with a smaller-scale "neighborhood commercial" construct. For example, the 1550 Fillmore Street building (Assessor's Parcel No. 0708/013A) houses mixed uses, including Pescara Ristorante and Leslie's Nails 2. Additionally, the building at 1520 Fillmore Street (Assessor's Parcel No. 0708/012) houses a sushi restaurant, and the building at 1506 Fillmore Street (a portion of Assessor's Parcel Nos. 0708/021-179) houses a Subway restaurant on the ground floor with residential uses located on the second and third floors. Conversion of these NC-3 zoned parcels to a "named commercial district" that is similar in scale to NC-2 zoning is proper as these parcels do actually reflect a smaller-scale retail character along Fillmore Street, as envisioned for the Fillmore NCD.

the ability of its customers to 1) locate the Grocery Store by its signage, and 2) be assured of sufficient parking spaces.² As you know, signage is a critical component of the success of any retail venture, and becomes even more vital for businesses such as Safeway when it serves to draw customers from important arterials, such as Geary, to which it is not directly adjacent. In addition, parking is an important element for large-scale grocery ventures in particular. If the Grocery Store's parking and signage were restricted as currently envisioned by the Legislation, the Grocery Store could lose a significant amount of business, dramatically reducing the number of visitors to the area. Thus, the imposition of the Legislation on the Safeway Parcel could have negative implications for the enhancement and vitality of the entire neighborhood – including the other properties proposed to be included within the Fillmore NCD.

The Legislation could be problematic for Safeway despite the fact that Safeway already maintains an existing store at the Safeway Parcel. If the Safeway Parcel were included in the Fillmore NCD, all of the extremely costly parking and signage upgrades that were implemented in 2008 would be rendered nonconforming uses and structures pursuant to Planning Code Sections 181-189. As such, the slightest change to an existing nonconforming sign (even if relating only to logo or design) could result in a reduction in its size or even its elimination due to the need to comply with the Legislation's mandated 20% decrease in the overall amount of permitted signage for the Grocery Store. Similarly, if Safeway were to propose changes in services or operations to keep up with the times and customer demands, the maximum permitted number of parking spaces could be at risk; thus, Safeway's ability to remodel the Grocery Store in future decades or even to make relatively minimal changes to respond to new technologies, shopping patterns, or shopping needs could be constrained.

Conclusion

Safeway respectfully requests that, in the event that you recommend that the Board of Supervisors approve the Legislation, you first modify the Legislation to exclude the Safeway Parcel along with the other excluded parcels. In order to do so, you need merely modify a portion of page 2 of the proposed Resolution attached to the Department Executive Summary, as follows (bolded, underlined text indicates an addition):

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

The proposed modifications include:

1. Remove all parcels that are not currently zoned NC-3 as well as the Kabuki Cinema lot (Assessor's parcel 0701/001) **and the Safeway store and parking area (Assessor's parcel 0725/030)** from the proposed new Fillmore Street NCD.

² In this respect, the Safeway Parcel is more closely associated with the larger commercial properties along Webster, Eddy and Turk Streets, which the Planning Department separately mentions should not be included in the Fillmore NCD as they have little visual connection to the commercial uses on Fillmore Street. (Department Executive Summary at 5.)

President Rodney Fong and Members of the San Francisco Planning Commission
Re: Proposed Amendments Relating to the Proposed Fillmore Street Neighborhood Commercial District
Case No. 1183TZ, Board File 120814

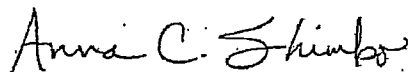
January 8, 2013

Page 5

2. Modify the Philanthropic Administrative Services to remove subsections (a) and (b).

Thank you very much for your consideration of this request. If you have any questions in advance of the hearing, please do not hesitate to contact me or Natalie Mattei (Tel. 925-467-3063), Safeway's Real Estate Manager in charge of the Grocery Store.

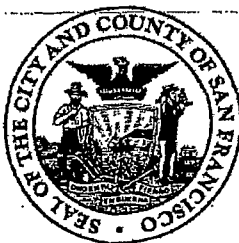
Very truly yours,



Anna Shimko
Sedgwick LLP

cc: Supervisor London Breed
John Rahaim, Planning Director
Clerk of the Board
Steve Gouig
Natalie Mattei
Kimberly Smith

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

MEMORANDUM

TO: John Rahaim, Director, Planning Department

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Economic Development Committee, Board of Supervisors

DATE: October 8, 2014

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, introduced by Supervisor Breed on September 23, 2014:

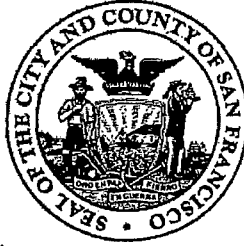
File No. 120814

Ordinance amending the Planning Code to establish the Fillmore Street Neighborhood Commercial District along Fillmore Street between Bush and McAllister Streets; amending various other Code sections to make conforming and other technical changes; amending the Zoning Map to add the Fillmore Street NCD; affirming the Planning Department's California Environmental Quality Act determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

If you have any additional comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: AnMarie Rodgers, Planning Department
Aaron Starr, Planning Department

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

October 6, 2014

Planning Commission
Attn: Jonas Ionin
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Commissioners:

On September 23, 2014, Supervisor Breed introduced the following legislation:

File No. 120814

Ordinance amending the Planning Code to establish the Fillmore Street Neighborhood Commercial District along Fillmore Street between Bush and McAllister Streets; amending various other Code sections to make conforming and other technical changes; amending the Zoning Map to add the Fillmore Street NCD; affirming the Planning Department's California Environmental Quality Act determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use and Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk
Land Use and Economic Development Committee

c: John Rahaim, Director of Planning
Aaron Starr, Acting Manager of Legislative Affairs
AnMarie Rodgers, Senior Policy Manager
Scott Sanchez, Zoning Administrator
Sarah Jones, Chief, Major Environmental Analysis
Jeanie Poling, Environmental Planning
Joy Navarrete, Environmental Planning

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c) (2) because it does not result in a physical change in the environment.

Joy Navarrete

Digitally signed by Joy Navarrete
DN: cn=Joy Navarrete, o=Planning,
ou=Environmental Planning,
email=joy.navarrete@sfgov.org, c=US
Date: 2014.10.17 16:01:17 -0700

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

MEMORANDUM

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

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Economic Development
Committee, Board of Supervisors

DATE: October 6, 2014

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

The Board of Supervisors' Land Use and Economic Development Committee has received the following substituted 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. 120814

Ordinance amending the Planning Code to establish the Fillmore Street Neighborhood Commercial District along Fillmore Street between Bush and McAllister Streets; amending various other Code sections to make conforming and other technical changes; amending the Zoning Map to add the Fillmore Street NCD; affirming the Planning Department's California Environmental Quality Act determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

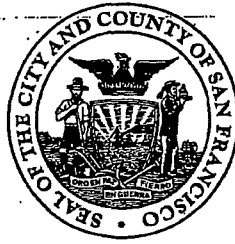
Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

- No Comment
- Recommendation Attached

Chairperson, Small Business Commission

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

March 19, 2013

File No. 120814

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On March 5, 2013, Supervisor Breed introduced the following substitute legislation:

File No. 120814-2

Ordinance amending the Planning Code to establish the Fillmore Street Neighborhood Commercial District (NCD) along Fillmore Street between Bush and McAllister Streets; amend various other sections to make conforming and other technical changes; amending the Zoning Map to add the Fillmore Street NCD; and adopting environmental findings, Planning Code, Section 302, findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code, Section 101.1.

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

Angela Calvillo, Clerk of the Board

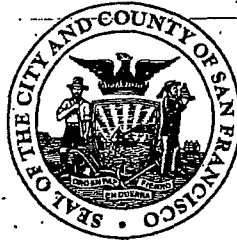
A handwritten signature in cursive script that reads "Alisa Miller".

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

Attachment

c: Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

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

March 19, 2013

Planning Commission
Attn: Jonas Ionin
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Dear Commissioners:

On March 5, 2013, Supervisor Breed introduced the following substitute legislation:

File No. 120814-2

Ordinance amending the Planning Code to establish the Fillmore Street Neighborhood Commercial District (NCD) along Fillmore Street between Bush and McAllister Streets; amend various other sections to make conforming and other technical changes; amending the Zoning Map to add the Fillmore Street NCD; and adopting environmental findings, Planning Code, Section 302, findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code, Section 101.1.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

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

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

c: John Rahaim, Director of Planning
Scott Sanchez, Zoning Administrator
Sarah Jones, Chief, Major Environmental Analysis
AnMarie Rodgers, Legislative Affairs
Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

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

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: March 19, 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 substitute 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. 120814-2

Ordinance amending the Planning Code to establish the Fillmore Street Neighborhood Commercial District (NCD) along Fillmore Street between Bush and McAllister Streets; amend various other sections to make conforming and other technical changes; amending the Zoning Map to add the Fillmore Street NCD; and adopting environmental findings, Planning Code, Section 302, findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code, Section 101.1.

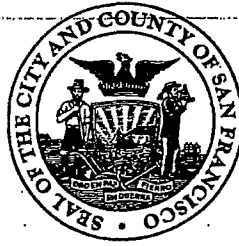
Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

_____ No Comment
_____ Recommendation Attached

Chairperson, Small Business Commission

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

August 10, 2012

File No. 120814

Bill Wycko
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Mr. Wycko:

On July 31, 2012, Supervisor Olague introduced the following proposed legislation:

File No. 120814

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

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

Angela Calvillo, Clerk of the Board

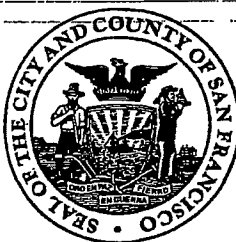
A handwritten signature in cursive script that reads "Alisa Miller".

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

Attachment

c: Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

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

August 10, 2012

Planning Commission
Attn: Linda Avery
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Dear Commissioners:

On July 31, 2012, Supervisor Olague introduced the following proposed legislation:

File No. 120814

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

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

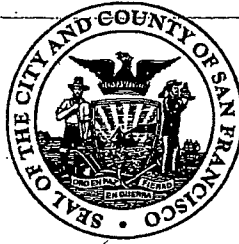
Angela Calvillo, Clerk of the Board

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

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

- c: John Rahaim, Director of Planning
- Scott Sanchez, Zoning Administrator
- Bill Wycko, Chief, Major Environmental Analysis
- AnMarie Rodgers, Legislative Affairs
- Monica Pereira, Environmental Planning
- Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS



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

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: August 10, 2012

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, 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. 120814

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

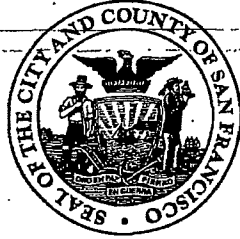
Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

- _____ No Comment
- _____ Recommendation Attached

Chairperson, Small Business Commission

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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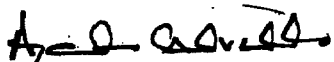
NOTICE OF PUBLIC HEARING

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, October 20, 2014
- 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. 120814. Ordinance amending the Planning Code to establish the Fillmore Street Neighborhood Commercial District along Fillmore Street between Bush and McAllister Streets; amending various other Code sections to make conforming and other technical changes; amending the Zoning Map to add the Fillmore Street Neighborhood Commercial District; affirming the Planning Department's California Environmental Quality Act determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

In accordance with 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 as 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, City Hall, 1 Dr. Carlton Goodlett Place, Room 244, 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, October 17, 2014.


Angela Calvillo, Clerk of the Board

DATED: October 8, 2014
PUBLISHED/POSTED: October 10, 2014

CALIFORNIA NEWSPAPER SERVICE BUREAU

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andrea ausberry
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 LU zoning map 120814

To the right is a copy of the notice you sent to us for publication in the SAN FRANCISCO CHRONICLE. Please read this notice carefully and call us with any corrections. The Proof of Publication will be filed with the Clerk of the Board. Publication date(s) for this notice is (are):

10/10/2014

CNS 2676248

NOTICE OF PUBLIC HEARING LAND USE AND ECONOMIC DEVELOPMENT COMMITTEE SF BOARD OF SUPERVISORS OCTOBER 20, 2014 - 1:30 PM COMMITTEE ROOM 263, CITY HALL 1 DR. CARLTON B. GOODLETT PLACE, SF, 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. 420814. Ordinance amending the Planning Code to establish the Fillmore Street Neighborhood-Commercial District along Fillmore Street between Bush and McAllister Streets; amending various other Code sections to make conforming and other technical changes; amending the Zoning Map to add the Fillmore Street Neighborhood Commercial District; affirming the Planning Department's California Environmental Quality Act determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1. In accordance with 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 as 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, City Hall, 1 Dr. Carlton Goodlett Place, Room 244, 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, October 17, 2014. Angela Calvillo, Clerk of the Board

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Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

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SAN FRANCISCO
Time stamp
for meeting date 2
2014 SEP 23 11:13

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

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment) *EBB*
- 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. Reactivate File No.
- 10. 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 Form.

Sponsor(s):

Subject:

The text is listed below or attached:

Ordinance amending the Planning Code to establish the Fillmore Street Neighborhood Commercial District along Fillmore Street between Bush and McAllister Streets, amend various other Code sections to make conforming and other technical changes, amend the Zoning Map to add the Fillmore Street Neighborhood Commercial District, affirming the Planning Department's California Environmental Act determination; and making findings of consistency with the General Plan, and the eight Priority Policies of Planning Code, Section 101.1.

Signature of Sponsoring Supervisor: *London Breed*

For Clerk's Use Only:

