File No. 130372 Committee Item No. 2
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Board of Supervisors Meeting **Date** _____

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Completed by: Alisa Miller **Date** October 4, 2013
Completed by: _____ **Date** _____

FILE NO. 130372 Amended in Committee 9/9/2013 ORDINANCE NO.

[Planning Code - Third Street Formula Retail Restricted Use District]

Ordinance amending the Planning Code to create the Third Street Formula Retail Restricted Use District; amend Zoning Map Sheet SU10 of the City and County of San Francisco for property located on Third Street between Williams Avenue and Paul Street ~~Egbert Avenue~~; and making findings, including environmental findings pursuant to the California Environmental Quality Act, findings of consistency with General Plan and the Priority Policies of Planning Code Section 101.1.

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

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

Section 1. Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 130372 and is incorporated herein by reference.

(b) Pursuant to Planning Code Section 302, this Board finds that these Planning Code Amendments will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 18932 and the Board incorporates such reasons herein by reference. A copy of Planning Commission Resolution No. 18932 is on file with the Board of Supervisors in File No. 130372.

(c) This Board finds that these Planning Code amendments are consistent with the General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set forth in Planning Commission Resolution No. 18932 and the Board hereby incorporates such reasons herein by reference.

Section 2. The ~~San Francisco~~ Planning Code is hereby amended by adding Section 786 thereto, to read as follows:

SEC. 786. THIRD STREET FORMULA RETAIL RESTRICTED USE DISTRICT.

(a) Findings.

(1) San Francisco is a city of diverse and distinct neighborhoods identified in large part by the character of their commercial corridors.

(2) San Francisco must create a supportive environment for small businesses in order to preserve the unique character of the City and foster a vibrant commercial sector.

(3) One of the eight Priority Policies of the City's General Plan resolves that "existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced."

(4) The Bayview neighborhood is home to a diverse array of businesses including neighborhood commercial and industrial businesses that serve the working class community. The Third Street Corridor has served as the main merchant corridor for this neighborhood and is receiving significant investment of City resources to revitalize, grow and expand local business opportunities.

(5) As development in San Francisco continues, neighborhoods, including residential and commercial areas in the Bayview area, will be subject to change, and new businesses may wish to locate in the Bayview area, particularly along the Third Street Corridor.

(6) The Third Street Corridor presently has a mix of businesses, housing, shops, work places, community serving uses, religious institutions, parks and civic facilities that create an identifiable neighborhood.

(7) An influx of formula retail businesses can put pressure on existing businesses and potentially price out existing and new independent businesses.

(8) Bayview's mix of businesses, uses and architecture contributes to a strong sense of neighborhood community. The Third Street Corridor is generally of small scale, with buildings that have been identified as potential historic resources or have been landmarked as historic places. There is both architectural variety and variety in the types of goods and services offered on the Third Street Corridor. Additionally the majority of businesses on the Third Street Corridor are locally-owned, many for generations, and some have historically served the diverse ethnic communities of the Bayview.

(9) Standardized architecture, color schemes, décor and signage of many formula retail businesses can detract from the distinctive character of the Bayview neighborhood community.

(10) The increase of formula retail businesses in the Third Street Corridor, if not monitored and regulated, will hamper the City's goal of a diverse retail base within distinct neighborhood communities.

(11) In 2004 the Board of Supervisors adopted a redevelopment plan ("Redevelopment Plan") for the Bayview Hunters Point Project Area, which was subsequently amended in 2010. The Redevelopment Plan was the result of years of community based planning efforts with the goal of revitalizing the area to create new parks and open space, retail opportunities, affordable housing and other community benefits. Three of the objectives outlined in the Redevelopment Plan are focused on supporting the commercial activities of the Third Street Corridor. Specifically, Section 1.2.1 lists these objectives as: strengthening the economic base of the Project Area and the community by strengthening retail and other commercial functions within the Project Area, retaining existing residents and existing

cultural diversity to the extent feasible, and supporting locally-owned small businesses and local entrepreneurship.

(12) One of the goals of the Redevelopment Plan was to provide structure and limitations to the development of the Bayview to encourage uses that would benefit the neighborhood, create new economic development opportunities and draw more residents and patrons to the Third Street Corridor. By establishing a Conditional Use process, both the City and the community have an opportunity to review and provide comments on any proposed location, expansion or alteration of formula retail uses to ensure that they meet the objectives of the Redevelopment Plan.

(13) The unregulated and unmonitored establishment of additional formula retail uses may unduly limit or eliminate business establishment opportunities for non-traditional or unique businesses, thereby decreasing the diversity of merchandise and merchants along the Third Street corridor.

(14) The public welfare of the Bayview residential, retail and business community is served by the monitoring and regulating of formula retail businesses on Third Street, for these reasons and the reasons set forth in Planning Code Section 703.3.

(b) Boundaries. The Third Street Formula Retail Restricted Use District shall regulate all properties fronting Third Street between Williams Avenue and ~~Egbert Avenue~~ Paul Street. *The following restrictions shall apply within the district.*

(c) Conditional Use Authorization Required. A Conditional Use Authorization shall be required for any new formula retail use, as defined in Planning Code Section 303(i)(1), in the Third Street Formula Retail Restricted Use District.

(d) Change in Use. ~~Notwithstanding the provisions of~~ *Planning Code Section 303(i)* shall apply to any changes in a formula retail use in the Third Street Formula Retail Restricted Use District. ~~, any change from one formula retail use to another requires Conditional Use Authorization, when the existing formula retail use has not procured a conditional use permit~~

~~for the formula retail use that existed prior to the effective date of this Ordinance, and any City permits are required for any physical change to the premises for the new formula retail business.~~

(e) Conditional Use Criteria. With regard to Conditional Use Permit applications for formula retail uses within the Third Street Formula Retail Restricted Use District, the Planning Commission shall consider the criteria set forth in Planning Code Sections 303(c) and 303(i)(3). The procedures and requirements of Planning Code Section 303 shall apply to Formula Retail Uses in the Third Street Formula Retail Restricted Use District, except as explicitly modified in this Section 786.

~~(f) Prohibition of Expansion of Existing Formula Retail Uses. Any formula retail use that lawfully exists prior to the effective date of this ordinance may continue in existence, provided that it does not expand the square footage devoted to formula retail uses, intensify the formula retail use or alter the structure. Any prior non-conforming formula retail shall apply for a Conditional Use Authorization in order to change, expand or intensify the use or expand the structure.~~

Section 3. The San Francisco Planning Code is hereby amended by amending Section 303, to read as follows:

* * *

(i) **Formula Retail Uses.**

(1) **Formula Retail Use.** A formula retail use is hereby defined as a type of retail sales activity or retail sales establishment which has eleven or more other retail sales establishments located in the United States. In addition to the eleven establishments, the business maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark.

(A) Standardized array of merchandise shall be defined as 50% or more of in-stock merchandise from a single distributor bearing uniform markings.

(B) Trademark shall be defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.

(C) Servicemark shall be defined as word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.

(D) Decor shall be defined as the style of interior furnishings, which may include but is not limited to, style of furniture, wall coverings or permanent fixtures.

(E) Color Scheme shall be defined as selection of colors used throughout, such as on the furnishings, permanent fixtures, and wall coverings, or as used on the facade.

(F) Facade shall be defined as the face or front of a building, including awnings, looking onto a street or an open space.

(G) Uniform Apparel shall be defined as standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and pins (other than name tags) as well as standardized colors of clothing.

(H) Signage shall be defined as business sign pursuant to Section 602.3 of the Planning Code.

(2) **"Retail Sales Activity or Retail Sales Establishment."** For the purposes of subsection (i), a retail sales activity or retail sales establishment shall include the following uses, as defined in Article 7 and Article 8 of this Code: "Bar," "Drive-up Facility," "Eating and Drinking Use," "Liquor Store," "Sales and Service, Other Retail," "Restaurant," "Limited-Restaurant," "Take-Out Food," "Sales and Service, Retail," "Service, Financial," "Movie Theater," and "Amusement and Game Arcade."

(3) **Conditional Use Criteria.** With regard to a conditional use authorization application for a formula retail use, the Planning Commission shall consider, in addition to the criteria set forth in Subsection (c) above:

(A) The existing concentrations of formula retail uses within the district.

(B) The availability of other similar retail uses within the district.

(C) The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the district.

(D) The existing retail vacancy rates within the district.

(E) The existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the district.

(4) **Conditional Use Authorization Required.** A Conditional Use Authorization shall be required for a formula retail use in the following zoning districts unless explicitly exempted:

(A) All Neighborhood Commercial Districts in Article 7;

(B) All Mixed Use-General Districts in Section 840;

(C) All Urban Mixed Use Districts in Section 843;

(D) All Residential-Commercial Districts as defined in Section 206.3;

(E) Japantown Special Use District as defined in Section 249.31;

(F) Chinatown Community Business District as defined in Section 810.1;

(G) Chinatown Residential/Neighborhood Commercial District as defined in Section 812.1;

(H) Western SoMa Planning Area Special Use District as defined in *Section* 823;

(I) Residential Transit-Oriented Districts as defined in *Sections* 206.4 and 206.5;

(J) Limited Conforming Use /Non-Conforming Use in RH-RM-RTO and RED Districts.

(K) Third Street Formula Retail Restricted Use District, as defined in Section 786.

(5) **Formula Retail Uses Not Permitted.** Formula Retail Uses are not permitted in the following zoning districts:

(A) Hayes-Gough Neighborhood Commercial Transit District;

(B) North Beach Neighborhood Commercial District;

(C) Chinatown Visitor Retail District.

(D) Upper Fillmore District does not permit Formula Retail uses that are also Restaurant or Limited-Restaurant uses as defined in Section 790.90 and 790.91;

(E) Broadway Neighborhood Commercial District does not permit Formula Retail uses that are also Restaurant or Limited-Restaurant uses as defined in Section 790.90 and 790.91;

(F) Mission Street Formula Retail Restaurant Subdistrict does not permit Formula Retail uses that are also Restaurant or Limited-Restaurant uses as defined in Section 790.90 and 790.91;

(G) Geary Boulevard Formula Retail Pet Supply Store and Formula Retail Eating and Drinking Subdistrict does not permit Formula Retail uses that are also either a Retail Pet Supply Store or an Eating and Drinking use as set forth in Section 781.4;

(H) Taraval Street Restaurant Subdistrict does not permit Formula Retail uses that are also Restaurant or Limited-Restaurant uses as defined in Section*s* 790.90 and 790.91;

(6) **Neighborhood Commercial Notification and Design Review.** Any building permit application for a "formula retail use" as defined in this section and located within a Neighborhood Commercial District in Article 7 shall be subject to the Neighborhood Commercial Notification and Design Review Procedures of Section 312 of this Code.

(7) **Change in Use.** A change from one formula retail use to another requires a new Conditional Use Authorization, whether or not a Conditional Use Authorization would otherwise be required by the particular change in use in question. This Conditional Use Authorization requirement also applies in changes from one Formula Retail operator to another within the same use category. A new Conditional Use Authorization shall not apply to a change in a formula use retailer that meets the following criteria:

(A) the formula use operation remains the same in terms of its size, function and general merchandise offering as determined by the Zoning Administrator, and

(B) the change in the formula retail use operator is the result of the business being purchased by another formula retail operator who will retain all components of the existing retailer, including but not limited to the signage for the premises, the name of the premises and the general merchandise offered on the premises ~~and make minor alterations to the establishment(s) such as signage and branding~~.

The new operator shall comply with all conditions of approval previously imposed on the existing operator, including but not limited to signage programs and hours of operation; and shall conduct the operation generally in the same manner and offer essentially the same services and/or type of merchandise; or seek and be granted a new Conditional Use Authorization.

(8) **Determination of Formula Retail Use.** In those areas in which "formula retail uses" are prohibited, any building permit application determined by the City to be for a "formula retail use" that does not identify the use as a "formula retail use" is incomplete and

cannot be processed until the omission is corrected. Any building permit approved that is determined by the City to have been, at the time of application, for a "formula retail use" that did not identify the use as a "formula retail use" is subject to revocation at any time. If the City determines that a building permit application or building permit subject to this Section of the Code is for a "formula retail use," the building permit application or holder bears the burden of proving to the City that the proposed or existing use is not a "formula retail use."

* * *

Section 4. The San Francisco Planning Code is hereby amended by amending Sectional Map SU10 of the Zoning Map of the City and County of San Francisco, as follows:

Description of Property	**Use District Hereby Approved**
Assessor's Block 4881, Lots ~~002,~~ ~~and~~ 012, 022 and 025; Assessor's Block 4912, Lot 006; Assessor's Block 4940, Lots 012A, 012B, and 024; ~~Assessor's Block 5387, Lots 010, 022, 026 – 033; Assessor's Block 5413, Lot 017;~~ Assessor's Block 5414, Lots 005 – 008, 028, 030 and~~Lot~~ 031; Assessor's Block 5419, Lots 006, ~~007,~~ 007B, ~~007C,~~ 009, 015 – 018, and 023; Assessor's Block 5420, Lot 001; Assessor's Block 5421, Lots 013, 138 – 142; Assessor's Block 5429, Lot 002; Assessor's Block 5431A, Lots 001M,	Third Street Formula Retail Restricted Use District

001U, 001V, 004 and 043; Assessor's Block 5431B, Lots 001 – 142; Assessor's Block 5881, Lots 024 – 032.	

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

Section 6. Scope of Ordinance. ~~This section is uncodified~~ In enacting this Ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any other constituent part of the Planning Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the legislation.

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

By: KATE H. STACY
Deputy City Attorney

N:LEGANA/AS2013/1300390/00838444

FILE NO. 130372

REVISED LEGISLATIVE DIGEST

(9/9/2013, Amended in Committee)

[Planning Code - Third Street Formula Retail Restricted Use District]

Ordinance amending the Planning Code to create the Third Street Formula Retail Restricted Use District; amend Zoning Map Sheet SU10 of the City and County of San Francisco for property located on Third Street between Williams Avenue and Paul Street; and making findings, including environmental findings pursuant to the California Environmental Quality Act, findings of consistency with General Plan and the Priority Policies of Planning Code Section 101.1.

Existing Law

The area on Third Street between Williams Avenue and Paul Street currently permits formula retail uses.

Amendments to Current Law

The legislation would require that any new formula retail use on Third Street between Williams Avenue and Paul Street seek conditional use authorization to operate. If any existing formula retail use changes to another formula retail use, it must comply with Planning Code section 303(i), which would require a new conditional use permit unless the formula use operation remains the same in terms of its size, function and general merchandise offering as determined by the Zoning Administrator, and the change in the formula retail use operator is the result of the business being purchased by another formula retail operator who will retain all components of the existing retailer, including but not limited to the signage for the premises, the name of the premises and the general merchandise offered on the premises.

130372

BOARD of SUPERVISORS

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

May 2, 2013

File No. 130372

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

Dear Ms. Jones:

On April 23, 2013, Supervisor Cohen introduced the following proposed legislation:

File No. 130372

Ordinance amending the Planning Code to create the Third Street Formula Retail Restricted Use District; amending Zoning Map Sheet SU10, for property located on Third Street between Williams Avenue and Egbert Avenue; and making findings, including environmental findings pursuant to the California Environmental Quality Act, 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
By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

Attachment

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

NON-PHYSICAL EXEMPTION
CEQA SECTION 15060(c)(2)
5/24/13
JOY NAVARRETE

SAN FRANCISCO
PLANNING DEPARTMENT

120193
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Information:
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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.

Sincerely,

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

1650 Mission St.
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San Francisco,
CA 94103-2479

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Planning
Information:
415.558.6377

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**

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]

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[1] Ordinance Number 62-04, Board File 031501, available online at: http://sfgov.legistar.com/LegislationDetail.aspx?ID=473759&GUID=A83D3A84-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)	SLI (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

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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

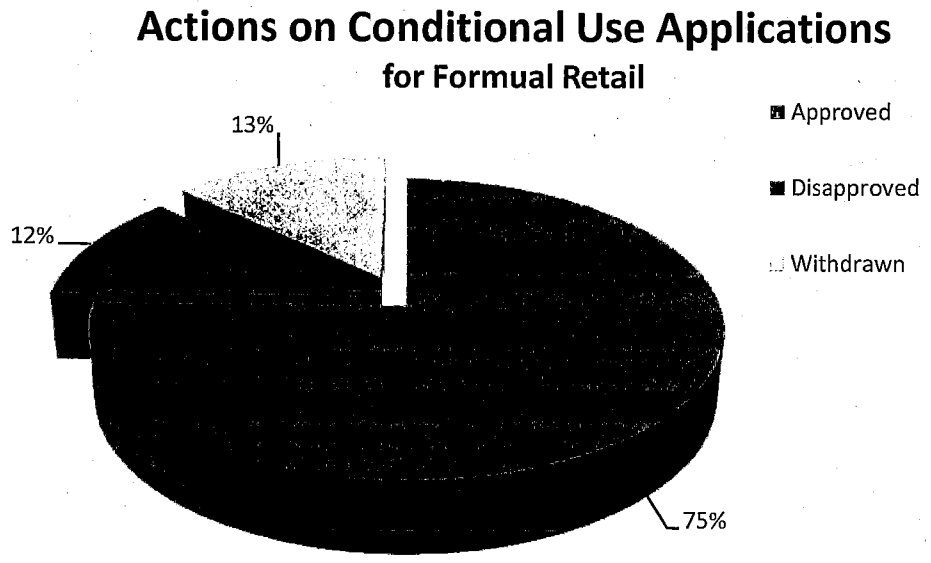
Conversely, the definition does not apply to a number of establishments that are nationally known brands with standardized signage, a standardized décor, and a trademark, such as:

- 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.



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 Francisco[9]. 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:

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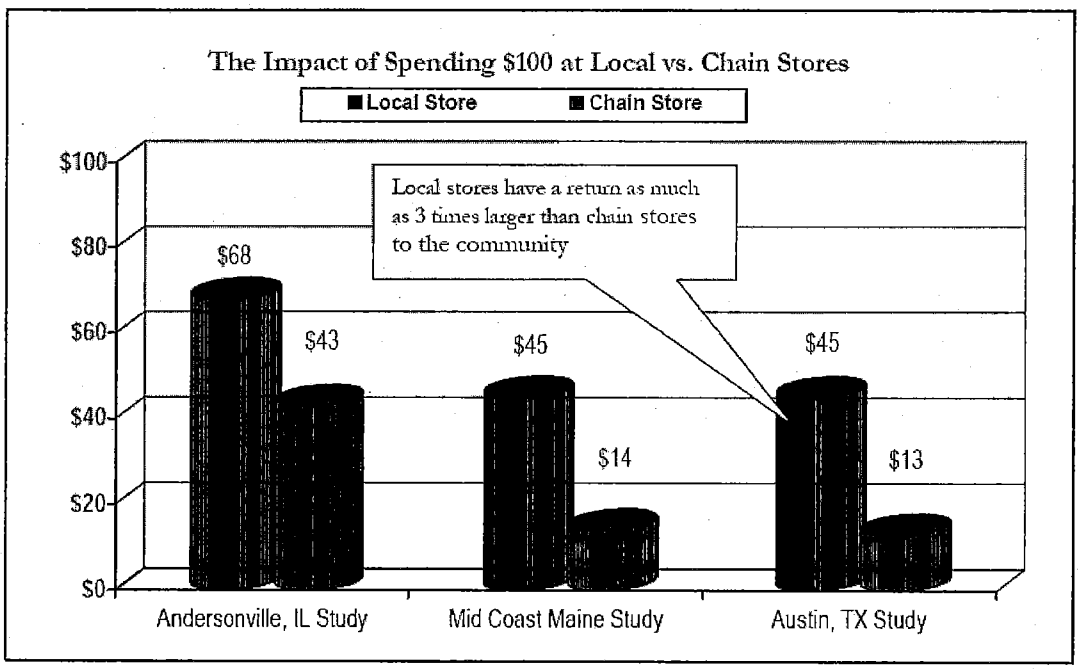
[9] Institute for Local Self- Reliance. "Key Studies on Big Box Retail and Independent Business". http://www.ilsr.org/key-studies-walmart-and-bigbox-retail/ (June 28, 2013).

[10] Ridley & Associates, Inc. "Are Chain Stores Bad?" 2008. http://www.capecodcommission.org/resources/economicdevelopment/Are_Chain_Stores_Bad.pdf and Civic Economics. 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 banks[11].

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 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 (NYCDCP) 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.)

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[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.ilsr.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 the 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.

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[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, turn-over 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

SAN FRANCISCO
PLANNING DEPARTMENT

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Planning Commission Resolution No. 18931

HEARING DATE: JULY 25, 2013

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

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

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July 29, 2013

Ms. Angela Calvillo, Clerk
Honorable Supervisor Cohen
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 2013.0852TZ**
Third Street Formula Retail Restricted Use District
Board File No. 130372
Planning Commission Recommendation: ***Approval with Modifications***

Dear Ms. Calvillo and Supervisor Cohen,

On July 25, 2013, the Planning Commission conducted a duly noticed public hearing at regularly scheduled meeting to consider the proposed Ordinance that would amend the Planning Code to create the Third Street Formula Retail Restricted Use District introduced by Supervisor Cohen. At the hearing, the Planning Commission recommended approval with modifications.

The proposed modifications are as follows:

1. Revise the proposed District boundaries so that the proposed RUD includes all properties from Williams Avenue to Paul Avenue that face Third Street and are not zoned NC, as show in the attached map, Exhibit A.
2. Revise the Ordnance so that the proposed RUD is subject to the same controls as all other Formula Retail establishments in the City.
3. Revise Planning Code Section 303(i) to reflect the changes outlined in Exhibit B.
4. Consider including the properties that front on Lane Street between Yosemite Street and Armstrong Avenue.

The proposed amendment to the Planning Code was found to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2).

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

Sincerely,

AnMarie Rodgers
Manager of Legislative Affairs

cc:
Kate H. Stacy, Deputy City Attorney
Andrea Bruss, Aide to Supervisor Cohen
Alisa Miller, Office of the Clerk of the Board

Attachments
Planning Commission Resolution w/Attachments
Planning Department Executive Summary

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Planning Commission Resolution No. 18932

HEARING DATE: JULY 25, 2013

Project Name:	**Establish Third Street Formula Retail Restricted Use District**
Case Number:	2013.0852TZ [Board File No. 130372]
Initiated by:	Supervisor Cohen/ Introduced April 13, 2013
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***

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE WITH MODIFICATIONS THAT WOULD AMEND THE PLANNING CODE TO CREATE THE THIRD STREET FORMULA RETAIL RESTRICTED USE DISTRICT; AMEND ZONING MAP SHEET SU10, FOR PROPERTY LOCATED ON THIRD STREET BETWEEN WILLIAMS AVENUE AND EGBERT AVENUE; AND MAKING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1.

PREAMBLE

Whereas, on April 13, 2013, Supervisor Cohen introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 130372, which would amend the San Francisco Planning Code to create the Third Street Formula Retail Restricted Use District (hereinafter "RUD"); amend Zoning Map Sheet SU10, for property located on Third Street between Williams Avenue and Egbert Avenue; and making findings, including environmental findings pursuant to the California Environmental Quality Act, findings of consistency with the General Plan and the priority policies of Planning Code, Section 101.1.

Whereas, on July 25, 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 May 24, 2013, the Project was determined to be exempt from the California Environmental Quality Act ("CEQA") under the Non-Physical Exemption (CEQA Guidelines Section 15060(c)(2)) 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, 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. Revise the proposed District boundaries so that the proposed RUD includes all properties from Williams Avenue to Paul Avenue that face Third Street and are not zoned NC, as show in the attached map, Exhibit A.
2. Revise the Ordnance so that the proposed RUD is subject to the same controls as all other Formula Retail establishments in the City.
3. Revise Planning Code Section 303(i) to reflect the changes outlined in Exhibit B.
4. Consider including the properties that front on Lane Street between Yosemite Street and Armstrong Avenue.

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:

- This is a unique stretch of industrial zoned land in that it is located between two NC-3 Districts and serves as a continuation of the Third Street retail corridor. Creating this Formula Retail RUD would fill in a gap that could be exploited by Formula Retail businesses wishing to avoid the CU authorization requirement in the adjacent NC-3 Districts.

- One of the goals of this Ordinance is to fill the gap between the two existing neighborhood commercial districts along this stretch of Third Street; the Commission's proposed map better accomplishes this goal.

- The Commission wants to avoid a patchwork of different Formula Retail controls throughout the City, and as such is recommending that the proposed RUD use the Formula Retail controls that apply to the rest of the City.

- The Commission shares the Supervisor's concern that our current controls have a loophole, which allows an existing Formula Retail business to convert to new a Formula Retail business without obtaining CU authorization. Changing the business plan or model of an existing Formula Retail

store could have a negative impact on the neighborhood; for example, a new business may be more of a regional draw than the previous business bringing more traffic congestion to the neighborhood.

- The Commission does not find that it is necessary to require an existing Formula Retail use that has not obtained Formula Retail CU authorization, but which is now subject the Formula Retail requirements, to go through that process if it hasn't changed operations. In addition to this being inconsistent with current Planning Code regulations, which grandfather's existing uses that become conditionally permitted uses, it is also places an unnecessary burden on existing businesses that haven't changed operations.

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 SUPPPORT SYSTEMS THAT CONSTITUE 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 help protect a vital neighborhood commercial district by ensuring that Formula Retail businesses could not open adjacent to existing neighborhood commercial districts unless they were found to be necessary or desirable.

BAY VIEW HUNTERS POINT AREA PLAN

OBJECTIVE 7
ENCOURAGE HEALTHY RETAIL REUSE IN THE EXISTING COMMERCIAL CORE OF THIRD STREET AND COMPLEMENTARY GROWTH IN ADJACENT SECTIONS.

Policy 7.2
Make the commercial blocks on Third Street between Kirkwood Avenue to the north and Thomas and Thornton Avenues to the south the core of new commercial growth.

The proposed Ordnance will help discourage retail in industrial zoned areas outside of the commercial core of Third Street, which will help encourage more concentrated retail development within the commercial core.

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:

   Formula retail businesses can have a competitive advantage over independent operators because they are typically better capitalized and can absorb larger startup costs, pay more for lease space, and commit to longer lease contracts. This can put pressure on existing businesses and potentially price out new startup independent businesses. This Ordinance would help ensure that Formula Retail businesses do not over concentrate in this area of the city.

   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 Ordinance would not impact existing housing; however it will help preserve existing neighborhood character by ensuring that that Formula Retail businesses do not over concentrate in this area of the city. An over concentration of Formula Retail can degrade the visual character and uniqueness of a neighborhood.

   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 have no significant impact on 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 preserves the existing industrial zoning of the subject parcels and discourages some retail uses. It 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 July 25, 2013.

Jonas P Ionin
Acting Commission Secretary

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

NAYS: none

ABSENT: Commissioners Fong and Hillis

ADOPTED: July 25, 2013

Attachments
Exhibit A: Commission proposed map for 3rd Street Formula Retail RUD
Exhibit B: Proposed changes to Planning Code Section 303(i)

Exhibit A

SAN FRANCISCO
PLANNING DEPARTMENT

Proposed 3rd Street Formula Retail RUD
Commission Recommended

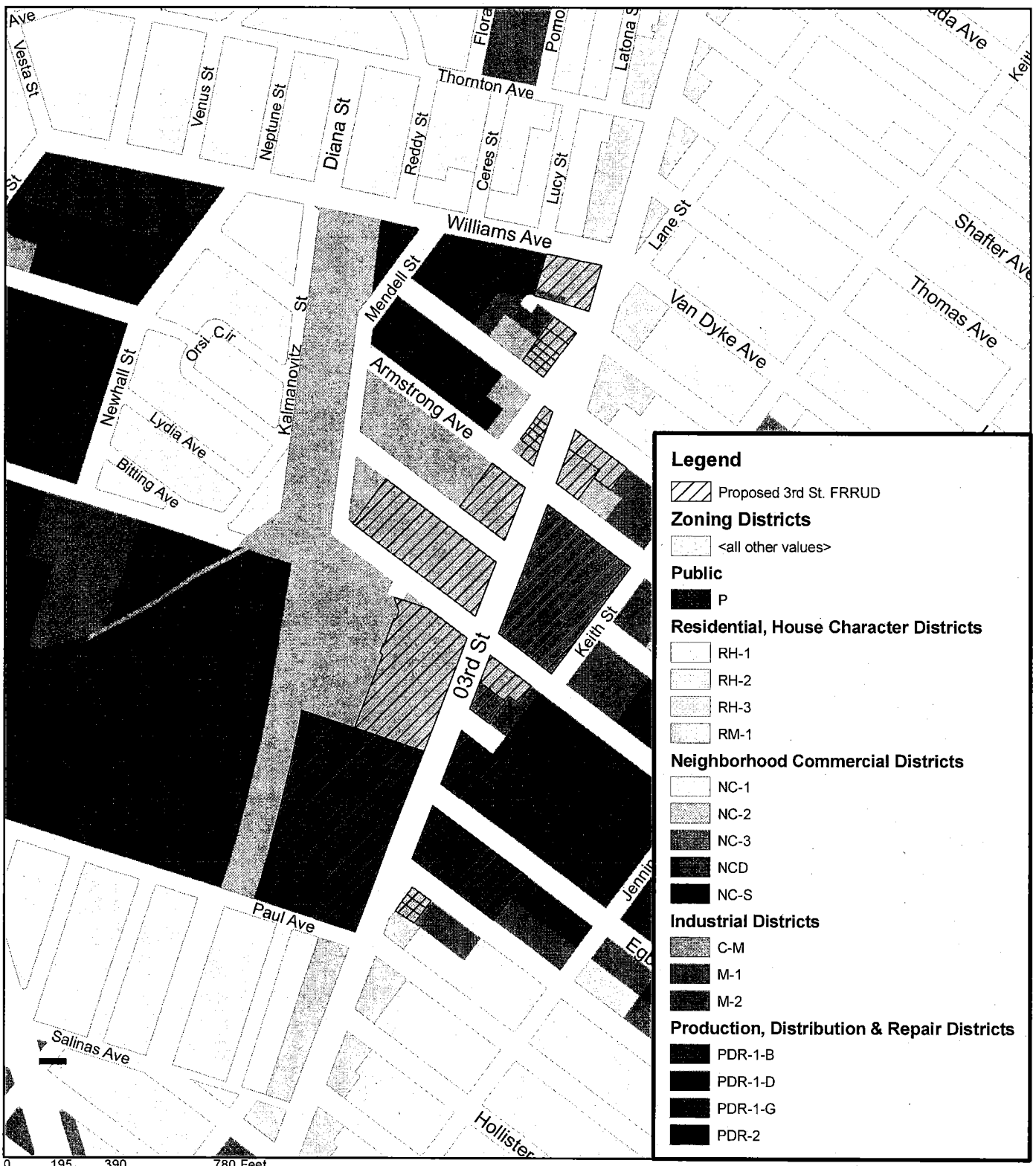

Exhibit B

Proposed Changes to Planning Code Section 303(i)(7)

(7) **Change in Use.** A change from one formula retail use to another requires a new Conditional Use Authorization, whether or not a Conditional Use Authorization would otherwise be required by the particular change in use in question. This Conditional Use Authorization requirement also applies in changes from one Formula Retail operator to another within the same use category. A new Conditional Use Authorization shall not apply to a change in a formula use retailer that meets the following criteria:

(A) the formula use operation remains the same in terms of its size, function and general merchandise offering as determined by the Zoning Administrator, and

(B) the change in the formula retail use operator is the result of the business being purchased by another formula retail operator who will retain all components of the existing retailer *including but not limited to the name, branding and general merchandise offering* ~~and make minor alterations to the establishment(s) such as signage and branding.~~

The new operator shall comply with all conditions of approval previously imposed on the existing operator, including but not limited to signage programs and hours of operation; and shall conduct the operation generally in the same manner and offer essentially the same services and/or type of merchandise; or seek and be granted a new Conditional Use Authorization.

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Executive Summary
Zoning Map and Planning Code Text Change
HEARING DATE: JULY 25, 2013

Project Name:	**Establish Third Street Formula Retail Restricted Use District**
Case Number:	2013.0852TZ [Board File No. 130372]
Initiated by:	Supervisor Cohen/ Introduced April 13, 2013
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**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to create the Third Street Formula Retail Restricted Use District (hereinafter "RUD"); amend Zoning Map Sheet SU10, for property located on Third Street between Williams Avenue and Egbert Avenue; and making findings, including environmental findings pursuant to the California Environmental Quality Act, findings of consistency with the General Plan and the priority policies of Planning Code, Section 101.1.

The Way It Is Now:

- Properties along Third Street between Williams Avenue and Egbert Avenue are zoned PDR-1-B (Light Industrial Buffer) PDR-2 (Core Production Distribution and Repair), and M-1 (Light Industrial). While these are industrially zoned districts, retail operations are permitted.
- PDR-1-B, PDR-2, and M-1 districts are not subject to Formula Retail Controls.
- Currently, Formula Retail controls do not require existing Formula Retail operations that have not obtained Conditional Use (hereinafter "CU") authorization but which are now subject to Formula Retail controls to obtain CU authorization.

The Way It Would Be:

The proposed legislation would:

- Create the Third Street Formula Retail RUD along Third Street from Williams Avenue to Egbert Avenue. (See Exhibit D)
- 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.

ISSUES AND CONSIDERATIONS

Existing Neighborhood Context

The proposed RUD is sandwiched between two NC-3 (Neighborhood Commercial, Moderate Scale) Districts; one to the north which goes from Jerrold Avenue to Yosemite Avenue (15 blocks) and one to the south, which goes from Paul Avenue to Key Avenue (four blocks). The relatively recent arrival of the T Line, which runs down the middle of Third Street, is helping to transform this area of the City in to a more transit-oriented neighborhood while connecting it to the rest of the City. The building scale within the NC-3 Districts and the proposed RUD tends to be low rise with most building between one and three stories tall; however there are some six story buildings. The NC-3 District to the north of the proposed RUD is a vibrant commercial corridor providing a central area for neighborhood activity. It contains a mix of uses that include outdoor gather spaces, neighborhood serving retail, restaurants and bars. The NC-3 District to the south of the RUD is slightly less active but still has a good deal of commercial activity. Uses within the proposed RUD are predominantly industrial, including warehouses, builder supply stores and the like; however there are a number of retail storefronts, a church and some newer mixed use buildings including the new mixed use development Egbert and Third Street that contains condominiums above a supermarket (dba Fresh and Easy).

Current Formula Retail Controls

Formula Retail is currently defined a type of retail sales activity or retail sales establishment which has eleven or more other retail sales establishments located in the United States. In addition to the eleven establishments, the business maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, uniform apparel, standardized signage, a trademark or a service mark.

Retail sales establishments include "Bar," "Drive-up Facility," "Eating and Drinking Use," "Liquor Store," "Sales and Service, Other Retail," "Restaurant," "Limited-Restaurant," "Take-Out Food," "Sales and Service, Retail," "Service, Financial," "Movie Theater," and "Amusement and Game Arcade."

The Planning Commission is required to consider the following criteria in addition to the standard CU criteria for Formula Retail applications:

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.

In areas of the City that have Formula Retail controls, you are required to obtain a Formula Retail CU authorization if you:

1. Seek to establish a new Formula Retail business; or
2. Purchase some but not all locations of an existing Formula Retail business. For example, if *StarCoffee* purchases some, but not all, *Paul's Coffee* locations, *StarCoffee* would have to apply for CU authorization for those locations it purchased.

You are not required to get a CU for Formula Retail if you:

3. Purchase the entire chain and continue to operate it as the existing business. For example, *StarCoffee* purchases *Sandwiches n' More* and continues to operate all locations as *Sandwiches n' More.*
4. Purchase the entire chain but operate it as a new business. For example, *StarCoffee* purchases *Sandwiches n' More,* but turns them all into *StarCoffee.*

Zoning of Subject Properties

M-1 District. These are one of two types of districts providing land for industrial development. In general, the M-1 Districts are more suitable for smaller industries dependent upon truck transportation, while the M-2 Districts are more suitable for larger industries served by rail and water transportation and by large utility lines. In M-1 Districts, most industries are permitted, but some with particularly noxious characteristics are excluded. The permitted industries have certain requirements as to enclosure, screening and minimum distance from Residential Districts. All Retail Sales and Personal Service uses are permitted as of right in M-1 Districts with no specific limitations on size or concentration.

PDR-1-B Districts. The intent of this district is to create a buffer area between residential neighborhoods and light industrial areas, primarily in the Bayview Hunters Point neighborhood. Thus, this district prohibits residential uses and limits office, retail, and institutional uses. Generally, all other uses are permitted. This zone allows for less intensive production, distribution, and repair activities that will not compromise the quality of life of nearby residents. These uses generate less external noise, odors, and vibrations and engage in fewer trucking activities than those permitted in PDR-2 districts. Uses in this district are generally conducted completely within enclosed structures. Retail business or personal service establishments that are under 2,500 are permitted, as are other activities that may serve well to buffer existing residential neighborhoods from areas of concentrated industrial operations.

PDR-2 Districts. The intent of this district is to encourage the introduction, intensification, and protection of a wide range of light and contemporary industrial activities. Thus, this district, prohibits new housing, large office developments, large-scale retail, and the heaviest of industrial uses, such as incinerators. Generally, all other uses are permitted. The conservation of existing flexible industrial buildings is also encouraged. These districts permit certain non-industrial, non-residential uses, including small-scale retail and office, entertainment, certain institutions, and similar uses that would not create conflicts with the primary industrial uses or are compatible with the operational characteristics of businesses in the area. Retail business or personal service establishments are limited to 2,500 gross square feet. These uses may require trucking activity multiple times per day, including trucks with up to 18 wheels or more, and occurring at any time of the day or night. As part of their daily operations, PDR activities in these areas may emit noises, vibrations, odors, and other emissions, as permitted by law.

Other Pending Proposals

In addition to this Ordinance, there are seven other proposals or pending modifications Formula Retail controls in the City. In response to this increased interested and concern with Formula Retail controls, the Department is in the processing of reassessing our Formula Retail controls in order to propose a more holistic approach. The following are a summary of active Formula Retail control proposals:

1. **Commission Policy for Upper Market.** This policy 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 and Divisadero NCDs which, among other controls, would she originally sought to prohibit new formula retail uses. Her new proposal would seek to weight the community voice over other considerations (including staff recommendation); generally weight the hearing towards disapproval; legislate a requirement for pre-application meeting; and codify our current FR policy for Fillmore and Divisadero. While the commission recommended not codifying the FR policy and not deferring the commission recommendation to community groups, it is unclear if the Supervisor will accept the Commission's recommendations.

3. **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.

4. **Supervisor Kim** announced at the June 25th, 2013 Board hearing that she has asked the City Attorney to draft interim controls to require CU for certain Formula Retail uses in the Mid-Market area.

5. **Implications from recent Board of Appeals hearing.** The Board of Appeals recently ruled that if a company has signed a lease for a location (even if the location is not yet occupied) we should count that towards the 11 needed to become 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 DPW code (BF 120193) that would restrict food trucks in the public right of way that are associated with formula retail. 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 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. Revise the proposed District boundaries so that the proposed RUD includes all properties from Williams Avenue to Paul Avenue that face Third Street and are not zoned NC, as show in the attached map, Exhibit C.
2. Revise the Ordnance so that the proposed RUD is subject to the same controls as all other Formula Retail establishments in the City.
3. Revise Planning Code Section 303(i) to reflect the changes outlined in Exhibit G.

BASIS FOR RECOMMENDATION

The Department supports the Supervisor's effort to institute Formula Retail controls along this stretch of Third Street. This is a unique stretch of industrial zoned land in that it is located between two NC-3 Districts and serves as a continuation of the Third Street retail corridor. Creating this Formula Retail RUD would fill in a gap that could be exploited by Formula Retail businesses wishing to avoid the CU authorization requirement in the adjacent NC-3 Districts. Further, The proposed Ordnance is consistent with the 2004 Redevelopment Plan for the Bay View (amended in 2010), which seeks to strengthening the economic base of the Project Area and the community by strengthening retail and other commercial functions within the Project Area, retaining existing residents and existing cultural diversity to the extent feasible, and supporting locally-owned small businesses and local entrepreneurship.

Recommendation #1

The Department is proposing a revised map for the RUD that includes all properties that front on Third Street between Williams Avenue to Paul Avenue not already zoned Neighborhood Commercial. The Ordinance does not include all properties between the two existing NC-3 zoning districts and it also includes some properties zoned NC-3 that are already subject to Formula Retail controls (see exhibit D). One of the goals of this Ordinance is to fill the gap between the two existing neighborhood commercial districts along this stretch of Third Street; the Department's proposed map better accomplishes this goal. The Department has discussed this with the Supervisor's office and they support our proposed change.

Recommendation #2

The Department wants to avoid a patchwork of different Formula Retail controls throughout the city; this recommendation is geared toward that aim. The majority of the proposed Formula Retail controls outlined in the Ordinance are already covered by existing controls, except for the provision that requires existing Formula Retail businesses within the proposed Third Street Formal Retail RUD that have not obtained CU authorization to operate as a Formula Retail business to obtain a Formula Retail CU. The Department addresses this issue Recommendation #3 below.

Recommendation #3

The Department shares the Supervisor's concern that our current controls have a loophole, which allows an existing Formula Retail business to convert to new a Formula Retail business without obtaining CU authorization. Changing the business plan or model of an existing Formula Retail store could have a negative impact on the neighborhood; for example, a new business may be more of a regional draw than the previous business bringing more traffic congestion to the neighborhood. A new business could also sell a different mix of products that weren't anticipated in the original approval. In response, the Department is proposing to close that loophole by amending Section 303(i)(7), which applies citywide, so that a Formula Retail operator would have to seek CU authorization if they purchase an existing Formula Retail business and operate it as a new business, regardless of whether or not the entire business was purchased or only some locations (see discussion above on Current Formula Retail Controls, example #4).

However, the Department does not think it is necessary to require an existing Formula Retail use that has not obtained Formula Retail CU authorization, but which is now subject the Formula Retail requirements, to go through that process if it hasn't changed operations. This is also inconsistent with current Planning Code regulations, which grandfather's existing uses that become conditionally permitted uses. The proposed Ordinance would require existing Formula Retail businesses in the new RUD to obtain Formula Retail CU approval if they apply for any City permit, regardless of what that permit entails. The Department believes that this may places an unnecessary burden on existing businesses that haven't changed operations. In addition, it could result in existing businesses performing work without proper City permits, or lead to blighted storefronts because the business is delaying maintenance in order to avoid the CU process.

ENVIRONMENTAL REVIEW

The proposal ordinance 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 Non-Physical Exemption (CEQA Guidelines Section 15060(c)(2)) 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 not received any comments about the proposed NCD.

RECOMMENDATION:	**Recommendation of Approval with Modification**

Attachments:

Exhibit A:	Draft Planning Commission Resolution
Exhibit B:	Board of Supervisors File No. 130372
Exhibit C:	Department Proposed Third Street RUD Map
Exhibit D:	Map of Proposed Third Street RUD per the proposed Ordinance
Exhibit G:	Proposed changes to Planning Code Section 303(i)((7),

SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS

CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR

August 8, 2013

Ms. Angela Calvillo, Clerk of the Board
Board of Supervisors
City Hall room 244
1 Carlton B. Goodlett Place
San Francisco, CA 94102-4694

File No. 130372 [Planning Code, Zoning Map - Third Street Formula Retail Restricted Use District]

Small Business Commission Recommendation: **Approval**

Dear Ms. Calvillo:

On June 10, 2013 the Small Business Commission (SBC) voted 7-0 to recommend approval of BOS File No. 130272.

The Commission supports the creation of the Third Street Formula Retail Restricted Use District and the formation of a contiguous stretch of Formula Retail controls along Third Street.

The Commission heard testimony from the Bayview Merchants Association that community input is important during the entitlement process of Formula Retail projects and this ordinance will provide the opportunity for the merchants association and other stakeholders to provide feedback to city officials for projects between Egbert and Williams Avenue.

The Commission recommends that the Supervisor consider implementing a local hiring provision in this restricted use district. This Commission does not make this a condition of approval, but rather makes this a policy recommendation for consideration.

Sincerely,

Regina Dick-Endrizzi
Director, Office of Small Business

Cc: Supervisor Malia Cohen
Jason Elliot, Mayor's Office
AnMarie Rogers, Planning Department

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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

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

130372

CALIFORNIA RESTAURANT ASSOCIATION

September 16, 2013

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

RE: Formula Retail Legislation: Hold Until City's Economic Analysis Is Completed

Dear President Chiu:

On behalf of the California Restaurant Association (CRA), representing more than 22,000 members in California, both formula and non-formula restaurant establishments, I am writing to urge the San Francisco Board of Supervisors to not move forward with any decisions relating to formula retail legislation until the City's economic analysis is completed.

The Board of Supervisors should hold off on taking up all formula retail legislation that has been proposed. We respectfully urge that the Board not rush through a patchwork of legislation that will create confusion and a lack of uniformity of formula retail controls district by district. Instead, we strongly urge the Board to wait until the economic analysis is completed so that any decision made is done so in a thoughtful manner with as much information that is available.

At this point in time we will reserve our comments on specific merits of formula retail legislation.

The CRA, once again, respectfully requests that all formula retail-related legislation, resolutions and other policy action be held until the economic study is completed.

Sincerely,

Javier M. González
Director, Government Affairs + Public Policy

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

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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

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

BOARD of SUPERVISORS

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

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, September 9, 2013**

Time: **1:30 p.m.**

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

Subject: **File No. 130372.** Ordinance amending the Planning Code to create the Third Street Formula Retail Restricted Use District; amending Zoning Map Sheet SU10, for property located on Third Street between Williams Avenue and Egbert Avenue; and making findings, including environmental findings pursuant to the California Environmental Quality Act, findings of consistency with the General Plan and the 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 a part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton Goodlett Place, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, September 6, 2013.

Angela Calvillo, Clerk of the Board

DATED/POSTED: August 27, 2013
PUBLISHED: August 30, 2013

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

EXM 2528460

COPY OF NOTICE

Notice Type: GPN GOVT PUBLIC NOTICE

Ad Description AM - 09.09.13 Land Use - File 130372

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

08/30/2013

The charge(s) for this order is as follows. An invoice will be sent after the last date of publication. If you prepaid this order in full, you will not receive an invoice.

Publication	$234.72
NetTotal	$211.25

NOTICE OF PUBLIC HEARING BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO LAND USE AND ECONOMIC DEVELOPMENT COMMITTEE MONDAY, SEPTEMBER 9, 2013 - 1:30 PM COMMITTEE ROOM 263, CITY HALL 1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA

NOTICE IS HEREBY GIVEN THAT the Land Use and Economic Development Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard: **File No. 130372**. Ordinance amending the Planning Code to create the Third Street Formula Retail Restricted Use District; amending Zoning Map Sheet SU10, for property located on Third Street between Williams Avenue and Egbert Avenue; and making findings, including environmental findings pursuant to the California Environmental Quality Act, findings of consistency with the General Plan and the 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 a part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton Goodlett Place, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, September 6, 2013.
Angela Calvillo, Clerk of the Board

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BOARD of SUPERVISORS

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

May 2, 2013

File No. 130372

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

Dear Ms. Jones:

On April 23, 2013, Supervisor Cohen introduced the following proposed legislation:

File No. 130372

Ordinance amending the Planning Code to create the Third Street Formula Retail Restricted Use District; amending Zoning Map Sheet SU10, for property located on Third Street between Williams Avenue and Egbert Avenue; and making findings, including environmental findings pursuant to the California Environmental Quality Act, 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

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

May 2, 2013

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

Dear Commissioners:

On April 23, 2013, Supervisor Cohen introduced the following proposed legislation:

File No. 130372

Ordinance amending the Planning Code to create the Third Street Formula Retail Restricted Use District; amending Zoning Map Sheet SU10, for property located on Third Street between Williams Avenue and Egbert Avenue; and making findings, including environmental findings pursuant to the California Environmental Quality Act, 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

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
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MEMORANDUM

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

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

DATE: May 2, 2013

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

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

File No. 130372

Ordinance amending the Planning Code to create the Third Street Formula Retail Restricted Use District; amending Zoning Map Sheet SU10, for property located on Third Street between Williams Avenue and Egbert Avenue; and making findings, including environmental findings pursuant to the California Environmental Quality Act, 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

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

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

☒ 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.

☐ 2. Request for next printed agenda without reference to Committee.

☐ 3. Request for hearing on a subject matter at Committee.

☐ 4. Request for letter beginning "Supervisor [ ] inquires"

☐ 5. City Attorney request.

☐ 6. Call File No. [ ] from Committee.

☐ 7. Budget Analyst request (attach written motion).

☐ 8. Substitute Legislation File No. [ ]

☐ 9. Request for Closed Session (attach written motion).

☐ 10. Board to Sit as A Committee of the Whole.

☐ 11. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

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

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☒ Planning Commission ☐ Building Inspection Commission

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

Sponsor(s):

Cohen

Subject:

Planning Code - Third Street Formula Retail Restricted Use District

The text is listed below or attached:

attached

Signature of Sponsoring Supervisor: [signature]

For Clerk's Use Only:

12.03.12