File No. 120796 Committee Item No. 2
Board Item No. 3

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

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

Board of Supervisors Meeting **Date** November 4, 2014

Cmte	Board	
☐	☐	Motion
☐	☐	Resolution
☒	☒	Ordinance
☒	☒	Legislative Digest
☐	☐	Budget and Legislative Analyst Report
☐	☐	Youth Commission Report
☐	☐	Introduction Form
☒	☒	Department/Agency Cover Letter and/or Report
☐	☐	MOU
☐	☐	Grant Information Form
☐	☐	Grant Budget
☐	☐	Subcontract Budget
☐	☐	Contract/Agreement
☐	☐	Form 126 – Ethics Commission
☐	☐	Award Letter
☐	☐	Application
☒	☒	Public Correspondence

OTHER **(Use back side if additional space is needed)**

☐	☐	
☐	☐	
☐	☐	
☐	☐	
☐	☐	

Completed by: Andrea Ausberry **Date** October 16, 2014
Completed by: AA **Date** 10-21-14

AMENDED IN BOARD
10/28/14

FILE NO. 120796 ORDINANCE NO.

[Planning Code, Zoning Map - Establishing the Divisadero Street Neighborhood Commercial District and Deleting the Divisadero Street Restricted Use District]

Ordinance amending the Planning Code to establish the Divisadero Street Neighborhood Commercial District (NCD) along Divisadero Street between Haight and O'Farrell Streets, deleting the Divisadero Street Alcohol Restricted Use District (RUD), amending various other Code sections to make conforming and other technical changes, amending the Zoning Map to add the Divisadero Street NCD and deleting the Divisadero Street RUD, affirming the Planning Department's California Environmental Quality Act determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

NOTE: **Unchanged Code text and uncodified text** are in plain Ariel font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strike-through italics Times New Roman font*~~.
Board amendment additions are in double-underlined Ariel font.
Board amendment deletions are in ~~strikethrough Ariel 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 Section 21000 et seq.). The Board of Supervisors hereby affirms this determination. Said determination is on file with the Clerk of the Board of Supervisors in File No. 120796 and is incorporated herein by reference.

(b) On June 13, 2013, the Planning Commission, in Resolution No. 18906, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and the priority policies of Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 120796.

Section 2. The Planning Code is hereby amended by adding Section 746.1 and the accompanying Zoning Control Table, to read as follows:

SEC. 746.1. DIVISADERO STREET NEIGHBORHOOD COMMERCIAL DISTRICT.

The Divisadero Street Neighborhood Commercial District ("Divisadero Street NCD") extends along Divisadero Street between Haight and O'Farrell Streets. Divisadero Street's dense mixed-use character consists of buildings with residential units above ground-story commercial use. Buildings typically range in height from two to four stories with occasional one-story commercial buildings. The district has an active and continuous commercial frontage along Divisadero Street for most of its length. Divisadero Street is an important public transit corridor and throughway street. The commercial district provides convenience goods and services to the surrounding neighborhoods as well as limited comparison shopping goods for a wider market.

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

Consistent with Divisadero Street's existing mixed-use character, new commercial development is permitted at the ground and second stories. Most neighborhood-serving businesses are strongly encouraged. Controls on new Formula Retail uses are consistent with Citywide policy for

Neighborhood Commercial Districts; Eating and Drinking and Entertainment uses are confined to the ground story. The second story may be used by some retail stores, personal services, and medical, business and professional offices. Additional flexibility is offered for second-floor Eating and Drinking, Entertainment, and Trade Shop uses in existing non-residential buildings to encourage the preservation and reuse of such buildings. Hotels are monitored at all stories. Limits on late-night activity, drive-up facilities, and other automobile uses protect the livability within and around the district, and promote continuous retail frontage.

SEC. 746. DIVISADERO STREET NEIGHBORHOOD COMMERCIAL DISTRICT

ZONING CONTROL TABLE

			Divisadero Street
No.	***Zoning Category***	***§ References***	***Controls***
BUILDING STANDARDS			
746.10	*Height and Bulk Limit*	*§§ 102.12, 105, 106, 250 - 252, 260, 261.1, 263.20, 270, 271*	*Generally, 65-X, and 40-X south of Oak Street; see Zoning Map. Height Sculpting on Alleys; § 261.1. Additional 5 feet in height allowed for parcels in the 40-X and 50-X height district with active uses; see § 263.20*
746.11	*Lot Size [Per Development]*	*§§ 121.1, 790.56*	*P up to 9,999 sq. ft.; C 10,000 sq. ft. & above*
746.12	*Rear Yard*	*§§ 130, 134, 136*	*Required at the second story and above and at all*

			residential levels § 134(a) and (e)
746.13	*Street Frontage*	*§ 145.1*	*Required*
746.13a	*Street Frontage, Above Grade Parking Setback and Active Uses*	*§ 145.1*	*Minimum 25 feet on ground floor, 15 feet on floors above*
746.13b	*Street Frontage, Required Ground Floor Commercial*	*§ 145.4*	*Required along Divisadero Street between Haight and O'Farrell Streets*
746.14	*Awning*	*§ 136.1(a)*	*P*
746.15	*Canopy*	*§ 136.1(b)*	*P*
746.16	*Marquee*	*§ 136.1(c)*	*P*
746.17	*Streetscape and Pedestrian Improvements*	*§ 138.1*	*Required*
COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES			
746.20	*Floor Area Ratio*	*§§ 102.9, 102.11, 123*	*2.5 to 1 § 124(a) and (b)*
746.21	*Use Size [Non-Residential]*	*§ 790.130, § 121.2*	*P up to 3,999 sq. ft.; C 4,000 sq. ft. & above*
746.22	*Off-Street Parking, Non-*	*§§ 145.1, 150, 151.1, 153*	*None required. Maximum*

	residential	*- 157, 159 - 160, 204.5*	*permitted as set forth in Section 151.1*		
746.23	*Off-Street Freight Loading*	*§§ 150, 153 - 155, 204.5, 152, 161(b)*	*Generally, none required if gross floor area is less than 10,000 sq. ft.*		
746.24	*Outdoor Activity Area*	*§§ 790.70, 145.2(a)*	*P if located in front; C if located elsewhere*		
746.25	*Drive-Up Facility*	*§ 790.30*			
746.26	*Walk-Up Facility*	*§§ 790.140, 145.2(b)*	*P if recessed 3 ft.; C if not recessed*		
746.27	*Hours of Operation*	*§ 790.48*	*P 6 a.m. - 2 a.m.; C 2 a.m. - 6 a.m.*		
746.30	*General Advertising Sign*	*§§ 262, 602 - 604, 608, 609*			
746.31	*Business Sign*	*§§ 262, 602 - 604, 607.1(f)(2), 608, 609*	*P*		
746.32	*Other Signs*	*§§ 262, 602 - 604, 607.1(c), (d), and (g), 608, 609*	*P*		
No.	***Zoning Category***	***§ References***	***Divisadero Street Controls by Story***		
		§ 790.118	***1st***	***2nd***	***3rd+***
746.36	*Residential Conversion*	*§ 317*	*P*	*C*	

746.37	Residential Demolition	§ 317	P	C	C
746.38	Residential Division	§ 207.8	P	P	P
746.39	Residential Merger	§ 317	C	C	C
Retail Sales and Services					
746.40	Other Retail Sales and Services [Not Listed Below]	§ 790.102	P#	P#	
746.41	Bar	§ 790.22	P	P #	
746.43	Limited-Restaurant	§ 790.90	P	P #	
746.44	Restaurant	§ 790.91	P	P #	
746.45	Liquor Store	§ 790.55	NP #		
746.46	Movie Theater	§ 790.64	P	P #	
746.47	Adult Entertainment	§ 790.36			
746.48	Other Entertainment	§ 790.38	P	P #	
746.49	Financial Service	§ 790.110	C		
746.50	Limited Financial Service	§ 790.112	P		
746.51	Medical Service	§ 790.114	P	P	
746.52	Personal Service	§ 790.116	P	P	
746.53	Business or Professional Service	§ 790.108	P	P	
746.54	Massage Establishment	§ 790.60 §§ 29.1 - 29.32 Health Code	C		
746.55	Tourist Hotel	§ 790.46	C	C	C
746.56	Automobile Parking	§§ 790.8, 145.1, 156, 160	C		
746.57	Automotive Gas Station	§ 790.14	C		

746.58	Automotive Service Station	§ 790.17	C		
746.59	Automotive Repair	§ 790.15	C		
746.60	Automotive Wash	§ 790.18			
746.61	Automobile Sale or Rental	§ 790.12			
746.62	Animal Hospital	§ 790.6	C		
746.63	Ambulance Service	§ 790.2			
746.64	Mortuary	§ 790.62			
746.65	Trade Shop	§ 790.124	P	P #	
746.66	Storage	§ 790.117			
746.68	Fringe Financial Service	§ 790.111	NP #		
746.69	Tobacco Paraphernalia Establishments	§ 790.123	C		
746.69B	Amusement Game Arcade (Mechanical Amusement Devices)	§ 790.4	C		
746.69C	Neighborhood Agriculture	§ 102.35(a)	P	P	P
746.69D	Large-Scale Urban Agriculture	§ 102.35(b)	C	C	C
Institutions and Non-Retail Sales and Services					
746.70	Administrative Service	§ 790.106			
746.80	Hospital or Medical Center	§ 790.44			
746.81	Other Institutions, Large	§ 790.50	P	C	C
746.82	Other Institutions, Small	§ 790.51	P	P	P
746.83	Public Use	§ 790.80	C	C	C
746.84	Medical Cannabis Dispensary	§ 790.141	P #		
746.85	Philanthropic Administrative	§ 790.107		P #	

	Service				
RESIDENTIAL STANDARDS AND USES					
746.90	*Residential Use*	*§ 790.88*	*P*	*P*	*P*
746.91	*Residential Density, Dwelling Units*	*§§ 207, 207.1, 207.4, 790.88(a)*	*Generally, 1 unit per 800 sq. ft. lot area*		
746.92	*Residential Density, Group Housing*	*§§ 207.1, 208, 790.88(b)*	*Generally, 1 bedroom per 275 sq. ft. lot area*		
746.93	*Usable Open Space [Per Residential Unit]*	*§§ 135, 136*	*Generally, either 100 sq. ft. if private, or 133 sq. ft. if common § 135(d)*		
746.94	*Off-Street Parking, Residential*	*§§ 150, 151.1, 153 - 157, 159 - 160*	*None required. P up to .5 cars per unit, C up to .75 cars per unit, NP above*		
746.95	*Community Residential Parking*	*§ 790.10*	*C*		

SPECIFIC PROVISIONS FOR THE DIVISADERO STREET NEIGHBORHOOD COMMERCIAL DISTRICT

Article 7 Code Section	***Other Code Section***	***Zoning Controls***
746.41 *746.43* *746.44* *746.46* *746.48* *746.65*		*A Bar, Restaurant, Limited-Restaurant, Movie Theater, Other Entertainment, Trade Shop, or Philanthropic Administrative Service use is permitted on the Second Story of existing buildings which have had no immediately prior second-story Residential Use.*

746.85		
§ 746.40 *§ 746.45*		*(a) Liquor Stores are not permitted within the Divisadero Street NCD. Liquor Store uses which become inactive for more than 180 days may not be reestablished. A lawfully existing Liquor Store may relocate within the district with Conditional Use authorization;* *(b) Liquor Stores, General Grocery Stores, and Specialty Grocery Stores shall comply with the following Good Neighbor requirements:* *(1) The business operator shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards. In addition, the operator shall be responsible for daily monitoring of the sidewalk within a one-block radius of the subject business to maintain the sidewalk free of litter associated with the business during business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code.* *For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works.* *(2) The business operator shall provide outside lighting in a manner sufficient to illuminate street and sidewalk areas and adjacent parking, as appropriate to maintain security, without disturbing area residences.* *(3) No more than one-third of the square footage of the windows and clear doors of the business shall bear advertising or signage of any sort, and all advertising and signage shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and*

		unobstructed view of the interior of the premises, including the area in which the cash registers are maintained, from the exterior public sidewalk or entrance to the premises.
§ 746.68	*§ 249.35*	***FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT (FFSRUD)*** ***Boundaries:*** *The FFSRUD and its ¼ mile buffer includes, but is not limited to, properties within the Divisadero Street NCD.* ***Controls:*** *Within the FFSRUD and its ¼ mile buffer, fringe financial services are NP pursuant to Section 249.35. Outside the FFSRUD and its ¼ mile buffer, fringe financial services are P subject to the restrictions set forth in Subsection 249.35(c)(3).*
§ 746.84 §	*790.141 Health Code § 3308*	*Medical Cannabis Dispensaries may only operate between the hours of 8 a.m. and 10 p.m.*

Section 3. The San Francisco Planning Code is hereby amended by deleting Section 783, as follows:

~~***SEC. 783. DIVISADERO STREET ALCOHOL RESTRICTED USE DISTRICT ESTABLISHED.***~~

~~*There are an unusually large number of establishments dispensing alcoholic beverages, including beer and wine, for off-site consumption in the Small-Scale Neighborhood Commercial District along Divisadero Street between Haight and Geary Streets. The existence of this many alcoholic beverage establishments appears to contribute directly to numerous peace, health, safety and general welfare problems in the area, including loitering, littering, public drunkenness, defacement and damaging of structures, pedestrian obstructions, as well as traffic circulation, parking and noise problems on public streets and neighborhood lots. The existence of such problems creates serious*~~

~~*impacts on the health, safety and welfare of residents of nearby single- and multiple-family areas, including fear for the safety of children, elderly residents and of visitors to the area. The problems also contribute to the deterioration of the neighborhood and concomitant devaluation of property and destruction of community values and quality of life. The number of establishments selling alcoholic beverages and the associated problems discourage more desirable and needed commercial uses in the area.*~~

~~*(a) In order to preserve the residential character and the neighborhood-serving commercial uses of the area, the Divisadero Street Alcohol Restricted Use District (Divisadero Street Alcohol RUD) is hereby established for the properties in the Small-Scale Neighborhood Commercial District along Divisadero Street between Haight and Geary Streets, as designated on Sectional Map numbers 2 and 7. The Divisadero Street Alcohol RUD is designated on Sectional Map Numbers 2SU and 8SU.*~~

~~*(1) No new off-sale liquor establishments shall be permitted in the Divisadero Street Alcohol RUD.*~~

~~*(2) The prohibition on Liquor Establishments shall not be interpreted to prohibit the following:*~~

~~*(A) Temporary uses, as described in Planning Code Section 205.1 or 205.3; or*~~

~~*(B) Establishment of a Liquor Establishment if an application for such Liquor Establishment is on file with the California Department of Alcoholic Beverage Control prior to the effective date of legislation establishing the Divisadero Street Alcohol RUD.*~~

~~*(C) Re-location of an existing liquor establishment from outside the Divisadero Street Alcohol RUD to a location within the Divisadero Street Alcohol RUD if that liquor establishment received conditional use authorization from the City Planning Commission prior to the effective date of this legislation.*~~

~~*(3) **Continuation of Existing Prohibited Liquor Establishments.** In the Divisadero Street Alcohol RUD, any Prohibited Liquor Establishment may continue in accordance with Planning Code Section 180 through 186.2, subject to the following provisions:*~~

~~*(A) A Prohibited Liquor Establishment lawfully existing and selling alcoholic beverages as licensed by the State of California prior to the effective date of this legislation, or subsequent legislation prohibiting that type of Liquor Establishment, so long as otherwise lawful, may continue to operate only under the following conditions, as provided by California Business and Professions Code Section 23790;*~~

~~*(1) Except as provided by Subsection (B) below, the premises shall retain the same type of retail liquor license within a license classification; and*~~

~~*(2) Except as provided by Subsection (B) below, the licensed premises shall be operated continuously, without substantial change in mode or character of operation.*~~

~~*(B) A break in continuous operation shall not be interpreted to include the following, provided that the location of the establishment does not change, the square footage used for the sale of alcoholic beverages does not increase, and the type of California Department of Alcoholic Beverage Control Liquor License ("ABC License") does not change except as indicated:*~~

~~*(1) A change in ownership of a Prohibited Liquor Establishment or an owner-to-owner transfer of an ABC License; or*~~

~~*(2) Re-establishment, restoration or repair of an existing Prohibited Liquor Establishment on the same lot after total or partial destruction or damage due to fire, riot, insurrection, toxic accident or act of God; or*~~

~~*(3) Temporary closure of an existing Prohibited Liquor Establishment for not more than ninety (90) days for repair, renovation or remodeling;*~~

~~*(4) Re-location of an existing Prohibited Liquor Establishment in the Divisadero Street Alcohol RUD to another location within the same Divisadero Street Alcohol RUD*~~

~~*with conditional use authorization from the City Planning Commission, provided that the original premises shall not be occupied by a Prohibited Liquor Establishment, unless by another Prohibited Liquor Establishment that is also relocating from with the Divisadero Street Alcohol RUD.*~~

~~*(b) The following shall apply to all liquor establishments in the Divisadero Street Alcohol RUD in order to maintain the safety of the premises and vicinity:*~~

~~*(1) Liquor establishments shall provide outside lighting in a manner sufficient to illuminate street and sidewalk areas and adjacent parking, as appropriate to maintain security, without disturbing area residences;*~~

~~*(2) No more than 33 percent of the square footage of the windows and clear doors of Liquor establishments shall bear advertising or signage of any sort, and all advertising and signage shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the premises, including the area in which the cash registers are maintained, from the exterior public sidewalk or entrance to the premises. This requirement shall not apply to premises where there are no windows, or where existing windows are located at a height that precludes a view of the interior of the premises to a person standing outside the premises.*~~

~~*(c)* **Definitions.**~~

~~*(1) A "liquor establishment" shall mean any enterprise selling alcoholic beverages, as defined by California Business and Professions Code Section 23004 and 23025, pursuant to a California Alcoholic Beverage Control Board license.*~~

~~*(2) An "off-sale liquor establishment" shall mean any establishment that is defined in Section 790.55 of this Code.*~~

~~*(3) A "prohibited liquor establishment" shall mean any establishment selling alcoholic beverages lawfully existing prior to the effective date of the establishment of the Divisadero Street Alcohol RUD and licensed by the State of California for the retail sale of alcoholic beverages for off-site consumption, so long as otherwise lawful.*~~

~~*(d) Fringe Financial Services. In addition to all other applicable controls set forth in this Code, properties in the Divisadero Street Alcohol Restricted Use District are within the Fringe Financial Service Restricted Use District established by Section 249.35 and are subject to the controls and exemptions set forth in Section 249.35.*~~

Section 4. The Planning Code is hereby amended by revising Tables 135A and 151.1, Sections 151.1, 201, 207.5, 243, 249.35, 263.20, 607.1, 702.1, 702.3, and 790.55 and the Zoning Control Tables in Sections 711, 714, 722, 739, 740, 741, 742, 810 and 811, to read as follows:

TABLE 135A
MINIMUM USABLE OPEN SPACE FOR DWELLING UNITS AND GROUP HOUSING OUTSIDE THE EASTERN NEIGHBORHOODS MIXED USE DISTRICT

District	Square Feet Of Usable Open Space Required For Each Dwelling Unit If All Private	Ratio of Common Usable Open Space That May Be Substituted for Private
* * * *		
Neighborhood Commercial General Area Districts, Neighborhood Commercial Transit Districts, Named Neighborhood Commercial General Area Districts, and Named Neighborhood Commercial Transit Districts established in	*See the Zoning Control Table for the District* ~~*100*~~	~~*1.33*~~

Article 7 ~~*NC-1, NC-2, NCT-1, NCT-2, NC-S, Inner Sunset, Sacramento Street, West Portal Avenue, Ocean Avenue, Glen Park*~~		
~~*NC-3, Castro Street, Inner Clement Street, Outer Clement Street, Upper Fillmore Street, Haight Street, Union Street, Valencia Street, 24th Street-Mission, 24th Street-Noe Valley, NCT-3, SoMa, Mission Street , Folsom Street, RCD*~~	~~*80*~~	~~*1.33*~~
~~*Broadway, Hayes-Gough, Upper Market Street, North Beach, Polk Street*~~	~~*60*~~	~~*1.33*~~
Mixed Use Districts established in Article 8 ~~*Chinatown Community Business, Chinatown Residential Neighborhood Commercial,*~~	*See the Zoning Control Table for the District* ~~*48*~~	~~*1.00*~~

~~*Chinatown Visitor Retail*~~		
* * * *		

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

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

* * * *

Table 151.1

OFF-STREET PARKING PERMITTED AS ACCESSORY

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

Mission Street Neighborhood Commercial ~~*Glen Park NCT*~~ District	
~~*Dwelling units in the Folsom Street NCT and RCD Districts*~~	~~*P up to one car for each two dwelling units; up to 0.75 cars for each dwelling unit, subject to the criteria and procedures of Section 151.1(g); NP above 0.75 cars for each dwelling unit.*~~

SEC. 201. CLASSES OF USE DISTRICTS.

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

* * * *

Named Neighborhood Commercial Districts (Defined in Sec. 702.1)
Broadway Neighborhood Commercial District (Defined in Sec. 714.1)
Castro Street Neighborhood Commercial District (Defined in Sec. 715.1)
Inner Clement Street Neighborhood Commercial District (Defined in Sec. 716.1)
Outer Clement Street Neighborhood Commercial District (Defined in Sec. 717.1)
Divisadero Street *Neighborhood Commercial District (Defined in Sec. 746.1)*
Excelsior Outer Mission Neighborhood Commercial District (Defined in Sec. 745.1)
Fillmore Street Neighborhood Commercial District (Defined in Sec. 747.1)
Upper Fillmore Street Neighborhood Commercial District (Defined in Sec. 718.1)
Haight Street Neighborhood Commercial District (Defined in Sec. 719.1)
~~Inner Sunset Neighborhood Commercial District (Defined in Sec. 730.1)~~
Irving Street Neighborhood Commercial District (Defined in 740.1)

Judah Street Neighborhood Commercial District (Defined in Sec. 742.1)
Upper Market Street Neighborhood Commercial District (Defined in Sec. 721.1)
Noriega Street Neighborhood Commercial District (Defined in Sec. 739.1)
North Beach Neighborhood Commercial District (Defined in Sec. 722.1)
Pacific Avenue Neighborhood Commercial District (Defined in Sec. 732.1)
Polk Street Neighborhood Commercial District (Defined in Sec. 723.1)
Regional Commercial District (Defined in Sec. 744.1)
Sacramento Street Neighborhood Commercial District (Defined in Sec. 724.1)
Inner Sunset Neighborhood Commercial District (Defined in Sec. 730.1)
Taraval Street Neighborhood Commercial District (Defined in 741.1)
24th Street-Noe Valley Neighborhood Commercial District (Defined in Sec. 728.1)
Union Street Neighborhood Commercial District (Defined in Sec. 725.1)
West Portal Avenue Neighborhood Commercial District (Defined in Sec. 729.1)
~~*Noriega Street Neighborhood Commercial District (Defined in Sec. 739.1)*~~
~~*Irving Street Neighborhood Commercial District (Defined in 740.1)*~~
~~*Taraval Street Neighborhood Commercial District (Defined in 741.1)*~~
~~*Judah Street Neighborhood Commercial District (Defined in Sec. 742.1)*~~
~~*Regional Commercial District (Defined in Sec. 744)*~~
~~*Excelsior Outer Mission Neighborhood Commercial District (Defined in Sec. 745.1)*~~

* * * *

Named Neighborhood Commercial Transit Districts (NCT)
(Defined in Sec. 702.1)
Folsom Street NCT (Defined in Sec. 743.1)
Glen Park NCT (Defined in Sec. 738.1)

Hayes-Gough NCT (Defined in Sec. 720.1)
Upper Market Street NCT (Defined in Sec. 733.1)
~~*Valencia Street NCT (Defined in Sec. 726.1)*~~
~~*24th Street - Mission NCT (Defined in Sec. 727.1)*~~
Mission Street NCT (Defined in Sec. 736.1)
~~*SoMa NCT (Defined in Sec. 735.1)*~~
Ocean Avenue NCT (Defined in Sec. 737.1)
~~*Glen Park NCT (Defined in Sec. 738.1)*~~
~~*Folsom Street NCT (Defined in Sec. 743.1)*~~
~~Regional Commercial District (Defined in Sec. 744.1)~~
SoMa NCT (Defined in Sec. 735.1)
24th Street - Mission NCT (Defined in Sec. 727.1)
Valencia Street NCT (Defined in Sec. 726.1)

* * * *

SEC. 207.5. DENSITY OF DWELLING UNITS IN MIXED USE DISTRICTS.

(a) The dwelling unit density in the Chinatown Mixed Use District shall be at a density ratio not exceeding the amount set forth in the *specific district tables in Article 8* ~~*following Table 207.5(a):*~~

~~***Table 207.5(a)***~~
~~***Density of Dwelling Units in***~~
~~***Chinatown Mixed Use Districts***~~

~~*General Area District*~~	~~*Residential Density Limits*~~

~~*Chinatown Community Business*~~	~~*One dwelling unit for each 200 sq. ft. of lot area*~~
~~*Chinatown Residential Neighborhood Commercial*~~	~~*One dwelling unit for each 200 sq. ft. of lot area*~~
~~*Chinatown Visitor Retail*~~	~~*One dwelling unit for each 200 sq. ft. of lot area*~~

(b) Except as indicated in Paragraph (c) below, the dwelling unit density in the South of Market Mixed Use Districts shall *be as specified in the specific district tables in Article 8* ~~*shall not exceed the amount set forth in the following table:*~~

~~***Table 207.5(b)***~~
~~***Density of Dwelling Units in***~~
~~***South of Market Mixed Use Districts***~~

~~***General Area District***~~	~~***Residential Density Limits***~~
~~*Residential Service (RSD) Service/Light Industrial/Residential (SLR), Service/Secondary Office (SSO)*~~	~~*One dwelling unit for each 200 sq. ft. of lot area except that which project above 40 feet in height, a higher density may be allowed as a conditional use in accordance with the provisions of 303(c) of this Code.*~~

(c) There shall be no density limit for single room occupancy (SRO) units in any South of Market Mixed Use District.

(d) There shall be no density limit for any residential use, as defined by Section 890.88 in any DTR district.

(e) There shall be no density limits for any residential use, as defined by Section 890.88, in the Eastern Neighborhoods Mixed Use Districts.

SEC. 243. VAN NESS SPECIAL USE DISTRICT.

* * * *

(c) **Controls.** All provisions of the ~~*City*~~ Planning Code applicable to an RC-4 District shall apply except as otherwise provided in this Section.

* * * *

(9) **Limitation of Nonresidential Uses.**

* * * *

(F) ~~***Residential Parking.*** *Pursuant to Table 151 in Article 1.5 of this Code, the residential parking requirement shall be one space for each dwelling unit; provided, however, that the Zoning Administrator may reduce the parking requirement to not less than one space for each four dwelling units pursuant to the procedures and criteria of Sections 307(g) and (i) of this Code.*~~

~~(G)~~) **Medical Center Parking.** Notwithstanding any contrary provision of this Code, the maximum parking provisions for the Van Ness Medical Use Subdistrict shall not exceed the lesser of 990 spaces or 125% of the minimum number of spaces required by Code in the aggregate for the Cathedral Hill Campus which, for purposes of this subsection, shall be the Van Ness Medical Use District and Assessor's Block 0690, Lot 016, located at 1375 Sutter Street. Any parking sought up to this maximum but that exceeds the parking provisions

outlined elsewhere in this Code may only be granted by the Planning Commission as a Conditional Use Authorization.

(G) ~~(H)~~ **Medical Center Loading.** Loading standards for medical centers within the Van Ness Medical Use Subdistrict applicable under Section 154(b) may be reduced from the required minimum dimensions through a Conditional Use Authorization, provided that the dimensions provided will be sufficient to meet the reasonably foreseeable loading demands associated with the proposed facility.

(H) ~~(I)~~ **Adult Entertainment Enterprises.** The uses described in Section 221(k) of this Code are not permitted.

(I) ~~(J)~~ **Other Entertainment Uses.** Other Entertainment Uses as defined in Section 790.38 of this Code shall require notification as set forth in Section 312 of this Code.

~~*(K) **Formula Retail Uses.** Formula Retail uses, as defined in Section 303(i) of this Code, shall be permitted, subject to a Conditional Use Authorization, in parcels zoned RC-3 or RC-4 that are within the Van Ness SUD.*~~

(J) ~~(L)~~ **Medical Center Street Frontages.** If authorized as a Conditional Use under Section 303 of this Code, a medical center within the Van Ness Medical Use Subdistrict may deviate from the street frontage requirements of Section 145.1 of this Code, so long as the Planning Commission finds that the proposed street frontages otherwise achieve the intended purposes of Section 145.1 to "preserve, enhance and promote attractive, clearly defined street frontages that are pedestrian-oriented, fine-grained, and which are appropriate and compatible with the buildings and uses" in the surrounding areas.

* * * *

SEC. 249.35. FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT.

* * * *

(b) **Establishment of the Fringe Financial Service Restricted Use District.** In order to preserve the residential character and the neighborhood-serving commercial uses of the following defined areas, a noncontiguous Fringe Financial Service Restricted Use District (Fringe Financial Service RUD) is hereby established for the following properties:

(1) Properties in the Mission Alcoholic Beverage Special Use District, as described in Section *249.60* ~~*781.8*~~ of this Code and as designated on ~~*Zoning*~~ *Sectional* Maps ~~*Numbers*~~ SU07 and SU08 of the Zoning Map of the City and County of San Francisco;

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

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

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

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

* * * *

SEC. 263.20. SPECIAL HEIGHT EXCEPTION: ADDITIONAL FIVE FEET HEIGHT FOR ACTIVE GROUND FLOOR USES IN CERTAIN DISTRICTS.

* * * *

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

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

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

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

(B) in the ~~*24th Street – Noe Valley,*~~ Castro Street, ~~*Upper Market Street,*~~ Inner Clement Street, ~~*and*~~ Outer Clement Street, ~~*NCDs;*~~ Excelsior Outer Mission Street, Irving Street, Judah Street, Noriega Street, Taraval Street, *and 24th Street – Noe Valley* NCDs;

* * * *

SEC. 607.1. NEIGHBORHOOD COMMERCIAL AND RESIDENTIAL-COMMERCIAL DISTRICTS.

* * *

(e) **General Advertising Signs.** General advertising signs, as defined in Section 602.7, shall, *where permitted by the zoning controls for the individual NC districts, conform to the requirements of this subsection* ~~*be permitted in Neighborhood Commercial Districts, except in the Inner Sunset Neighborhood Commercial District where they are not permitted, as provided for below*~~. In NC Districts where such signs are permitted, general advertising signs may be either a wall

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

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

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

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

* * * *

(2) RC, NC-2, NCT-2, NC-S, Broadway, Castro Street, Inner Clement Street, Outer Clement Street, *Divisadero* Street, *Excelsior Outer Mission Street,* Fillmore Street, Upper Fillmore Street, *Folsom Street, Glen Park,* Inner Sunset, Irving Street, Haight Street, Hayes-Gough, Judah Street, Upper Market Street, ~~*Excelsior Outer Mission Street,*~~ Noriega Street, North Beach, Ocean Avenue, Pacific Avenue, Polk Street, *Regional Commercial District,*

Sacramento Street, SoMa, Taraval Street, Union Street, Valencia Street, 24th Street - Mission, 24th Street - Noe Valley, *and* West Portal Avenue~~, *Glen Park, RCD, and Folsom Street*~~ Neighborhood Commercial Districts.

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

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

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

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

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

* * * *

SEC. 702.1. NEIGHBORHOOD COMMERCIAL USE DISTRICTS.

* * * *

Named Neighborhood Commercial Districts	**Section Number**
Broadway Neighborhood Commercial District	§ 714
Castro Street Neighborhood Commercial District	§ 715
Inner Clement Street Neighborhood Commercial District	§ 716
Outer Clement Street Neighborhood Commercial District	§ 717
Divisadero Street Neighborhood Commercial District	*§ 746*
Excelsior Outer Mission Street Neighborhood Commercial District	*§ 745*
Fillmore Street Neighborhood Commercial District	§ 747
Upper Fillmore Street Neighborhood Commercial District	§ 718
Haight Street Neighborhood Commercial District	§ 719
Irving Street Neighborhood Commercial District	*§ 740*

Judah Street Neighborhood Commercial District	*§ 742*
Upper Market Street Neighborhood Commercial District	§ 721
Noriega Street Neighborhood Commercial District	*§ 739*
North Beach Neighborhood Commercial District	§ 722
Pacific Avenue Neighborhood Commercial District	*§ 732*
Polk Street Neighborhood Commercial District	§ 723
Regional Commercial District	*§ 744.1*
Sacramento Street Neighborhood Commercial District	§ 724
Inner Sunset Neighborhood Commercial District	*§ 730*
Taraval Street Neighborhood Commercial District	*§ 741*
24th Street-Noe Valley Neighborhood Commercial District	*§ 728*
Union Street Neighborhood Commercial District	§ 725
~~*24th Street-Noe Valley Neighborhood Commercial District*~~	~~*§ 728*~~
West Portal Avenue Neighborhood Commercial District	§ 729
~~*Inner Sunset Neighborhood Commercial District*~~	~~*§ 730*~~
~~*Glen Park Neighborhood Commercial Transit District*~~	~~*§ 738.1*~~
~~*Noriega Street Neighborhood Commercial District*~~	~~*§ 739.1*~~
~~*Irving Street Neighborhood Commercial District*~~	§ 740~~.1~~
~~*Taraval Street Neighborhood Commercial District*~~	~~*§ 741.1*~~
~~*Judah Street Neighborhood Commercial District*~~	~~*§ 742.1*~~
~~*Folsom Street Neighborhood Commercial Transit District*~~	~~*§ 743.1*~~
~~*Regional Commercial District*~~	~~*§ 744.1*~~
~~*Excelsior Outer Mission Street Neighborhood Commercial District*~~	~~*§ 745.1*~~

* * * *

Named Neighborhood Commercial Transit (NCT) Districts	*Section Number* ~~*702.1*~~
Folsom Street Neighborhood Commercial Transit District	*§ 743*
Glen Park Neighborhood Commercial Transit District	*§ 738*
Hayes-Gough Neighborhood Commercial Transit District	§ 720
Upper Market Street Neighborhood Commercial Transit District	§*733* ~~*732*~~
Mission Street Neighborhood Commercial Transit District	*§ 736*
Ocean Avenue Neighborhood Commercial Transit District	*§ 737*
~~*Valencia Street Neighborhood Commercial Transit District*~~	~~*§ 726*~~
~~*24th Street-Mission Neighborhood Commercial Transit District*~~	~~*§ 727*~~
SoMa Neighborhood Commercial Transit District	§ 735
24th Street-Mission Neighborhood Commercial Transit District	*§ 727*
Valencia Street Neighborhood Commercial Transit District	*§ 726*
~~*Mission Street Neighborhood Commercial Transit District*~~	~~*§ 736*~~
~~*Ocean Avenue Neighborhood Commercial Transit District*~~	~~*§ 737*~~
~~*Glen Park Neighborhood Commercial Transit District*~~	~~*§ 738*~~
~~*Folsom Street Neighborhood Commercial Transit District*~~	~~*§ 743.1*~~

* * * *

SEC. 702.3. NEIGHBORHOOD COMMERCIAL RESTRICTED USE SUBDISTRICTS.

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

The purposes and provisions set forth in Sections 781.1 through ~~*781.6*~~ *781.10*, Section~~s~~ *784* ~~*783 through 786*~~, and Sections 249.35 through 249.99 of this Code shall apply respectively within these districts. The boundaries of the districts are as shown on the Zoning Map as referred to in Section 105 of this Code, subject to the provisions of that Section.

Neighborhood Commercial Restricted Use Subdistricts	**Section Number**
Taraval Street Restaurant Subdistrict	§ 781.1
Geary Boulevard Formula Retail Pet Supply Store and Formula Retail Eating and Drinking Subdistrict	§ 781.4
Mission Street Formula Retail Restaurant Subdistrict	§ 781.5
North Beach Financial Service, Limited Financial Service, and Business or Professional Service Subdistrict	§ 781.6
Chestnut Street Financial *Service Subdistrict*	§ 781.7
Haight Street Alcohol Restricted Use District	§ 781.9
~~*Divisadero Street Alcohol Restricted Use District*~~	~~*§ 783*~~
Lower Haight Street Alcohol Restricted Use District	§ 784
Fringe Financial Service Restricted Use District	§ 249.35
Mission Alcohol Restricted Use District	§ 249.60 (formerly 781.8)
Third Street Alcohol Restricted Use District	§ 249.62 (formerly 782)

SEC. 711. SMALL-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-2 ZONING CONTROL TABLE

* * * * No.	Zoning Category	§ References	NC-2 Controls by Story		
		§ 790.118	1st	2nd	3rd+
* * * *					
Retail Sales and Services					
* * * * 711.69B * * * *	Amusement Game Arcade (Mechanical Amusement Devices)	§ ~~790.4~~ *790.40*			

SPECIFIC PROVISIONS FOR NC-2 DISTRICTS

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

* * * *		**Controls:** Within the FFSRUD and its ¼ mile buffer, fringe financial services are NP pursuant to Section 249.35. Outside the FFSRUD and its ¼ mile buffer, fringe financial services are P subject to the restrictions set forth in Subsection 249.35(c)(3).

SEC. 714. BROADWAY NEIGHBORHOOD COMMERCIAL DISTRICT

ZONING CONTROL TABLE

			Broadway
No.	**Zoning Category**	**§ References**	**Controls**
* * * *			
COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES			
714.20	Floor Area Ratio	§§ 102.9, 102.11, 123	2.5 to 1 § 124(a) (b)
714.21	Use Size [Non-Residential]	§ 790.130	P up to 2,999 sq. ft.; C 3,000 sq. ft. & above § 121.2
714.22	Off-Street Parking, Commercial/Institutional	§§ 150, *151.1,* 153 - 157, 159 - 160, 204.5	*None Required.* ~~*Generally, none required if occupied floor area is less than 5,000 sq. ft.*~~

			~~§§ 151, 161(g)~~

SEC. 722. NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT

ZONING CONTROL TABLE

			North Beach
No.	**Zoning Category**	**§ References**	**Controls**
COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES			
722.20	Floor Area Ratio	§§ 102.9, 102.11, 123	1.8 to 1 § 124(a) (b)
722.21	Use Size [Nonresidential]	§ 790.130	P up to 1,999 sq. ft.; C# 2,000 sq. ft. to 3,999 sq. ft. NP 4,000 sq. ft. and above § 121.2
722.22	Off-Street Parking, Commercial/Institutional	§§ 150, *151.1,* 153 - 157, 159 - 160, 204.5	*None Required.* ~~*Generally, none required if occupied floor area is less than 5,000 sq. ft.*~~ ~~*§§ 151, 161(g)*~~

SEC. 739. NORIEGA STREET NEIGHBORHOOD COMMERCIAL DISTRICT

ZONING CONTROL TABLE

	Noriega Street

No.	Zoning Category	§ References	Controls
BUILDING STANDARDS			
* * * * 739.17	*Streetscape and Pedestrian Improvements* ~~*Street Trees*~~	*§ 138.1*	Required ~~*§ 138.1*~~
COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES			
* * * * 739.31 * * * *	Business Sign	§§ 262, 602-604, 608, 609	P § 607.1(*fe*) 2

SEC. 740. IRVING STREET NEIGHBORHOOD COMMERCIAL DISTRICT

ZONING CONTROL TABLE

			Irving Street
No.	**Zoning Category**	**§ References**	**Controls**
BUILDING STANDARDS			
* * * * 740.17	*Streetscape and Pedestrian Improvements* ~~*Street Trees*~~	*§ 138.1*	Required ~~*§ 138.1*~~
COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES			
* * * * 740.31 * * * *	Business Sign	§§ 262, 602-604, 608, 609	P § 607.1(*fe*) 2

SEC. 741. TARAVAL STREET NEIGHBORHOOD COMMERCIAL DISTRICT

ZONING CONTROL TABLE

			Taraval Street
No.	**Zoning Category**	**§ References**	**Controls**
BUILDING STANDARDS			

* * * * 741.17	*Streetscape and Pedestrian Improvements* ~~*Street Trees*~~	*§ 138.1*	Required ~~*§ 138.1*~~
COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES			
* * * * 741.31 * * * *	Business Sign	§§ 262, 602-604, 608, 609	P § 607.1(*f e*) 2

SEC. 742. JUDAH STREET NEIGHBORHOOD COMMERCIAL DISTRICT

ZONING CONTROL TABLE

			Judah Street
No.	**Zoning Category**	**§ References**	**Controls**
BUILDING STANDARDS			
* * * * 742.17	*Streetscape and Pedestrian Improvements* ~~*Street Trees*~~	*§ 138.1*	Required ~~*§ 138.1*~~
COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES			
* * * * 742.31 * * * *	Business Sign	§§ 262, 602-604, 608, 609	P § 607.1(*f e*) 2

Table 810

CHINATOWN COMMUNITY BUSINESS DISTRICT

ZONING CONTROL TABLE

			Chinatown Community Business District
No.	**Zoning Category**	**§ References**	**Controls**

* * * *			
COMMERCIAL AND INSTITUTIONAL STANDARDS AND SERVICES			
.19	Floor Area Ratio	§§ 102.9, 102.11, 123	2.8 to 1 § 124(a) (b)
.20	Use Size [Nonresidential]	§ 890.130	P up to 5,000 sq. ft. C 5,000 sq. ft. & above, *except for* *Restaurants.* § 121.4 ~~*Except for full-service*~~ ~~*restaurants*~~

Table 811

CHINATOWN VISITOR RETAIL DISTRICT

ZONING CONTROL TABLE

			Chinatown Visitor Retail District
No.	**Zoning Category**	**§ References**	**Controls**
* * * *			
COMMERCIAL AND INSTITUTIONAL STANDARDS AND SERVICES			
.19	Floor Area Ratio	§§ 102.9, 102.11, 123	2.0 to 1 § 124(a) (b)
.20	Use Size [Nonresidential]	§ 890.130	P up to 2,500 sq. ft. C 2,501 to 5,000 sq. ft. Except for

			Restaurants ~~full-service restaurants~~ - 5,000 sq. ft. § 121.4

* * * *

SPECIFIC PROVISIONS FOR CHINATOWN VISITOR RETAIL DISTRICT

Section		**Zoning Controls**
§ 811.10	§ 270	- 50 N Height and Bulk District as mapped on Sectional Map 1H
§ 811.47b	§ 890.37	The other entertainment use must be in conjunction with an existing *Restaurant ~~full-service restaurant~~*
§ 811.54	§ 890.60, §§ *29.1 – 29.32* ~~*1900*~~ Health Code	MASSAGE ESTABLISHMENT Controls. Massage shall generally be subject to Conditional Use authorization. Certain exceptions to the Conditional Use requirement for massage are described in Section 303(o). When considering an application for a conditional use permit pursuant to this subsection, the Planning Commission shall consider, in addition to the criteria listed in Section 303(c), the criteria described in Section 890.60(b).
~~*§ 811.71*~~	~~*§ 236*~~	~~*Garment Shop Special Use District applicable only for portions of the Chinatown Visitor Retail District as mapped on Sectional Map No. 1 SUa*~~

* * *

SEC. 790.55. LIQUOR STORE.

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

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

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

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

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

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

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

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

Description of Property	Use District to be Superseded	Use District Hereby Approved
All parcels zoned NC-2 on Blocks 1100, 1101, 1126, 1127, 1128, 1129, 1153, 1154, 1155, 1156, 1179, 1180, 1181, 1182, 1201, 1202, 1203, 1204, 1215, 1216, 1217, 1218, 1237, 1238, 1239, and 1240	NC-2	Divisadero Street Neighborhood Commercial District

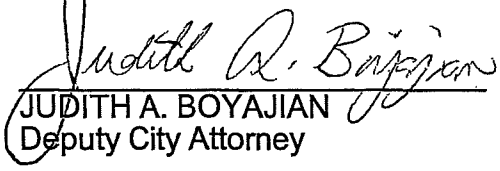
Section 6. Sheet SU02 of the Zoning Map of the City and County of San Francisco is hereby amended to delete the Divisadero Street Alcohol Restricted Use SUD.

Section 7. Effective Date. This ordinance shall become effective 30 days after enactment. 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 8. Scope of Ordinance. In enacting this ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance 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: 
JUDITH A. BOYAJIAN
Deputy City Attorney

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FILE NO. 120796

LEGISLATIVE DIGEST
(Substituted 9/23/2014)

[Planning Code - Establishing the Divisadero Street Neighborhood Commercial District and Deleting the Divisadero Street Restricted Use District]

Ordinance amending the Planning Code to establish the Divisadero Street Neighborhood Commercial District (NCD) along Divisadero Street between Haight and O'Farrell Streets, delete the Divisadero Street Alcohol Restricted Use District (RUD), amend various other Code sections to make conforming and other technical changes, amend the Zoning Map to add the Divisadero Street NCD and delete the Divisadero Street RUD, affirming the Planning Department's California Environmental Quality Act determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

An NC-2 District (Small-Scale Neighborhood Commercial) currently extends along Divisadero Street between Haight and O'Farrell Streets. The Divisadero Street Alcohol RUD encompasses the NC-2 parcels on Divisadero Street between Haight and O'Farrell Streets. It restricts new Liquor Store uses but permits existing Liquor Store uses to relocate from within or outside the RUD with conditional use authorization, establishes certain "good neighbor" policies for Liquor Stores within the RUD, and establishes certain limitations on the sorts of alcoholic beverages that may be sold by small general grocery and specialty grocery uses within the RUD. The RUD is within the Fringe Financial Special Use District, which prohibits new Fringe Financial uses.

Amendments to Current Law

This ordinance establishes a new Divisadero Street Neighborhood Commercial District (NCD) which (1) modifies certain of the former NC-2 district controls, (2) incorporates the controls from the RUD, which is repealed except that the transfer of Liquor Store uses from outside the District is not permitted and restrictions on the sorts of beverages that may be sold by small general grocery and specialty grocery uses are removed, and (3) retains the Fringe Financial Special Use District controls that were in the RUD.

Bars, Restaurants, Limited-Restaurants, Movie Theaters, Other Entertainment, Philanthropic Administrative Services and Trade Shops, which otherwise are not permitted on the second floor, are permitted on the second floor of existing buildings with no prior residential use. Buildings on lots located in the 40-X height district are permitted an additional 5 feet in height, if that additional height is used to provide a tall ground floor housing active street-fronting residential or non-residential uses. Minimum parking requirements for all uses are eliminated from the district. Maximum permitted parking for residential and non-residential uses are reduced to that of a Neighborhood Commercial Transit (NCT) District. Controls on new

Formula Retail uses will be consistent with Citywide policy for Neighborhood Commercial Districts.

Background Information

Divisadero Street between Haight and O'Farrell Streets has a dense mixed-used character consisting of buildings with residential units above ground-story commercial use. It has an active and continuous commercial frontage for most of its length. Divisadero Street is an important public transit corridor and throughway street. The commercial district provides convenience goods and services to the surrounding neighborhoods as well as limited comparison shopping goods for a wider market.

The controls for the Divisadero Street NCD are designed to encourage and promote development that enhances the walkable, mixed-use character of the corridor and surrounding neighborhoods. Most neighborhood-serving businesses are strongly encouraged and controls on new Formula Retail uses will be consistent with Citywide policy for Neighborhood Commercial Districts.

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SAN FRANCISCO
PLANNING DEPARTMENT

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130372
130486
130677
130712
130735
130788

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

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.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

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]

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[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

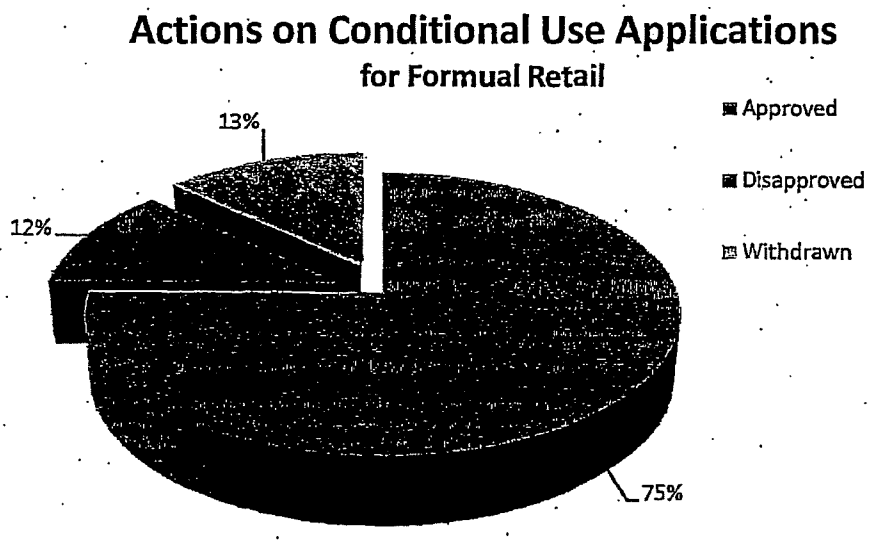
Conversely, the definition does not apply to a number of establishments that are nationally known brands with standardized signage, a standardized décor, and a trademark, such as:

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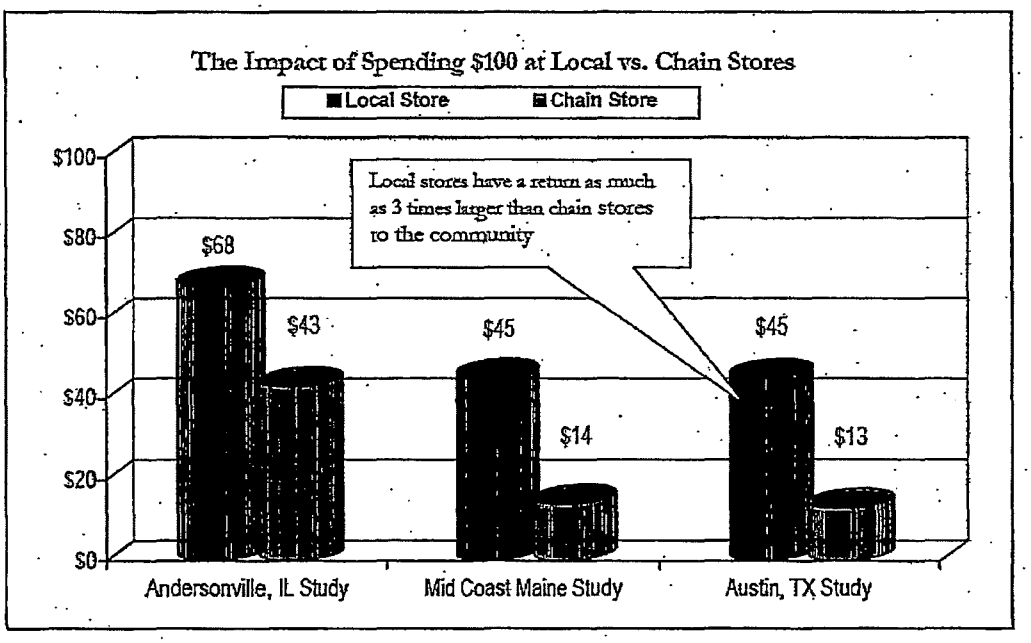
[9] Institute for Local Self- Reliance. "Key Studies on Big Box Retail and Independent Business". http://www.ilsr.org/key-studies-walmart-and-bigbox-retail/ (June 28, 2013).

[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

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[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

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission 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

SAN FRANCISCO
PLANNING DEPARTMENT

June 17, 2013

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

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

Re: Transmittal of Board File No. 120796, Version 3; Planning Case No. 2012.0950TZ
Divisadero Street NCD
Planning Commission Recommendation: *Approval with modifications*

Dear Ms. Calvillo and Supervisor Breed;

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

The proposed Ordinance would create a new named Neighborhood Commercial District along Divisadero Street from Haight Street to O'Farrell Street. The Commission heard the original version of this Ordinance on November 29, 2012, the outcome of which was transmitted to the Clerk of the Board on December 4, 2012.

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

At the June 13, 2013 hearing, the Commission adopted Resolution Number 18906 with *a recommendation of approval with modifications to the Board of Supervisors for the proposed ordinance.* This recommendation is based on the proposed Ordinance as well as a memo sent by Supervisor Breed to the Planning Commission outlining some proposed changes to the Ordinance (see attachment).

Specifically, the Commission recommended that the Board of Supervisors modify Supervisor Breed's proposed Ordinance [Board File No. 120796, Version 3] by incorporating the changes proposed by the Planning Commission, which are as follows:

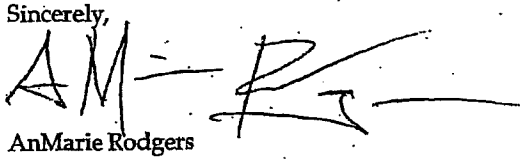
1. Recommend that the Board of Supervisor codify the pre-application meeting requirement in the Planning Code, by adding the following language to Planning Code Sections 303(i), 703.3 and 803.6 that states:

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

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

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

Sincerely,



AnMarie Rodgers
Manager of Legislative Affairs

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

Attachments [one copy of each of the following]
Planning Commission Resolution Number 18906
Planning Commission Executive Summary
Memo from Supervisor Breed

SAN FRANCISCO
PLANNING DEPARTMENT

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Resolution No. 18906

HEARING DATE: JUNE 13, 2013

Project Name:	**Amendments relating to the proposed Divisadero Street NCDs**
Case Number:	2012.0950TZ [Board File No. 12-0796 Version 3]
Initiated by:	Supervisor Breed/ Reintroduced February 26, 2013
Staff Contact:	Aaron Starr, Legislative Affairs aaron.starr@sfgov.org, 415-558-6362
Reviewed by:	AnMarie Rodgers, Manager Legislative Affairs 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 SAN FRANCISCO PLANNING CODE BY: 1) ADDING SECTION 743.1 TO ESTABLISH THE DIVISADERO NEIGHBORHOOD COMMERCIAL DISTRICT; 2) REPEALING THE DIVISADERO STREET ALCOHOL RESTRICTED USE DISTRICT ESTABLISHED IN SECTION 783; 3) AMENDING SECTION 151.1 AND A PORTION OF TABLE 151.1, SECTIONS 263.20, 607.1(F), AND 702.3, THE SPECIFIC PROVISIONS OF THE SECTION 711 ZONING CONTROL TABLE, AND SECTION 790.55 TO MAKE CONFORMING AND OTHER TECHNICAL CHANGES; 4) AMENDING SHEETS ZN02 AND ZN07 OF THE ZONING MAP TO INCLUDE THE DIVISADERO NEIGHBORHOOD COMMERCIAL DISTRICT; 5) AMENDING SHEET SU02 OF THE ZONING MAP TO DELETE THE DIVISADERO STREET ALCOHOL RESTRICTED USE SUD; AND 6) ADOPTING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.1.

PREAMBLE

Whereas, on July 24, 2012, Former District 5 Supervisor Olague introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 12-0796 which would amend the San Francisco Planning Code by 1) adding Section 743.1 to establish the Divisadero Neighborhood Commercial District; 2) repealing the Divisadero Street Alcohol Restricted Use District established in Section 783; 3) amending Section 151.1 and a portion of Table 151.1, Sections 263.20, 607.1(f), and 702.3, the Specific Provisions of the Section 711 Zoning Control Table, and Section 790.55 to make conforming and other technical changes; 4) amending Sheets ZN02 and ZN07 of the Zoning Map to include the Divisadero Neighborhood Commercial District; 5) amending Sheet SU02 of the Zoning Map to delete the Divisadero Street Alcohol Restricted Use SUD; and 6) adopting environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1; and

Whereas, on November 29, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance and recommended approval with modifications of the proposed Ordinance; and

Whereas, on February 26, 2013, Supervisor Breed introduced a substitute version of the proposed Ordinance incorporating the Planning Commission's recommendations as well as including a ban on all Formula Retail in the proposed Divisadero Street NCD; and

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

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

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

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

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

Whereas, the Commission has reviewed the proposed Ordinance; and

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

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

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

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

3. Recommend that the Board of Supervisor not codify a "Planning staff predilection for disapproval such that staff only recommends approval of a formula retail application if there is a demonstrated overriding need or public support for the particular use."

4. Eliminate the Formula Retail ban from the proposed Ordinance and state that the Commission will proceed with adopting a similar policy for the Divisadero NCD that was adopted for the Upper Market Neighborhood.

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

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

FINDINGS

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

- Individually named neighborhood commercial districts help to preserve and enhance the character of a neighborhood and a sense of identity.

- The Divisadero Street has been transformed over the past decade by changing demographics and increased involvement from merchants and residents. Creating a named neighborhood commercial district for the Divisadero Street would help continue this transformation and allow the neighborhood to more easily respond to emerging issues and concerns.

- The Commission's role in evaluating Formula Retail applications is to take staff's professional analysis and public comment into consideration when making its decision. Strict Formula Retail bans or numerical caps remove the Commission's ability to take community sentiment into consideration.

- The Commission finds that Pre-application meetings are an important community outreach tool. They provide an opportunity for the community to hear and comment on proposals prior to their submittal to the Planning Department and they allow the applicant an opportunity to hear any concerns from the community prior to finalizing their proposal.

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

- The Commission finds that codifying a "planning staff predilection for disapproval unless there is overwhelming need or public support for the particular use" would be impractical to implement because it's a highly subjective criterion. Further, a requirement like this would remove Staff's impartiality and require planners to base their recommendation of approval or disapproval on a highly subjective criterion.

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

   Policy 6.6

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

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

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

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

   The proposed Ordinance does not propose significant changes to the controls in the subject Neighborhood Commercial Districts. However, creating named NCDs will allow the district to

respond more easily to emerging issues that may impact opportunities for resident employment in and ownership of neighborhood-serving retail uses.

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

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

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

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

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

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

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

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

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

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

G) That landmark and historic buildings will be preserved:

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

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

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

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

Jonas P Ionin
Commission Secretary

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

NAYS: Commissioner Antonini

ABSENT: Commissioner Fong

ADOPTED: June 13, 2013

SAN FRANCISCO
PLANNING DEPARTMENT

Memo to the Planning Commission

HEARING DATE: JUNE 13, 2013
Originally Heard on November 29, 2012

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Project Name:	**Amendments relating to the proposed Divisadero Street NCD**
Case Number:	2012.0950TZ [Board File No. 120796]
Initiated by:	Supervisor Breed/ Re-introduced February 26, 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**

BACKGROUND

Former District 5 Supervisor, Christine Olague, introduced the original version of this Ordinance on July 24, 2012. The Commission voted to recommend Approval with Modification on November 29, 2012. Subsequently, Supervisor Breed was elected Supervisor for District 5 and took over sponsorship of the Ordinance. Supervisor Breed then reintroduced the Ordinance on February 26, 2013 incorporating the Commission's recommendations and adding a new provision that would ban Formula Retail from the proposed Divisadero Street Neighborhood Commercial District. The Ordinance is back before the Commission so that they can review and make a recommendation on the revised Ordinance. While the entire Ordinance can be reconsidered by the Commission, the focus of this memo and Staff's presentation will be on the addition of the Formal Retail prohibition to the Ordinance.

The original Ordinance as reviewed by the Commission in November 2012 contained the following major provisions (see attached case report for more detail):

1. Created a new named Neighborhood Commercial District along Divisadero from Haight to O'Farrell Street.
2. Permit Bars, Restaurants, Limited-Restaurants, Movie Theaters, Other Entertainment, Philanthropic Administrative Services and Trade Shops on the second floor of buildings with no prior residential use.
3. Institute maximum parking controls within the Divisadero Street NCD, as outlined under Section 151.1.
4. Remove the Divisadero Street Alcohol Street Restricted Use Districts, but preserve the prohibition on new liquor stores in the new NCD. The Ordinance would remove the restrictions on the type of alcohol that can be sold in the Liquor Stores that already exist on Divisadero Street, which the Department has found difficult to enforce.
5. Maintain the prohibition on Fringe Financial Services in the proposed Divisadero Street NCD.

6. Provide a 5 foot height bonus for properties zoned 40-X along Divisadero Street. There are only two block on this stretch of Divisadero Street from Haight to Oak that are zoned 40-X. The rest of the blocks are zoned 65-X and would not be impacted by this provision.

The Commission voted 6 to 1, with Commissioner Antonini voting no, to recommend *Approval with Modifications*. The recommended modifications included the following in addition to some clerical modifications:

1. Modify the description of the proposed Divisadero to read: "All parcels currently zoned NC-2 on blocks 1100, 1101, 1126, 1127, 1128, 1129, 1153, 1154, 1155, 1156, 1179, 1180, 1181, 1182, 1201, 1202, 1203, 1204, 1215, 1216, 1217, 1218, 1237, 1238, 1239, and 1240."
2. Reinstate the "Good Neighbor Policies" for General and Specialty Groceries, which was inadvertently removed when the Ordinance was drafted. These policies are listed in the zoning control table for the proposed Divisadero Street NCD in the "SPECIFIC PROVISIONS" section.
3. Modify the Ordinance so that Bars, Restaurants, Limited-Restaurants, Movie Theaters, Other Entertainment, Philanthropic Administrative Services and Trade Shops are permitted on the second floor so long as they are not displacing "an existing residential unit," instead of allowing them only in a space where there was "no prior residential unit."

The revised Ordinance incorporates the Commission's previous recommendations. Therefore, the remainder of this report will focus on the new substantive change for Formula Retail.

CURRENT PROPOSAL

The Ordinance before the Commission is substantially the same as the original; however Supervisor Breed has integrated the Commission recommendations and included a provision that would ban all Formula Retail in the Divisadero Street NCD.

Since the revised Ordinance was introduced, Supervisor Breed sent the Department a memo detailing a revised proposal (see Exhibit E) that would eliminate the proposed Formula Retail ban in favor of codifying pre-application meetings, additional Conditional Use criteria[1] and having the Commission extend its policy on Formula Retail concentration in the Upper Market neighborhood to the Fillmore NCD. The additional conditional use criteria are as follows:

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

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

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.

ISSUES FOR CONSIDERATION

Formula Retail: Past and Present

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

Formula Retail Bans

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

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

Upper Market Formula Retail Controls

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

Pre-Application Meeting Requirements

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

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

Pre application meetings are subject to the following rules:

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

Other Pending Proposals

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

Supervisor Breed would also amend the definition of Formula Retail but only in the Hayes-Gough District. The legislation proposes to modify the definition of formula retail for the Hayes-Gough NCT only, to include formula retail that is a type of retail sales activity or retail sales

establishment and has eleven or more other retail sales establishments located anywhere in the world. The definition of formula retail would also include a type of retail sales activity or retail sales establishment where fifty percent (50%) or more of the stock, shares, or any similar ownership interest of such establishment is owned by a formula retail use, or a subsidiary, affiliate, or parent of a formula retail use, even if the establishment itself may have fewer than eleven retail sales establishments located anywhere in the world.

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

RECOMMENDATION

The Department recommends that the Commission recommend ***approval with modifications*** to the Board of Supervisors.

Specifically, the Department recommends that the Commission recommend the following modifications:

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

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

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

3. Recommend that the Board of Supervisor not codify a "Planning staff predilection for disapproval such that staff only recommends approval of a formula retail application if there is a demonstrated overriding need or public support for the particular use."

4. Eliminate the Formula Retail ban from the proposed Ordinance and state that the Commission will proceed with adopting a similar policy for the Divisadero NCD that was adopted for the Upper Market Neighborhood.

BASIS FOR RECOMMENDATION

The Department is in support of the majority of the propose ordinance and appreciates Supervisor Breeds openness to considering formula retail controls in lieu of an outright ban. Towards that end, the Department recommends that the Commission consider recommending the four modifications described below to Supervisor Breed.

Recommendation 1: Codify Neighborhood Meeting requirements

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

Recommendation 2: Add Specific Criteria to Consider Community Impact.

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

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

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

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

our impartial analysis of the project; a requirement like this would remove that impartiality and require planners to base their recommendation of approval or disapproval on a highly subjective criterion.

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

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

RECOMMENDATION:	Approval with Modifications

Attachments:

Exhibit A:	Draft Resolution
Exhibit B:	Board of Supervisors File No. 120796, Version 3
Exhibit C:	Original Case Report for the Divisadero Street NCD from November 29, 2013
Exhibit D:	Adopted Upper Market Formula Retail Controls.
Exhibit E:	Memo from Supervisor Breed

Member, Board of Supervisor
District 5

City and County of San Francisco

LONDON N. BREED

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

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

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

1. **Require a pre-application notice** for any formula retail applicant; such that prior to applying for Conditional Use the applicant will be required to conduct substantive meetings with the relevant neighborhood and merchant groups. This requirement will be codified.

2. **Include a weighted condition in the Conditional Use** stipulating that the Planning Commission shall pay particular attention to the input of the community and merchants groups and have a strong predilection toward disapproval.

3. **Codify a Planning staff predilection for disapproval** such that staff only recommends approval of a formula retail application if there is a demonstrated overriding need or public support for the particular use.

4. **Incorporate Planning's recently-developed 20% within 300' guidelines** such that Planning staff will recommend disapproval whenever 20% or more of the existing retail frontage within a 300 foot radius of the applicant's site is already formula retail use.

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

City Hall • 1 Dr. Carlton B. Goodlett Place • San Francisco, California 94102-4689 • (415) 554-7630
Fax (415) 554 - 7634 • TDD/TTY (415) 554-5227 • E-mail: London.Breed@sfgov.org

SAN FRANCISCO
PLANNING DEPARTMENT

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

December 4, 2012

Supervisor Olague and
Ms. Angela Calvillo, Clerk
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 Case Number 2012.0950TZ
Board File No. 12-0796: Divisadero Street NCD

Recommendation: Approval with Modifications

Dear Supervisor Olague and Ms. Calvillo,

On November 29, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearings at a regularly scheduled meeting to consider the proposed Ordinance under Board of Supervisors File Number 12-0796.

At the November 29th hearing, the Commission voted 6-1 to recommend approval with modifications of the proposed Ordinance, which would create the Divisadero Street NCD.

The attached resolution and exhibit provides more detail about the Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

AnMarie Rodgers
Manager of Legislative Affairs

Cc: City Attorney Judith A. Boyajian

Attachments (one copy of the following): Planning Commission Resolution No. 18751
Department Executive Summary

SAN FRANCISCO
PLANNING DEPARTMENT

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Resolution No. 18751

HEARING DATE: NOVEMBER 29, 2012

Project Name:	**Amendments relating to the proposed Divisadero Street NCD**
Case Number:	2012.0950TZ [Board File No. 120796]
Initiated by:	Supervisor Olague/ Introduced July 24, 2012
Staff Contact:	Aaron Starr, Legislative Affairs aaron.starr@sfgov.org, 415-558-6362
Reviewed by:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE WITH MODIFICATIONS THAT WOULD AMEND THE SAN FRANCISCO PLANNING CODE BY: 1) ADDING SECTION 743.1 TO ESTABLISH THE DIVISADERO NEIGHBORHOOD COMMERCIAL DISTRICT; 2) REPEALING THE DIVISADERO STREET ALCOHOL RESTRICTED USE DISTRICT ESTABLISHED IN SECTION 783; 3) AMENDING SECTION 151.1 AND A PORTION OF TABLE 151.1, SECTIONS 263.20, 607.1(F), AND 702.3, THE SPECIFIC PROVISIONS OF THE SECTION 711 ZONING CONTROL TABLE, AND SECTION 790.55 TO MAKE CONFORMING AND OTHER TECHNICAL CHANGES; 4) AMENDING SHEETS ZN02 AND ZN07 OF THE ZONING MAP TO INCLUDE THE DIVISADERO NEIGHBORHOOD COMMERCIAL DISTRICT; 5) AMENDING SHEET SU02 OF THE ZONING MAP TO DELETE THE DIVISADERO STREET ALCOHOL RESTRICTED USE SUD; AND 6) ADOPTING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.1.

PREAMBLE

Whereas, on July 24, 2012, Supervisor Olague introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 12-0796 which would amend the San Francisco Planning Code by 1) adding Section 743.1 to establish the Divisadero Neighborhood Commercial District; 2) repealing the Divisadero Street Alcohol Restricted Use District established in Section 783; 3) amending Section 151.1 and a portion of Table 151.1, Sections 263.20, 607.1(f), and 702.3, the Specific Provisions of the Section 711 Zoning Control Table, and Section 790.55 to make conforming and other technical changes; 4) amending Sheets ZN02 and ZN07 of the Zoning Map to include the Divisadero Neighborhood Commercial District; 5) amending Sheet SU02 of the Zoning Map to delete the Divisadero Street Alcohol Restricted Use SUD; and 6) adopting environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1; and

Whereas, on November 29, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

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

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

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

Whereas, the Commission has reviewed the proposed Ordinance; and

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

The proposed modifications include:

1. Modify the description of the proposed Divisadero to read: "All parcels currently zoned NC-2 on blocks 1100, 1101, 1126, 1127, 1128, 1129, 1153, 1154, 1155, 1156, 1179, 1180, 1181, 1182, 1201, 1202, 1203, 1204, 1215, 1216, 1217, 1218, 1237, 1238, 1239, and 1240."
2. Reinstate the "Good Neighbor Policies[1]" for General and Specialty Groceries, which was inadvertently removed when the Ordinance was drafted. These policies are listed in the zoning control table for the proposed Divisadero Street NCD in the "SPECIFIC PROVISIONS" section.
3. Modify the Ordinance so that Bars, Restaurants, Limited-Restaurants, Movie Theaters, Other Entertainment, Philanthropic Administrative Services and Trade Shops are permitted on the second floor so long as they are not displacing "an existing residential unit," instead of allowing them only in a space where there was "no prior residential unit."
4. Modify the Philanthropic Administrative Services to remove subsections (a) and (b).

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

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

[1] These Good Neighbor Policies cover adequate lighting and window transparency standards.

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

7. Make the following change to the proposed Divisadero Street NCD Use Table:

743.68	*Fringe Financial Service*	*§ 790.111*	~~*P*~~ *NP #*

The pound sign (#) refers to a prohibition on Fringe Financial Services, making the P confusing and inconsistent.

8. Adopt clerical changes outlined in Exhibit D.

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

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

FINDINGS

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

- Individually named neighborhood commercial districts help to preserve and enhance the character of a neighborhood and a sense of identity.

- The Divisadero Street has been transformed over the past decade by changing demographics and increased involvement from merchants and residents. Creating a named neighborhood commercial district for the Divisadero Street would help continue this transformation and allow the neighborhood to more easily respond to emerging issues and concerns.

- As written, the legislation only includes parcels that front along Divisadero Street in the proposed Divisadero Street NCD; however, several blocks along Divisadero Street contain parcels that are zoned NC-2 and do not front on Divisadero Street. This would result in orphaned NC-2 zoned parcels adjacent to the proposed Divisadero Street NCD. It's the Commission's understanding that this recommendation is consistent with the Supervisor's intent with the legislation.

- The Commission does not find that there is a benefit to excluding spaces that do not currently have a residential unit, but which may have had one 50 years ago from being occupied by a commercial use.

- Parts of the Philanthropic Administrative Services definition are redundant, unnecessary and seem to conflict with Section 317 in that they allow an office use to displace at least part of a dwelling unit without any floor area limitations.

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 create an individually named Neighborhood Commercial Districts along Divisadero Street, which helps to preserve and enhance the character of a neighborhood and create a sense of identity. The proposed changes will also allow these areas to more easily respond to economic and technological innovation in the marketplace and society.

Policy 6.6

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

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

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

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

The proposed Ordinance does not propose significant changes to the controls in the subject Neighborhood Commercial Districts. However, creating named NCDs will allow the district to

respond more easily to emerging issues that may impact opportunities for resident employment in and ownership of neighborhood-serving retail uses.

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

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

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

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

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

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

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

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

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

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

G) That landmark and historic buildings will be preserved:

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

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

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

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on November 29, 2012.

Jonas P. Ionin
Commission Secretary

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

NAYS: Commissioner Antonini

ABSENT: none

ADOPTED: November 29, 2012

SAN FRANCISCO
PLANNING DEPARTMENT

Executive Summary
Zoning Map and Planning Code Text Change
HEARING DATE: NOVEMBER 29, 2012

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Project Name:	**Amendments relating to the proposed Divisadero Street NCD**
Case Number:	2012.0950TZ [Board File No. 120796]
Initiated by:	Supervisor Olague/ Introduced July 24, 2012
Staff Contact:	Aaron Starr, Legislative Affairs aaron.starr@sfgov.org, 415-558-6362
Reviewed by:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation:	**Recommend Approval with Modifications**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the San Francisco Planning Code by 1) adding Section 743.1 to establish the Divisadero Neighborhood Commercial District; 2) repealing the Divisadero Street Alcohol Restricted Use District established in Section 783; 3) amending Section 151.1 and a portion of Table 151.1, Sections 263.20, 607.1(f), and 702.3, the Specific Provisions of the Section 711 Zoning Control Table, and Section 790.55 to make conforming and other technical changes; 4) amending Sheets ZN02 and ZN07 of the Zoning Map to include the Divisadero Neighborhood Commercial District; 5) amending Sheet SU02 of the Zoning Map to delete the Divisadero Street Alcohol Restricted Use SUD; and 6) adopting environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

The Way It Is Now:

- Properties along Divisadero from Haight to O'Farrell are zoned Neighborhood Commercial, Small-Scale (NC-2), which is a general zoning district found throughout the City.
- Bars, Restaurants, Limited-Restaurants, Movie Theaters, Other Entertainment, and Trade Shops are prohibited on the second floor, which is standard in most NC-2 and named Neighborhood Commercial Districts. Philanthropic Administrative Services are not permitted in the NC-2 zoning district.
- NC-2 Districts have minimum parking controls that are outlined in Planning Code Section 151.
- The Divisadero Street Alcohol Restricted Use District encompasses the NC-2 parcels on Divisadero Street between Haight and O'Farrell Streets. It restricts new Liquor Store uses, establishes certain "good neighbor" policies for liquor stores within the district, and establishes certain limitations on the sorts of alcoholic beverages that may be sold by existing liquor stores. It is intended to preserve the residential character and the neighborhood-serving commercial uses of the area by reducing the number of liquor stores along Divisadero Street.

- The Alcohol Restricted Use District is within the Fringe Financial Services Special Use District, which prohibits Fringe Financial Services (aka check cashing or pay day loan businesses) within ¼ of a mile of the district.

The Way It Would Be:

The proposed legislation would:

- Create a new named Neighborhood Commercial District along Divisadero from Haight to O'Farrell Street. See Exhibit C for a map of the proposed district.
- Permit Bars, Restaurants, Limited-Restaurants, Movie Theaters, Other Entertainment, Philanthropic Administrative Services and Trade Shops on the second floor of buildings with no prior residential use.
- Institute maximum parking controls within the Divisadero Street NCD, as outlined under Section 151.1. (Other changes outlined in this section of the Ordinance were already voted on and approved by the Planning Commission as part of the NE Legislation, they are included to ensure that this ordinance does not negate those changes.)
- Remove the Divisadero Street Alcohol Street Restricted Use Districts, but preserve the prohibition on new liquor stores in the new NCD. The Ordinance would remove the restrictions on the type of alcohol that can be sold in the Liquor Stores that already exist on Divisadero Street, which the Department has found difficult to enforce.
- Maintain the prohibition on Fringe Financial Services in the proposed Divisadero Street NCD.
- Provide a 5 foot height bonus for properties zoned 40-X along Divisadero Street. There are only two block on this stretch of Divisadero Street from Haight to Oak that are zoned 40-X. The rest of the blocks are zoned 65-X and would not be impacted by this provision.

ISSUES AND CONSIDERATIONS

NC-2 and Named Neighborhood Commercial Districts

NC-2 Districts are intended to serve as the City's Small-Scale Neighborhood Commercial District. These districts are linear shopping streets which provide convenience goods and services to the surrounding neighborhoods as well as limited comparison shopping goods for a wider market. The range of goods and services offered is varied and often includes specialty retail stores, restaurants, and neighborhood-serving offices. NC-2 Districts are commonly located along both collector and arterial streets which have transit routes. These districts range in size from two or three blocks to many blocks, although the commercial development in longer districts may be interspersed with housing or other land uses.

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

neighborhood wants to encourage a type of use, the controls for that named NCD can be changed so that use is principally permitted.

Alcohol Restricted Use District and Fringe Financial Services Restricted Use Districts

The Divisadero Street Alcohol Restricted Use District and the Fringe Financial Services Restricted Use District were added to this stretch of Divisadero because of community concern over liquor stores and check cashing stores. Because this area was zoned as a general zoning district, NC-2, Liquor Stores and Fringe Financial Services could not be prohibited outright without changing the zoning for all NC-2 Districts throughout the City. If this stretch of Divisadero Street has its own named NCD, the Restricted Use Districts are no longer needed to control for the over proliferation of these two uses.

NCD Height Controls

San Francisco's commercial height districts tend to be base ten numbers such as 40, 50, etc. These base ten districts may lead to buildings that are similar in height to the neighboring buildings but that are lesser in human comfort than buildings of similar scale built prior to the City's height limits. This is due to the desire to maximize the number of stories in new projects. Recent community planning efforts have highlighted some failings of these base 10 height districts. The 2008 Market & Octavia[1] and Eastern Neighborhoods[2] Plans recognize that the base ten height limits in neighborhood commercial districts often encourage inferior architecture. For this reason, both of these plans sought to encourage more active and attractive ground floor space by giving a five foot height bonus to buildings which meet the definition of "active ground floor" use. This five foot increase must be used for adding more space to the ground floor.

In 2008, Supervisor Sandoval sponsored a similar text amendment that extended this height increase outside of established plan areas to provide for a maximum five foot special height exception for active ground floor uses in the NC-2 and NC-3 designated parcels fronting portions of Mission Street[3]. Another amendment introduced by Supervisor Avalos in 2009 that now allows a maximum five foot height increase in certain NC-1 parcels in District 11[4]. Most recently, Geary Boulevard, Inner Clement, Outer Clement, the new Outer Sunset NCDs, 24th-Noe Street NCD and NC-2 zoned portions of Balboa Street were added to the list of zoning districts that allow the 5' height bonus.

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

Philanthropic, Administrative Services

Philanthropic Administrative Services is defined as follows:

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

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

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

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

A nonretail use which provides executive, management, administrative, and clerical services and support related to philanthropic activities that serve non-profit institutions and organizations; such philanthropic activities may include funding and support of educational, medical, environmental, cultural, and social services institutions and organization. Such uses:

(a) May not be located on the first story of buildings, where the most recent prior use of which was any use other than residential or office; and

(b) May be located in a single undivided space not physically separated from a residential use; provided that:

(1) Any Residential Conversion above the first story, associated with, or following, commencement of such use shall be considered a conditional use requiring approval pursuant to Section 703.2(b)(1)(B); and

(2) Any loss of dwelling units described in Section 317 shall require approval as provided in Section 317.

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

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

REQUIRED COMMISSION ACTION

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

RECOMMENDATION

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

The proposed modifications include:

1. Modify the description of the proposed Divisadero to read: "All parcels currently zoned NC-2 on blocks 1100, 1101, 1126, 1127, 1128, 1129, 1153, 1154, 1155, 1156, 1179, 1180, 1181, 1182, 1201, 1202, 1203, 1204, 1215, 1216, 1217, 1218, 1237, 1238, 1239, and 1240."
2. Reinstate the "Good Neighbor Policies[5]" for General and Specialty Groceries, which was inadvertently removed when the Ordinance was drafted. These policies are listed in the zoning control table for the proposed Divisadero Street NCD in the "SPECIFIC PROVISIONS" section.
3. Modify the Ordinance so that Bars, Restaurants, Limited-Restaurants, Movie Theaters, Other Entertainment, Philanthropic Administrative Services and Trade Shops are permitted on the

[5] These Good Neighbor Policies cover adequate lighting and window transparency standards.

second floor so long as they are not displacing "an existing residential unit," instead of allowing them only in a space where there was "no prior residential unit."

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

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

5. Amend Section 201, 702.1 to add new named NCD in addition to the named NCD recently adopted for the Outer Sunset (Taraval, Noriega, Judah and Irving NCDs)
6. Amend 207.4 and 207.5 by removing specific table listings and add a sentence referring the reader to specific district tables in Articles 7 & 8. These tables are not necessary because the information is already listed in the individual use tables. This section is often overlooked when new zoning districts are added. Removing these tables will reduce the number of cross reference Code errors.
7. Make the following change to the proposed Divisadero Street NCD Use Table:

743.68	*Fringe Financial Service*	*§ 790.111*	*~~P~~ NP #*

The pound sign (#) refers to a prohibition on Fringe Financial Services, making the P confusing and inconsistent.

8. Adopt clerical changes outlined in Exhibit D.

BASIS FOR RECOMMENDATION

The Department supports creating an individually named neighborhood commercial district for Divisadero Street; named NCDs help to preserve and enhance the character of a neighborhood and they also help create a sense of identity. The Divisadero Street has been transformed over the past decade by changing demographics and increased involvement from merchants and residents. The existing Restricted Use Districts helped to provide more balance in the types of uses and services found on Divisadero Street. Creating a named neighborhood commercial district for the Divisadero Street would help continue this transformation and allow the neighborhood to more easily respond to emerging issues and concerns.

Recommendation 1

As written, the legislation only includes parcels that front along Divisadero Street in the proposed Divisadero Street NCD; however, several blocks along Divisadero Street contain parcels that are zoned NC-2 and do not front on Divisadero Street. This would result in orphaned NC-2 zoned parcels adjacent to the proposed Divisadero Street NCD. It's the Department's understanding that this recommendation is consistent with the Supervisor's intent with the legislation.

Recommendation 2

Good neighbor policies currently apply to Liquor Stores as well as General and Specialty Groceries in the Divisadero Street Alcohol Restricted Use District. This recommendation would continue the status quo.

Recommendation 3

As currently drafted, the proposed Ordinance would only allow Bars, Restaurants, Limited-Restaurants, Movie Theaters, Other Entertainment, Philanthropic Administrative Services and Trade Shops on the second floor if that building never had a residential unit in that space. The Department believes that this provision will be difficult to enforce and does not see the benefit to excluding spaces that do not currently

have a residential unit, but which may have had one 50 years ago. The proposed recommendation would allow the uses listed above if there is not currently a residential unit in that space.

Recommendation 4

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

Recommendation 5-8

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

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

- Sections 263.20 BF 120774 Permitting a Height Bonus in Castro Street and 24th Street NCDs
- Sections 151.1, 702.1 BF Pending Western SoMa Plan
- Sections 151.1, 263.20, 702.1, 702.3, 703.3 BF Pending Code Corrections Ordinance 2012
- Sections 151.1, 263.20, 744.1, 607.1 BF 120814 Fillmore Street NCD

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 General Rule Exclusion (CEQA Guidelines Section 15061(b)(3)) as described in the determination contained in the Planning Department files for this Project.

PUBLIC COMMENT

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

RECOMMENDATION:	**Recommendation of Approval with Modification**

Attachments:

Exhibit A:	Draft Planning Commission Resolution
Exhibit B:	Board of Supervisors File No. 120796
Exhibit C:	Map of Proposed District
Exhibit D:	Additional Code Correction Changes
Exhibit E:	Environmental Determination

Exhibit D

263.20

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

607.1(f)

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

SEC. 702.3. NEIGHBORHOOD COMMERCIAL RESTRICTED USE SUBDISTRICTS.

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

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

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

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

ZONING CONTROL TABLE

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

SPECIFIC PROVISIONS FOR NC-2 DISTRICTS

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

SEC. 790.55. LIQUOR STORE.

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

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

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

(c) For purposes of Planning Code Sections 249.5,7 81.8, 781.9, 782,~~7 83,~~an d 784, the retail uses explicitly exempted from this definition as set forth above shall only apply to general grocery and specialty grocery stores that exceed 5,000s/f in size, ~~*shall*~~ *that do* not:

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

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

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

Noriega and Irving Street NCDs

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

810.20

20	Use Size *[Nonresidential]*	§ 890.130	P up to 5,000 sq. ft. C 5,000 sq. ft. & above § 121.4 Except for ~~*full-service*~~ *r*Restaurants

811.20

20	Use Size *[Nonresidential]*	§ 890.130	P up to 2,500 sq. ft. C 2,501 to 5,000 sq. ft. Except for ~~*full-service*~~ Restaurants - 5,000 sq. ft. § 121.4

811.47b reference

§ 811.47b	§ 890.37	The other entertainment use must be in conjunction with an existing ~~*full-service*~~ Restaurant

BOARD of SUPERVISORS

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

MEMORANDUM

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

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

DATE: October 6, 2014

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

The Board of Supervisors' Land Use and Economic Development Committee has received the following 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. 120796

Ordinance amending the Planning Code to establish the Divisadero Street Neighborhood Commercial District (NCD) along Divisadero Street between Haight and O'Farrell Streets, deleting the Divisadero Street Alcohol Restricted Use District (RUD), amending various other Code sections to make conforming and other technical changes, amending the Zoning Map to add the Divisadero Street NCD and deleting the Divisadero Street RUD, affirming the Planning Department's California Environmental Quality Act determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

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

****

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

____ **No Comment**

____ **Recommendation Attached**

_____
Chairperson, Small Business Commission

BOARD of SUPERVISORS

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

MEMORANDUM

TO: John Rahaim, Director, Planning Department

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

DATE: October 3, 2014

SUBJECT: LEGISLATION INTRODUCED

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

File No. 120796

Ordinance amending the Planning Code to establish the Divisadero Street Neighborhood Commercial District (NCD) along Divisadero Street between Haight and O'Farrell Streets, deleting the Divisadero Street Alcohol Restricted Use District (RUD), amending various other Code sections to make conforming and other technical changes, amending the Zoning Map to add the Divisadero Street NCD and deleting the Divisadero Street RUD, affirming the Planning Department's California Environmental Quality Act determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

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

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

BOARD of SUPERVISORS

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

October 2, 2014

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

Dear Commissioners:

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

File No. 120796

Ordinance amending the Planning Code to establish the Divisadero Street Neighborhood Commercial District (NCD) along Divisadero Street between Haight and O'Farrell Streets, deleting the Divisadero Street Alcohol Restricted Use District (RUD), amending various other Code sections to make conforming and other technical changes, amending the Zoning Map to add the Divisadero Street NCD and deleting the Divisadero Street RUD, affirming the Planning Department's California Environmental Quality Act determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

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

Angela Calvillo, Clerk of the Board

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

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

SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS

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

November 26, 2012

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. 120796 [Planning Code, Zoning Map - Establishing the Divisadero Street Neighborhood Commercial District]

Small Business Commission Recommendation: **Approval**

Dear Ms. Calvillo:

On November 26, 2012 the Small Business Commission held a hearing on Board of Supervisors File No. 120796 and voted 6-0 to recommend approval.

The Small Business Commission supports the creation of a named NCD district on Divisadero Street and finds that allowing individualized zoning controls on the corridor will increase the vitality of the street. In particular, this ordinance will provide for increased flexibility in zoning controls along the corridor and adaptation to emerging trends that may occur in the future. Over the past decade Divisadero Street has created a new identity for the shopping district and individualized controls are warranted and desirable.

The Commission also supports the repeal of the Divisadero Alcohol Restricted Use District and the transferring of controls into the new NCD. Additionally, the Commission, consistent with previous direction, continues to support the expansion of the five foot special height exception for 40x and 50x zoned parcels.

Sincerely,

Regina Dick-Endrizzi
Director, Office of Small Business

Cc: Jason Elliott, Mayor's Office
Supervisor Olague
Aaron Starr, 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

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

October 2, 2014

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

Dear Commissioners:

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

File No. 120796

Ordinance amending the Planning Code to establish the Divisadero Street Neighborhood Commercial District (NCD) along Divisadero Street between Haight and O'Farrell Streets, deleting the Divisadero Street Alcohol Restricted Use District (RUD), amending various other Code sections to make conforming and other technical changes, amending the Zoning Map to add the Divisadero Street NCD and deleting the Divisadero Street RUD, affirming the Planning Department's California Environmental Quality Act determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

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

Angela Calvillo, Clerk of the Board

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

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

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

Joy Navarrete

Digitally signed by Joy Navarrete
DN: cn=Joy Navarrete, o=Planning, ou=Environmental Planning, email=joy.navarrete@sfgov.org, c=US
Date: 2014.10.17 15:54:41 -07'00'

BOARD of SUPERVISORS

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

MEMORANDUM

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

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

DATE: October 6, 2014

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

The Board of Supervisors' Land Use and Economic Development Committee has received the following 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. 120796

Ordinance amending the Planning Code to establish the Divisadero Street Neighborhood Commercial District (NCD) along Divisadero Street between Haight and O'Farrell Streets, deleting the Divisadero Street Alcohol Restricted Use District (RUD), amending various other Code sections to make conforming and other technical changes, amending the Zoning Map to add the Divisadero Street NCD and deleting the Divisadero Street RUD, affirming the Planning Department's California Environmental Quality Act determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

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

****

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

____ No Comment

____ Recommendation Attached

_____
Chairperson, Small Business Commission

BOARD of SUPERVISORS

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

MEMORANDUM

TO: John Rahaim, Director, Planning Department

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

DATE: October 3, 2014

SUBJECT: LEGISLATION INTRODUCED

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

File No. 120796

Ordinance amending the Planning Code to establish the Divisadero Street Neighborhood Commercial District (NCD) along Divisadero Street between Haight and O'Farrell Streets, deleting the Divisadero Street Alcohol Restricted Use District (RUD), amending various other Code sections to make conforming and other technical changes, amending the Zoning Map to add the Divisadero Street NCD and deleting the Divisadero Street RUD, affirming the Planning Department's California Environmental Quality Act determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

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

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

BOARD of SUPERVISORS

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

MEMORANDUM

TO: John Rahaim, Director, Planning Department
Regina Dick-Endrizzi, Director, Office of Small Business

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

DATE: March 13, 2013

SUBJECT: SUBSTITUTE LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following *substitute* ordinance, introduced by Supervisor Breed on February 26, 2013:

File No. 120796-3

Ordinance amending the Planning Code to establish the Divisadero Street Neighborhood Commercial District (NCD) along Divisadero Street between Haight and O'Farrell Streets; repeal the Divisadero Street Alcohol Restricted Use District (RUD); amend various other sections to make conforming and other technical changes; amending the Zoning Map to add the Divisadero Street NCD and delete the Divisadero Street RUD; and adopting environmental findings, Planning Code, Section 302, findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code, Section 101.1.

The Planning Commission held a public hearing on this matter on November 29, 2012, and provided their recommendation for approval with modifications (Resolution No. 18751).

The Small Business Commission held a hearing on this matter on November 26, 2012, and provided their recommendation for approval.

This matter is being forwarded to your department/commission for informational purposes since responses have already been received. If you have additional comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Scott Sanchez, Zoning Adminstrator, Planning Department
Sarah Jones, Chief Environmental Review Officer, Planning Department
AnMarie Rodgers, Legislative Affairs Manager, Planning Department
Joy Navarrete, Planning Department
Monica Pereira, Planning Department
Jonas Ionin, Secretary, Planning Commission
Chris Schulman, Small Business Commission

BOARD of SUPERVISORS

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

August 9, 2012

File No. 120796-2

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

Dear Mr. Wycko:

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

File No. 120796-2

Ordinance amending the San Francisco Planning Code by: 1) adding Section 743.1 to establish the Divisadero Neighborhood Commercial District (NCD) along Divisadero Street between Haight and O'Farrell Streets; 2) repealing the Divisadero Street Alcohol Restricted Use District established in Section 783; 3) amending Section 151.1 and a portion of Table 151.1; Section 263.20, 607.1(f), 702.3, the specific provisions of the Section 711 Zoning Control Table, and Section 790.55 to make conforming and other technical changes; 4) amending Sheets ZN02 and ZN07 of the Zoning Map to rezone specified properties to the Divisadero Street NCD; 5) amending Sheet SU02 of the Zoning Map to delete the Divisadero Street Alcohol Restricted Use Special Use District; and 6) adopting environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

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

Angela Calvillo, Clerk of the Board

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

Attachment

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

BOARD of SUPERVISORS

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

August 9, 2012

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

Dear Commissioners:

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

File No. 120796-2

Ordinance amending the San Francisco Planning Code by: 1) adding Section 743.1 to establish the Divisadero Neighborhood Commercial District (NCD) along Divisadero Street between Haight and O'Farrell Streets; 2) repealing the Divisadero Street Alcohol Restricted Use District established in Section 783; 3) amending Section 151.1 and a portion of Table 151.1, Section 263.20, 607.1(f), 702.3, the specific provisions of the Section 711 Zoning Control Table, and Section 790.55 to make conforming and other technical changes; 4) amending Sheets ZN02 and ZN07 of the Zoning Map to rezone specified properties to the Divisadero Street NCD; 5) amending Sheet SU02 of the Zoning Map to delete the Divisadero Street Alcohol Restricted Use Special Use District; and 6) adopting environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

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

Angela Calvillo, Clerk of the Board

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

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

BOARD of SUPERVISORS

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

MEMORANDUM

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

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

DATE: August 9, 2012

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

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

File No. 120796-2

Ordinance amending the San Francisco Planning Code by: 1) adding Section 743.1 to establish the Divisadero Neighborhood Commercial District (NCD) along Divisadero Street between Haight and O'Farrell Streets; 2) repealing the Divisadero Street Alcohol Restricted Use District established in Section 783; 3) amending Section 151.1 and a portion of Table 151.1, Section 263.20, 607.1(f), 702.3, the specific provisions of the Section 711 Zoning Control Table, and Section 790.55 to make conforming and other technical changes; 4) amending Sheets ZN02 and ZN07 of the Zoning Map to rezone specified properties to the Divisadero Street NCD; 5) amending Sheet SU02 of the Zoning Map to delete the Divisadero Street Alcohol Restricted Use Special Use District; and 6) adopting environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

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

****

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

____ **No Comment**

____ **Recommendation Attached**

_____
Chairperson, Small Business Commission

BOARD of SUPERVISORS

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

July 27, 2012

File No. 120796

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

Dear Mr. Wycko:

On July 24, 2012, Supervisor Olague introduced the following proposed legislation:

File No. 120796

Ordinance amending the San Francisco Planning Code: by 1) adding Section 743.1 to establish the Divisadero Neighborhood Commercial District; 2) repealing the Divisadero Street Alcohol Restricted Use District established in Section 783; 3) amending Section 151.1 and a portion of Table 151.1, Sections 263.20, 607.1(f), and 702.3, the specific provisions of the Section 711 Zoning Control Table, and Section 790.55 to make conforming and other technical changes; 4) amending Sheets ZN02 and ZN07 of the Zoning Map to include the Divisadero Neighborhood Commercial District; 5) amending Sheet SU02 of the Zoning Map to delete the Divisadero Street Alcohol Restricted Use Special Use District; and 6) adopting environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

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

Angela Calvillo, Clerk of the Board

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
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TDD/TTY No. 554-5227

July 27, 2012

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

Dear Commissioners:

On July 24, 2012, Supervisor Olague introduced the following proposed legislation:

File No. 120796

Ordinance amending the San Francisco Planning Code: by 1) adding Section 743.1 to establish the Divisadero Neighborhood Commercial District; 2) repealing the Divisadero Street Alcohol Restricted Use District established in Section 783; 3) amending Section 151.1 and a portion of Table 151.1, Sections 263.20, 607.1(f), and 702.3, the specific provisions of the Section 711 Zoning Control Table, and Section 790.55 to make conforming and other technical changes; 4) amending Sheets ZN02 and ZN07 of the Zoning Map to include the Divisadero Neighborhood Commercial District; 5) amending Sheet SU02 of the Zoning Map to delete the Divisadero Street Alcohol Restricted Use Special Use District; and 6) adopting environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

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

Angela Calvillo, Clerk of the Board

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

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

BOARD of SUPERVISORS

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

MEMORANDUM

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

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

DATE: July 27, 2012

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

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

File No. 120796

Ordinance amending the San Francisco Planning Code: by 1) adding Section 743.1 to establish the Divisadero Neighborhood Commercial District; 2) repealing the Divisadero Street Alcohol Restricted Use District established in Section 783; 3) amending Section 151.1 and a portion of Table 151.1, Sections 263.20, 607.1(f), and 702.3, the specific provisions of the Section 711 Zoning Control Table, and Section 790.55 to make conforming and other technical changes; 4) amending Sheets ZN02 and ZN07 of the Zoning Map to include the Divisadero Neighborhood Commercial District; 5) amending Sheet SU02 of the Zoning Map to delete the Divisadero Street Alcohol Restricted Use Special Use District; and 6) adopting environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

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

****

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

____ **No Comment**

____ **Recommendation Attached**

_____
Chairperson, Small Business Commission

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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, October 20, 2014**

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

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

Subject: **File No. 120796.** Ordinance amending the Planning Code to establish the Divisadero Street Neighborhood Commercial District (NCD) along Divisadero Street between Haight and O'Farrell Streets; deleting the Divisadero Street Alcohol Restricted Use District (RUD); amending various other Code sections to make conforming and other technical changes; amending the Zoning Map to add the Divisadero Street NCD and deleting the Divisadero Street RUD; affirming the Planning Department's California Environmental Quality Act determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made as part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, October 17, 2014.

Angela Calvillo, Clerk of the Board

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

CALIFORNIA NEWSPAPER SERVICE BUREAU

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

COPY OF NOTICE

Notice Type: GPN GOVT PUBLIC NOTICE

Ad Description LU Zoning Map 120796

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

10/10/2014

CNS 2676268

NOTICE OF PUBLIC HEARING LAND USE AND ECONOMIC DEVELOPMENT COMMITTEE SF BOARD OF SUPERVISORS OCTOBER 20, 2014 - 1:30 PM COMMITTEE ROOM 263, CITY HALL 1 DR. CARLTON B. GOODLETT PLACE, SF, CA

NOTICE IS HEREBY GIVEN THAT the Land Use and Economic Development Committee will a 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. 120796. Ordinance amending the Planning Code to establish the Divisadero Street Neighborhood Commercial District (NCD) along Divisadero Street between Haight and O'Farrell Streets; deleting the Divisadero Street Alcohol Restricted Use District (RUD); amending various other Code sections to make conforming and other technical changes; amending the Zoning Map to add the Divisadero Street NCD and deleting the Divisadero Street RUD; affirming the Planning Department's California Environmental Quality Act determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1. In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made as part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, October 17, 2014. Angela Calvillo, Clerk of the Board

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Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2014 SEP 23
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. [120796]

☐ 9. Reactivate File No. [ ]

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

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

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☐ Planning Commission ☐ Building Inspection Commission

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

Sponsor(s):

Breed

Subject:

Planning Code - Establishing the Divisadero Street Neighborhood Commercial District

The text is listed below or attached:

Ordinance amending the Planning Code to establish the Divisadero Street Neighborhood Commercial District (NCD) along Divisadero Street between Haight and O'Farrell Streets, delete the Divisadero Street Alcohol Restricted Use District (RUD), amend various other Code sections to make conforming and other technical changes, amend the Zoning Map to add the Divisadero Street NCD and delete the Divisadero Street RUD, affirming the Planning Department's California Environmental Quality Act determination; and making findings of consistency with the General Plan, and the eight Priority Policies of Planning Code, Section 101.1.

Signature of Sponsoring Supervisor: London Breed

For Clerk's Use Only: