



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Zoning Map & Planning Code Text Change

HEARING DATE: JUNE 13, 2013

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

PLANNING CODE AMENDMENT

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

The Way It Is Now:

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

The Way It Would Be:

The proposed legislation would:

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

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

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

ISSUES AND CONSIDERATIONS

NC-3 and Named Neighborhood Commercial Districts

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

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

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

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

Japantown Planning Process

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

NCD Height Controls

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

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

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

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

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

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

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

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

Parking Requirements

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

Formula Retail: Past and Present

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

Formula Retail Bans

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

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

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

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

Upper Market Formula Retail Controls

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

Pre-Application Meeting Requirements

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

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

Pre application meetings are subject to the following rules:

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

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

Other Pending Proposals

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

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

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

REQUIRED COMMISSION ACTION

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

RECOMMENDATION

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

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

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

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

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

744.25	<i>Drive-Up Facility</i>	§ 790.30	#-(remove #)
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BASIS FOR RECOMMENDATION

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

Parking Maximums

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

Recommendation 1: Codify Neighborhood Meeting requirements

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

Recommendation 2: Add Specific Criteria to Consider Community Impact.

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

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

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

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

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

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

Recommendation 5

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

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

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

ENVIRONMENTAL REVIEW

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

PUBLIC COMMENT

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

RECOMMENDATION:	Recommendation of Approval with Modification
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Attachments:

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



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Draft Planning Commission Resolution

HEARING DATE: JUNE 13, 2013

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

PREAMBLE

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

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

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

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

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

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

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

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

Whereas, the Commission has reviewed the proposed Ordinance; and

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

The proposed modifications include:

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

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

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

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2. Sections 151.1, 702.1 BF Pending Western SoMa Plan
3. Sections 151.1, 263.20, 702.1, 702.3, 703.3 BF Pending Code Corrections Ordinance 2012
4. Sections 151.1, 263.20, 744.1, 607.1 BF 120796 Divisadero Street NCD

FINDINGS

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

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

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

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

I. COMMERCE & INDUSTRY ELEMENT

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

OBJECTIVE 4

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

Policy 6.2

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

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

Policy 6.6

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on June 13, 2013.

Jonas P Ionin
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: June 13, 2013

Exhibit B

1 [Planning Code - Establishing the Fillmore Street Neighborhood Commercial District]

2

3 **Ordinance amending the Planning Code to establish the Fillmore Street Neighborhood**

4 **Commercial District (NCD) along Fillmore Street between Bush and McAllister Streets;**

5 **amend various other sections to make conforming and other technical changes;**

6 **amending the Zoning Map to add the Fillmore Street NCD; and adopting environmental**

7 **findings, Planning Code, Section 302, findings, and findings of consistency with the**

8 **General Plan and the Priority Policies of Planning Code, Section 101.1.**

9 NOTE: Additions are *single-underline italics Times New Roman*;
10 deletions are ~~*strike through italics Times New Roman*~~.
11 Board amendment additions are **double-underlined**;
12 Board amendment deletions are ~~**strikethrough normal**~~.
13 Ellipses indicate text that is omitted but unchanged.

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

15 Section 1. Findings.

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

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

25 (c) This Board finds that these Planning Code amendments are consistent with the
General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set
Supervisor Breed

1 forth in Planning Commission Resolution No. _____, and the Board hereby
2 incorporates such reasons herein by reference.

3

4 Section 2. The San Francisco Planning Code is hereby amended by adding Section
5 744.1, to read as follows:

6 **SEC. 744.1. FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT.**

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

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

19 *Consistent with Fillmore Street's existing mixed-use character, new commercial development is
20 permitted at the ground and second stories. Most neighborhood- and visitor-serving businesses are
21 strongly encouraged however new Formula Retail uses are prohibited. Eating and Drinking and
22 entertainment uses are confined to the ground story. The second story may be used by some retail
23 stores, personal services, and medical, business and professional offices. Parking and hotels are
24 monitored at all stories. Limits on drive-up facilities and other automobile uses protect the livability
25 within and around the district, and promote continuous retail frontage.*

SEC. 744. FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE

			<u>Fillmore Street</u>
No.	Zoning Category	§ References	Controls
BUILDING STANDARDS			
744.10	<i>Height and Bulk Limit</i>	<u>§§ 102.12, 105, 106, 250</u> <u>- 252, 260, 261.1, 263.20,</u> <u>270, 271</u>	<u>Generally, 65-X, and 40-X</u> <u>south of Oak Street; see</u> <u>Zoning Map. Height Sculpting</u> <u>on Alleys; § 261.1. Additional</u> <u>5 feet in height allowed for</u> <u>parcels in the 40-X and 50-X</u> <u>height district with active</u> <u>uses; see § 263.20</u>
744.11	<i>Lot Size</i> <i>[Per Development]</i>	<u>§§ 790.56, 121.1</u>	<u>P up to 9,999 sq. ft.; C 10,000</u> <u>sq. ft. & above</u>
744.12	<i>Rear Yard</i>	<u>§§ 130, 134, 136</u>	<u>Required at residential levels</u> <u>§ 134(a) and (e)</u>
744.13a	<i>Street Frontage</i>	<u>§ 145.1</u>	<u>Required</u>
744.13b	<i>Street Frontage, Required</i> <i>Ground Floor Commercial</i>	<u>§ 145.1</u>	<u>Required along Fillmore</u> <u>Street from Bush Street to</u> <u>McAllister Street</u>
744.14	<i>Awning</i>	<u>§ 136.1(a)</u>	<u>P</u>
744.15	<i>Canopy</i>	<u>§ 136.1(b)</u>	<u>P</u>

1			
2	<u>744.16</u> <i>Marquee</i>	<u>§ 136.1(c)</u>	<u>P</u>
3			
4	<u>744.17</u> <i>Streetscape and Pedestrian</i>	<u>§ 138.1</u>	<u>Required</u>
5	<i>Improvements</i>		
6	<u>COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES</u>		
7	<u>744.20</u> <i>Floor Area Ratio</i>	<u>§§ 102.9, 102.11, 123</u>	<u>3.6 to 1</u>
8			<u>§ 124(a) and (b)</u>
9	<u>744.21</u> <i>Use Size</i>	<u>§ 790.130, § 121.2</u>	<u>P up to 5,999 sq. ft.:</u>
10	<i>[Non-Residential]</i>		<u>C 6,000 sq. ft. & above</u>
11			
12	<u>744.22</u> <i>Off-Street Parking, Non-</i>	<u>§§ 145.1, 150, 151.1, 153</u>	<u>None required. Maximum</u>
13	<i>residential</i>	<u>- 157, 159 - 160, 204.5</u>	<u>permitted as set forth in</u>
14			<u>Section 151.1</u>
15	<u>744.23</u> <i>Off-Street Freight Loading</i>	<u>§§ 150, 153 - 155, 204.5,</u> <u>152, 161(b)</u>	<u>Generally, none required if</u> <u>gross floor area is less than</u> <u>10,000 sq. ft.</u>
16			
17			
18			
19	<u>744.24</u> <i>Outdoor Activity Area</i>	<u>§§ 790.70, 145.2(a)</u>	<u>P if located in front; C if</u> <u>located elsewhere</u>
20			
21	<u>744.25</u> <i>Drive-Up Facility</i>	<u>§ 790.30</u>	<u>#</u>
22			
23	<u>744.26</u> <i>Walk-Up Facility</i>	<u>§§ 790.140, 145.2(b)</u>	<u>P if recessed 3 ft.;</u> <u>C if not recessed</u>
24			
25	<u>744.27</u> <i>Hours of Operation</i>	<u>§ 790.48</u>	<u>No limit</u>

1	<u>744.30</u>	<u>General Advertising Sign</u>	<u>§§ 262, 602 - 604, 608, 609</u>			
2						
3	<u>744.31</u>	<u>Business Sign</u>	<u>§§ 262, 602 - 604, 607.1(f)(2), 608, 609</u>	<u>P</u>		
4						
5	<u>744.32</u>	<u>Other Signs</u>	<u>§§ 262, 602 - 604, 607.1(c), (d),and (g), 608, 609</u>	<u>P</u>		
6						
7						
8				<u>Fillmore Street</u>		
9	<u>No.</u>	<u>Zoning Category</u>	<u>§ References</u>	<u>Controls by Story</u>		
10			<u>§ 790.118</u>	<u>1st</u>	<u>2nd</u>	<u>3rd+</u>
11	<u>744.38</u>	<u>Residential Conversion</u>	<u>§ 790.84</u>	<u>P</u>	<u>NP</u>	<u>NP</u>
12	<u>744.39</u>	<u>Residential Demolition</u>	<u>§ 790.86</u>	<u>P</u>	<u>C</u>	<u>C</u>
13	<u>Retail Sales and Services</u>					
14	<u>744.40</u>	<u>Other Retail Sales and Services</u>	<u>§ 790.102</u>	<u>P</u>	<u>P</u>	<u>P</u>
15		<u>[Not Listed Below]</u>				
16	<u>744.41</u>	<u>Bar</u>	<u>§ 790.22</u>	<u>P</u>	<u>P</u>	
17	<u>744.43</u>	<u>Limited-Restaurant</u>	<u>§ 790.90</u>	<u>P</u>	<u>P</u>	
18	<u>744.44</u>	<u>Restaurant</u>	<u>§ 790.91</u>	<u>P</u>	<u>P</u>	
19	<u>744.45</u>	<u>Liquor Store</u>	<u>§ 790.55</u>			
20	<u>744.46</u>	<u>Movie Theater</u>	<u>§ 790.64</u>	<u>P</u>	<u>P</u>	
21	<u>744.47</u>	<u>Adult Entertainment</u>	<u>§ 790.36</u>	<u>C</u>	<u>C</u>	
22	<u>744.48</u>	<u>Other Entertainment</u>	<u>§ 790.38</u>	<u>P</u>	<u>P</u>	
23	<u>744.49</u>	<u>Financial Service</u>	<u>§ 790.110</u>	<u>P</u>	<u>P</u>	
24	<u>744.50</u>	<u>Limited Financial Service</u>	<u>§ 790.112</u>	<u>P</u>	<u>P</u>	
25						

1	<u>744.51</u>	<i>Medical Service</i>	<u>§ 790.114</u>	<u>P</u>	<u>P</u>	<u>P</u>
2	<u>744.52</u>	<i>Personal Service</i>	<u>§ 790.116</u>	<u>P</u>	<u>P</u>	
3	<u>744.53</u>	<i>Business or Professional Service</i>	<u>§ 790.108</u>	<u>P</u>	<u>P</u>	<u>P</u>
4	<u>744.54</u>	<i>Massage Establishment</i>	<u>§ 790.60</u>	<u>C</u>	<u>C</u>	
5			<u>§ 1900 Health Code</u>			
6	<u>744.55</u>	<i>Tourist Hotel</i>	<u>§ 790.46</u>	<u>C</u>	<u>C</u>	<u>C</u>
7	<u>744.56</u>	<i>Automobile Parking</i>	<u>§§ 790.8, 145.1, 156, 160</u>	<u>C</u>	<u>C</u>	<u>C</u>
8	<u>744.57</u>	<i>Automotive Gas Station</i>	<u>§ 790.14</u>	<u>C</u>		
9	<u>744.58</u>	<i>Automotive Service Station</i>	<u>§ 790.17</u>	<u>C</u>		
10	<u>744.59</u>	<i>Automotive Repair</i>	<u>§ 790.15</u>	<u>C</u>	<u>C</u>	
11	<u>744.60</u>	<i>Automotive Wash</i>	<u>§ 790.18</u>	<u>C</u>		
12	<u>744.61</u>	<i>Automobile Sale or Rental</i>	<u>§ 790.12</u>	<u>C</u>		
13	<u>744.62</u>	<i>Animal Hospital</i>	<u>§ 790.6</u>	<u>C</u>		
14	<u>744.63</u>	<i>Ambulance Service</i>	<u>§ 790.2</u>	<u>C</u>		
15	<u>744.64</u>	<i>Mortuary</i>	<u>§ 790.62</u>	<u>C</u>	<u>C</u>	<u>C</u>
16	<u>744.65</u>	<i>Trade Shop</i>	<u>§ 790.124</u>	<u>P</u>	<u>C</u>	<u>C</u>
17	<u>744.66</u>	<i>Storage</i>	<u>§ 790.117</u>	<u>C</u>	<u>C</u>	<u>C</u>
18	<u>744.68</u>	<i>Fringe Financial Service</i>	<u>§ 790.111</u>		<u>NP #</u>	
19	<u>744.69</u>	<i>Tobacco Paraphernalia Establishments</i>	<u>§ 790.123</u>	<u>C</u>		
20						
21	<u>744.69B</u>	<i>Amusement Game Arcade</i> <i>(Mechanical Amusement Devices)</i>	<u>§ 790.4</u>	<u>C</u>		
22	<u>744.69C</u>	<i>Neighborhood Agriculture</i>	<u>§ 102.35(a)</u>	<u>P</u>	<u>P</u>	<u>P</u>
23	<u>744.69D</u>	<i>Large-Scale Urban Agriculture</i>	<u>§ 102.35(b)</u>	<u>C</u>	<u>C</u>	<u>C</u>

<i>Institutions and Non-Retail Sales and Services</i>						
2	744.70	<i>Administrative Service</i>	§ 790.106	C	C	C
3	744.80	<i>Hospital or Medical Center</i>	§ 790.44	C	C	C
4	744.81	<i>Other Institutions, Large</i>	§ 790.50	P	P	P
5	744.82	<i>Other Institutions, Small</i>	§ 790.51	P	P	P
6	744.83	<i>Public Use</i>	§ 790.80	C	C	C
7	744.84	<i>Medical Cannabis Dispensary</i>	§ 790.141	P #		
8	744.85	<i>Philanthropic Administrative Service</i>	§ 790.107		P	
<u>RESIDENTIAL STANDARDS AND USES</u>						
11	744.90	<i>Residential Use</i>	§ 790.88	P	P	P
12	744.91	<i>Residential Density, Dwelling Units</i>	§§ 207, 207.1, 207.4, 790.88(a)	<i>Generally, 1 unit per 600 sq. ft. lot area</i>		
14	744.92	<i>Residential Density, Group Housing</i>	§§ 207.1, 208, 790.88(b)	<i>Generally, 1 bedroom per 210 sq. ft. lot area</i>		
17	744.93	<i>Usable Open Space [Per Residential Unit]</i>	§§ 135, 136	<i>Generally, either 80 sq. ft. if private, or 100 sq. ft. if common § 135(d)</i>		
20	744.94	<i>Off-Street Parking, Residential</i>	§§ 150, 151.1, 153 - 157, 159 - 160	<i>None required. P up to .5 cars per unit, C up to .75 cars per unit, NP above</i>		
23	744.95	<i>Community Residential Parking</i>	§ 790.10	C	C	C

**SPECIFIC PROVISIONS FOR THE FILLMORE STREET
NEIGHBORHOOD COMMERCIAL DISTRICT**

<u>Article 7</u>	<u>Other Code Section</u>	<u>Zoning Controls</u>
§ 744.68	§ 249.35	<p><u>FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT (FFSRUD)</u></p> <p><u>Boundaries:</u> The FFSRUD and its ¼ mile buffer includes, but is not limited to, properties within the Fillmore Street NCD.</p> <p><u>Controls:</u> 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).</p>
§ 744.84	§ 790.141 Health Code § 3308	<p><u>Medical Cannabis Dispensaries may only operate between the hours of 8 a.m. and 10 p.m.</u></p>

Section 3. The San Francisco Planning Code is hereby amended by amending Table 135A, Section 151.1 and a portion of Table 151.1, Section 201, 263.20, Section 303(i), Section 607.1(f), and Section 702.1, 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
RH-1(D), RH-1	300	1.33

1	RH-1(S)	300 for first unit; 100 for minor second unit	1.33
2			
3	RH-2	125	1.33
4			
5	RH-3	100	1.33
6			
M	RM-1, RC-1, RTO, RTO-	100	1.33
8			
9	RM-2, RC-2, SPD	80	1.33
10			
11	RM-3, RC-3, RED	60	1.33
12			
13	RM-4, RC-4, RSD	36	1.33
14			
15	C-3, C-M, SLR, SLI, SSO,	36	1.33
16	M-1, M-2		
17			
18	C-1, C-2	Same as for the R District establishing the dwelling unit density ratio for the C-1 or C-2 District property	
19	<u>Neighborhood Commercial</u>	<u>See the Zoning Control Table for</u>	
20	<u>General Area Districts,</u>	<u>the District</u>	
21	<u>Neighborhood Commercial</u>	<u>100</u>	
22	<u>Transit Districts, Named</u>		
23	<u>Neighborhood Commercial</u>		
24	<u>General Area Districts, and</u>		
25	<u>Named Neighborhood</u>		

	<p><u>Commercial Transit</u> <u>Districts established in</u> <u>Article 7 NC-1, NC-2, NCT-</u> <u>1, NCT-2, NC-S, Inner</u> <u>Sunset, Sacramento Street,</u> <u>West Portal Avenue, Ocean</u> <u>Avenue, Glen Park</u></p>	
8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	<p><u>NC-3, Castro Street, Inner</u> <u>Clement Street, Outer</u> <u>Clement Street, Upper</u> <u>Fillmore Street, Haight</u> <u>Street, Union Street,</u> <u>Valencia Street, 24th Street</u> <u>Mission, 24th Street Noe</u> <u>Valley, NCT-3, SoMa,</u> <u>Mission Street</u></p> <p><u>Broadway, Hayes-Gough,</u> <u>Upper Market Street, North</u> <u>Beach, Polk Street</u></p> <p><u>Mixed Use Districts</u> <u>established in Article 8</u> <u>Chinatown Community</u> <u>Business, Chinatown</u> <u>Residential Neighborhood</u></p>	<p><i>See the Zoning Control Table for</i> <i><u>the District</u></i></p> <p>80</p> <p>60</p> <p>48</p> <p><i>1.33</i></p> <p><i>1.33</i></p> <p><i>1.00</i></p>

1 <i>Commercial,</i> 2 <i>Chinatown Visitor Retail</i>		
3 DTR 4 5	This table not applicable. 75 square feet per dwelling. See Sec. 135(d)(4).	

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

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

12 (b) **Controls.** Off-street accessory parking shall not be required for any use, and the
13 quantities of off-street parking specified in Table 151.1 shall serve as the maximum amount of
14 off-street parking that may be provided as accessory to the uses specified. For non-residential
15 and non-office uses in the UMU, PDR-1-D, and PDR-1-G Districts, the maximum amount of
16 off-street parking that may be provided as accessory shall be no more than 50% greater than
17 that indicated in Table 151.1. Variances from accessory off-street parking limits, as described
18 in this Section, may not be granted. Where off-street parking is provided that exceeds the
19 quantities specified in Table 151.1 or as explicitly permitted by this Section, such parking shall
20 be classified not as accessory parking but as either a principally permitted or conditional use,
21 depending upon the use provisions applicable to the district in which the parking is located. In
22 considering an application for a conditional use for any such parking due to the amount being
23 provided, the Planning Commission shall consider the criteria set forth in Section 157 and
24 157.1 of this Code.

1 (c) **Definition.** Where a number or ratio of spaces are described in Table 151.1, such
2 number or ratio shall refer to the total number of parked cars accommodated in the project
3 proposal, regardless of the arrangement of parking, and shall include all spaces accessed by
4 mechanical means, valet, or non-independently accessible means. For the purposes of
5 determining the total number of cars parked, the area of an individual parking space, except
6 for those spaces specifically designated for persons with physical disabilities, may not exceed
7 185 square feet, including spaces in tandem, or in parking lifts, elevators or other means of
8 vertical stacking. Any off-street surface area accessible to motor vehicles with a width of 7.5
9 feet and a length of 17 feet (127.5 square feet) not otherwise designated on plans as a
10 parking space may be considered and counted as an off-street parking space at the discretion
11 of the Zoning Administrator if the Zoning Administrator, in considering the possibility for
12 tandem and valet arrangements, determines that such area is likely to be used for parking a
13 vehicle on a regular basis and that such area is not necessary for the exclusive purpose of
14 vehicular circulation to the parking or loading facilities otherwise permitted.

15 (d) **Car-Share Parking.** Any off-street parking space dedicated for use as a car-share
16 parking space, as defined in Section 166, shall not be credited toward the total parking
17 permitted as accessory in this Section.

18 **Table 151.1**

19 **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, <u>RC</u> , C-M, RSD, <i>and SLR Districts, and Chinatown</i>	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
<i>Mixed Use Districts, and the Broadway, Fillmore</i>	

1 Street, North Beach, and the Upper Market NCD
2 Neighborhood Commercial Districts, except as
3 specified below
4 * * *

151.1(g); NP above 0.75 cars for each
dwelling unit.

5 SEC. 201. CLASSES OF USE DISTRICTS.

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

8 **Public Use (*P*) Districts (*P*)**

9 *(Defined in Sec. 234)*

11 **Residential (*R*) Districts**

12 *(Defined in Sec. 206)*

14 RH-1(D) Residential, House Districts, One-Family
15 (Detached Dwellings) *(Defined in Sec. 206.1)*

16 RH-1 Residential, House Districts, One-Family
17 *(Defined in Sec. 206.1)*

18 RH-1(S) Residential, House Districts, One-Family
19 with Minor Second Unit *(Defined in Sec. 206.1)*

21 RH-2 Residential, House Districts, Two-Family
22 *(Defined in Sec. 206.1)*

23 RH-3 Residential, House Districts, Three-Family
24 *(Defined in Sec. 206.1)*

1	RM-1	Residential, Mixed Districts, Low Density <i>(Defined in Sec. 206.1)</i>
2	RM-2	Residential, Mixed Districts, Moderate Density <i>(Defined in Sec. 206.1)</i>
3	RM-3	Residential, Mixed Districts, Medium Density <i>(Defined in Sec. 206.3)</i>
4	RM-4	Residential, Mixed Districts, High Density <i>(Defined in Sec. 206.3)</i>
5	RTO	Residential, Transit-Oriented Neighborhood Districts <i>(Defined in Sec. 206.4)</i>
6	RTO-M	Residential, Transit-Oriented – Mission Neighborhood Districts <i>(Defined in Sec. 206.5)</i>
7	Residential-Commercial Districts (RC)	
8	RC-3	Residential-Commercial Districts, Medium Density <i>(Defined in Sec. 206.3)</i>
9	RC-4	Residential-Commercial Districts, High Density <i>(Defined in Sec. 206.4)</i>
10	Neighborhood Commercial Districts (NC)	
11	(Also see Article 7)	
12	General Area <u>Neighborhood Commercial Districts</u> <i>(Defined in Sec. 702.1)</i>	

1	NC-1	Neighborhood Commercial Cluster District <i>(Defined in Sec. 710.1)</i>
2	NC-2	Small-Scale Neighborhood Commercial District <i>(Defined in Sec. 711.1)</i>
3	NC-3	Moderate-Scale Neighborhood Commercial District <i>(Defined in Sec. 712.1)</i>
4	NC-S	Neighborhood Commercial Shopping Center District <i>(Defined in Sec. 713.1)</i>
<u>Named Neighborhood Commercial Individual Area Districts</u>		
10	Broadway Neighborhood Commercial District <i>(Defined in Sec. 714.1)</i>	
11	Castro Street Neighborhood Commercial District <i>(Defined in Sec. 715.1)</i>	
12	Inner Clement Street Neighborhood Commercial District <i>(Defined in Sec. 716.1)</i>	
13	Outer Clement Street Neighborhood Commercial District <i>(Defined in Sec. 717.1)</i>	
14	Upper Fillmore Street Neighborhood Commercial District <i>(Defined in Sec. 718.1)</i>	
15	Haight Street Neighborhood Commercial District <i>(Defined in Sec. 719.1)</i>	

- 1 Inner Sunset Neighborhood Commercial District (Defined in Sec.
2 730.1)
- 3 Upper Market Street Neighborhood Commercial District (Defined in
4 Sec. 721.1)
- 5 North Beach Neighborhood Commercial District (Defined in Sec.
6 722.1)
- 7 Pacific Avenue Neighborhood Commercial District (Defined in Sec.
8 723.1)
- 9 Polk Street Neighborhood Commercial District (Defined in Sec.
10 723.1)
- 11 Sacramento Street Neighborhood Commercial District (Defined in
12 Sec. 724.1)
- 13 Union Street Neighborhood Commercial District (Defined in Sec.
14 725.1)
- 15 24th Street-Noe Valley Neighborhood Commercial District (Defined
16 in Sec. 728.1)
- 17 West Portal Avenue Neighborhood Commercial District (Defined in
18 Sec. 729.1)
- 19 *Noriega Street Neighborhood Commercial District (Defined in Sec.*
20 *739.1)*
- 21 *Irving Street Neighborhood Commercial District (Defined in Sec. 740.1)*

1	<i>Taraval Street Neighborhood Commercial District (Defined in Sec.</i>
2	<i>741.1)</i>
3	
4	<i>Judah Street Neighborhood Commercial District (Defined in Sec. 742.1)</i>
5	
6	<i>Fillmore Street Neighborhood Commercial District (Defined in Sec.</i>
7	<i>744.1)</i>
8	
9	Neighborhood Commercial Transit Districts (NCT) (Defined in
10	<i>Sec. 702.1)</i>
11	NCT-1 Neighborhood Commercial Transit Cluster
12	District (<i>Defined in Sec. 733A.1</i>)
13	NCT-2 Small-Scale Neighborhood Commercial
14	Transit District (<i>Defined in Sec. 734.1</i>)
15	NCT-3 Moderate Scale Neighborhood
16	Commercial Transit District (<i>Defined in Sec. 731.1</i>)
17	
18	<i>Individual Area Named Neighborhood Commercial Transit</i>
19	(NCT) Districts (Defined in Sec. 702.1)
20	Hayes-Gough NCT (<i>Defined in Sec. 720.1</i>)
21	
22	Upper Market Street NCT (<i>Defined in Sec. 733.1</i>)
23	
24	Valencia Street NCT (<i>Defined in Sec. 726.1</i>)
25	
	24th Street - Mission NCT (<i>Defined in Sec. 727.1</i>)

1	Mission Street NCT (<i>Defined in Sec. 736.1</i>)
2	SoMa NCT (<i>Defined in Sec. 735.1</i>)
3	Ocean Avenue NCT (<i>Defined in Sec. 737.1</i>)
4	Glen Park NCT (<i>Defined in Sec. 738.1</i>)
5	Neighborhood Commercial Special Use Districts (<i>Defined in Sec. 702.2</i>)
6	Lakeshore Plaza Special Use District (<i>Defined in Sec. 780.2</i>)
7	Bayshore-Hester Special Use District (<i>Defined in Sec. 780.2</i>)
8	<i>North Beach Special Use District</i> (<i>Defined in Sec. 780.3</i>)
9	Mission-Harrington Special Use District (<i>Defined in Sec. 780.4</i>)
10	<i>North Beach Special Use District</i>
11	1800 Market Community Center Project Special Use District (<i>Defined in Sec. 787</i>)
12	Neighborhood Commercial Restricted Use Districts <i>and</i> Subdistricts (<i>Defined in Sec. 781</i>)
13	Taraval Street Restaurant Subdistrict (<i>Defined in Sec. 781.1</i>)
14	Irving Street Restaurant Subdistrict (<i>Defined in Sec. 781.2</i>)
15	Geary Boulevard Formula Retail Pet Supply Store and Formula Retail Eating and Drinking Subdistrict (<i>Defined in Sec. 781.4</i>)
16	Mission Street Formula Retail Restaurant Subdistrict (<i>Defined in</i>

1 *Sec. 781.5)*

2 North Beach Financial Service, Limited Financial Service, and
3 Business or Professional Service Subdistrict (*Defined in Sec. 781.6*)

4 Chestnut Street Financial Subdistrict (*Defined in Sec. 781.7*)

5 *Mission Alcoholic Beverage Special Use Subdistrict (Defined in Sec.*
6 *781.8)*

7 *Haight Street Alcohol Special Use Subdistrict (Defined in Sec. 781.9)*

8 *17th and Rhode Island Street Grocery Store Special Use Subdistrict*
9 *(Defined in Sec. 781.10)*

10 Third Street Alcohol Restricted Use District (*Defined in Sec. 782*)

11 Divisadero Street Alcohol Restricted Use District (*Defined in Sec.*
12 *783)*

13 Lower Haight Street Alcohol Restricted Use District (*Defined in Sec.*
14 *784)*

15 Excelsior Alcohol Restricted Use District (*Defined in Sec. 785*)

16 *Lower Haight Street Tobacco Paraphernalia Restricted Use District*

17 Fringe Financial Service Restricted Use District (*Defined in Sec.*
18 *249.35)*

19 Commercial (*C*) Districts (*C*)

1	C-2	Community Business Districts (<i>Defined in Sec. 210.2</i>)
2	C-M	Heavy Commercial Districts (<i>Defined in Sec. 210.4</i>)
3	C-3-O	Downtown Office District (<i>Defined in Sec. 210.3</i>)
4	C-3-O(SD)	Downtown Office Special Development District (<i>Defined in Sec. 210.3</i>)
5	C-3-R	Downtown Retail District (<i>Defined in Sec. 210.3</i>)
6	C-3-G	Downtown General Commercial District (<i>Defined in Sec. 210.3</i>)
7	C-3-S	Downtown Support District (<i>Defined in Sec. 210.3</i>)
8	Industrial Districts (<i>Defined in Sec. 210 and Sec. 802.4</i>)	
9	M-1	Light Industrial Districts (<i>Defined in Sec. 210.5</i>)
10	M-2	Heavy Industrial Districts (<i>Defined in Sec. 210.6</i>)
11	<u>Production Distribution Repair (PDR) Districts</u> (<i>Defined in Sec. 210.7</i>)	
12	PDR-1-B	Production Distribution and Repair - Light Industrial Buffer (<i>Defined in Sec. 210.8</i>)
13	PDR-1-D	Production Distribution and Repair – Design (<i>Defined in Sec. 210.9</i>)
14	PDR-1-G	Production Distribution and Repair – General (<i>Defined in Sec. 210.10</i>)

1	PDR-2	Core Production Distribution and Repair – Bayview (<i>Defined in Sec. 210.11</i>)	
2	Chinatown Mixed Use Districts		
3	(Also see Article 8 Sec. 802.3)		
4	CCB	Chinatown Community Business District (<i>Defined</i> <i>in Sec. 810.1</i>)	
5	CR/NC	Chinatown Residential/Neighborhood Commercial District (<i>Defined in Sec. 812.1</i>)	
6	CVR	Chinatown Visitor Retail District (<i>Defined in Sec.</i> <i>811.1</i>)	
7	South of Market Use Mixed Use Districts		
8	(Also see Article 8 Sec. 802.5)		
9	RED	Residential Enclave Districts (<i>Defined in Sec. 813</i>)	
10	RSD	Residential Service District (<i>Defined in Sec. 815</i>)	
11	SLR	Service/Light Industrial/Residential District (<i>Defined in Sec. 816</i>)	
12	SLI	Service/Light Industrial District (<i>Defined in Sec.</i> <i>817</i>)	
13	SSO	Service/Secondary Office District (<i>Defined in Sec.</i> <i>818</i>)	
14	Eastern Neighborhoods Mixed Use Districts		

1	(Also see Article 8 Sec. 802.4)	
2	SPD	South Park District (<i>Defined in Sec. 814</i>)
3	MUG	Mixed Use – General (<i>Defined in Sec. 840</i>)
4	MUO	Mixed Use – Office (<i>Defined in Sec. 842</i>)
5	MUR	Mixed Use – Residential (<i>Defined in Sec. 841</i>)
6	UMU	Urban Mixed Use (<i>Defined in Sec. 843</i>)
7	Downtown Residential (<i>DTR</i>) Districts (<i>DTR</i>)	
8	(Also see Article 8 Sec. 802.6)	
9	RH-DTR	Rincon Hill Downtown Residential (<i>Defined in Sec.</i> <i>827</i>)
10	SB-DTR	South Beach Downtown Residential (<i>Defined in</i> <i>Sec. 829</i>)
11	TB-DTR	Transbay Downtown Residential District (<i>Defined</i> <i>in Sec. 828</i>)
12	Mission Bay Districts (MB)	
13	(Also see Article 9 Sec. 902)	
14	MB-R-1	Mission Bay Lower Density Residential District (<i>Defined in Sec. 906</i>)
15	MB-R-2	Mission Bay Moderate Density Residential District (<i>Defined in Sec. 907</i>)

1	MB-R-3	Mission Bay High Density Residential District <i>(Defined in Sec. 908)</i>
2	MB-NC-2	Mission Bay Small Scale Neighborhood Commercial District <i>(Defined in Sec. 909)</i>
3	MB-NC-3	Mission Bay Moderate Scale Neighborhood Commercial District <i>(Defined in Sec. 910)</i>
4	MB-NC-S	Mission Bay Neighborhood Commercial Shopping Center District <i>(Defined in Sec. 911)</i>
5	MB-O	Mission Bay Office District <i>(Defined in Sec. 912)</i>
6	MB-CI	Mission Bay Commercial-Industrial District <i>(Defined in Sec. 913)</i>
7	MB-H	Mission Bay Hotel District <i>(Defined in Sec. 914)</i>
8	MB-CF	Mission Bay Community Facilities District <i>(Defined in Sec. 915)</i>
9	MB-OS	Mission Bay Open Space District <i>(Defined in Sec. 916)</i>
10	Parkmerced Districts	
11	(Also see Section 249.64)	
12	PM-R	Parkmerced Residential District <i>(Defined in Sec. 249.64(b)(2)(i))</i>
13	PM-MU1	<i>Parkmerced Mixed Use - Social Heart District</i>

1		<i>(Defined in Sec. 249.64(b)(2)(ii))</i>
2	PM-MU2	Parkmerced Mixed Use - Neighborhood Commons <i>(Defined in Sec. 249.64(b)(2)(iii))</i>
3	PM-S	Parkmerced School District <i>(Defined in Sec. 249.64(b)(2)(iv))</i>
4	PM-CF	Parkmerced Community/Fitness District <i>(Defined in Sec. 249.64(b)(2)(v))</i>
5	PM-OS	Parkmerced Open Space District <i>(Defined in Sec. 249.64(b)(2)(vi))</i>
6	Treasure Island and Yerba Buena Island Districts (Also see Section 249.52)	
7	TI-R	Treasure Island-Residential <i>(Defined in Sec. 249.52)</i>
8	TI-MU	Treasure Island-Mixed Use <i>(Defined in Sec. 249.52)</i>
9	TI-OS	Treasure Island-Open Space <i>(Defined in Sec. 249.52)</i>
10	TI-PCI	Treasure Island-Public/Civic/Institutional <i>(Defined in Sec. 249.52)</i>
11	YBI-R	Yerba Buena Island-Residential <i>(Defined in Sec. 249.52)</i>

1	YBI-MU	Yerba Buena Island-Mixed Use (<i>Defined in Sec.</i> <u>249.52</u>)
2	YBI-OS	Yerba Buena Island-Open Space (<i>Defined in Sec.</i> <u>249.52</u>)
3	YBI-PCI	Yerba Buena Island-Public/Civic/Institutional (<i>Defined in Sec. 249.52</i>)

4 * * *

5 **SEC. 263.0. SPECIAL HEIGHT EXCEPTION: ADDITIONAL FIVE FEET HEIGHT FOR**
 6 **ACTIVE GROUND FLOOR USES IN CERTAIN DISTRICTS.**

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

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

- 17 (1) project is located in a 30-X, 40-X or 50-X Height and Bulk District as
 18 designated on the Zoning Map;
 19 (2) project is located:
 20 (A) in an NCT district as designated on the Zoning Map;

(B) in the Upper Market Street, 24th Street – Noe Valley, Castro Street,

Upper Market Street, Fillmore Street, Irving Street, Judah Street, Noriega Street, Taraval Street,

Inner Clement Street and Outer Clement 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 Street 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

1 grade, or in the case of residential uses, such walk-up residential units are raised up from
2 sidewalk level;

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

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

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

10 (c) One additional foot of height, up to a total of five feet, shall be permitted above the
11 designated height limit for each additional foot of ground floor clear ceiling height in excess of
12 10 feet from sidewalk grade, or in the case of residential units, for each foot the unit is raised
13 above sidewalk grade.

14 * * * (Diagram not shown but not to be deleted.)

15 **SEC. 303. CONDITIONAL USES.**

16 * * *

17 (i) **Formula Retail Uses.**

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

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

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

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

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

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

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

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

(H) (4) Signage shall be defined as business sign pursuant to Section 602.3 of the Planning Code.

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

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

- (A) The existing concentrations of formula retail uses within the district.
 - (B) The availability of other similar retail uses within the district.
 - (C) The compatibility of the proposed formula retail use with the existing aesthetic character of the district.
 - (D) The existing retail vacancy rates within the district.
 - (E) The existing mix of Citywide-serving retail uses and neighborhood-within the district.

(4) Conditional Use Authorization Required. A Conditional Use Authorization is required for a formula retail use in the following zoning districts unless explicitly

- (A) All Neighborhood Commercial Districts in Article 7;
 - (B) All Mixed Use-General Districts in *Article 8* Section 843;
 - (C) All Urban Mixed Use Districts in Article 8;
 - (D) ~~RC 3 and RC 4 zoned parcels along Van Ness Avenue;~~
 - (D) All Residential-Commercial Districts as defined in Section 206.3;
 - (E) Japantown Special Use District as defined in Section 249.31;
 - (F) Chinatown Community Business District as defined in Section ~~810~~
 - (G) Chinatown Residential/Neighborhood Commercial District as defined
 - (H) Western SoMa Planning Area Special Use District as defined in ~~802.5~~

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

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

Districts.

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

- (A) Hayes-Gough Neighborhood Commercial Transit District;
 - (B) North Beach Neighborhood Commercial District;
 - (C) Chinatown Visitor Retail District;

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

(E) Broadway-Neighborhood Commercial District does not

Retail uses which are also Restaurant or Limited-Restaurant uses as defined in Section 790.90 and 790.91;

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

(G) Geary Boulevard Formula Retail Pet Supply Store and Formula Retail Eating and Drinking Subdistrict does not permit Formula Retail uses that are also either a Retail Pet Supply Store or an Eating and Drinking use as set forth in Section 790.4;

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

(I) Fillmore Street Neighborhood Commercial District.

(6) Neighborhood Commercial Notification and Design Review. Any building application for a "formula retail use" as defined in this section and located within a

1 Neighborhood Commercial District in Article 7 shall be subject to the Neighborhood
2 Commercial Notification and Design Review Procedures of Section 312 of this Code.

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

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

11 (B) the change in the formula retail use operator is the result of the
12 business being purchased by another formula retail operator who will retain all components of
13 the existing retailer and make minor alterations to the establishment(s) such as signage and
14 branding.

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

20 **(8) Determination of Formula Retail Use.** In those areas in which "formula
21 retail uses" are prohibited, any building permit application determined by the City to be for a
22 "formula retail use" that does not identify the use as a "formula retail use" is incomplete and
23 cannot be processed until the omission is corrected. Any building permit approved that is
24 determined by the City to have been, at the time of application, for a "formula retail use" that
25 did not identify the use as a "formula retail use" is subject to revocation at any time. If the City

1 determines that a building permit application or building permit subject to this Section of the
2 Code is for a "formula retail use," the building permit application or holder bears the burden of
3 proving to the City that the proposed or existing use is not a "formula retail use."

4 * * *

5 **SEC. 607.1. NEIGHBORHOOD COMMERCIAL AND RESIDENTIAL-COMMERCIAL**
6 **DISTRICTS.**

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

10 (1) **NC-1 and NCT-1 Districts.**

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

14 (B) **Wall Signs.** The area of all wall signs shall not exceed one square
15 foot per square foot of street frontage occupied by the business measured along the wall to
16 which the signs are attached, or 50 square feet for each street frontage, whichever is less.
17 The height of any wall sign shall not exceed 15 feet or the height of the wall to which it is
18 attached. Such signs may be nonilluminated or indirectly illuminated; or during business
19 hours, may be directly illuminated.

20 (C) **Projecting Signs.** The number of projecting signs shall not exceed
21 one per business. The area of such sign, as defined in Section 602.1(a), shall not exceed 24
22 square feet. The height of such sign shall not exceed 15 feet or the height of the wall to which
23 it is attached. No part of the sign shall project more than 75 percent of the horizontal distance
24 from the street property line to the curbline, or six feet six inches, whichever is less. The sign
25

1 may be nonilluminated or indirectly illuminated, or during business hours, may be directly
2 illuminated.

3 (D) **Signs on Awnings.** Sign copy may be located on permitted awnings
4 in lieu of wall signs and projecting signs. The area of such sign copy as defined in Section
5 602.1(c) shall not exceed 20 square feet. Such sign copy may be nonilluminated or indirectly
6 illuminated.

7 (2) **NC-2, NCT-2, NC-S, Broadway, Castro Street, Inner Clement Street,
8 Outer Clement Street, Fillmore Street, Upper Fillmore Street, Inner Sunset, Haight Street,
9 Hayes-Gough, Upper Market Street, North Beach, Ocean Avenue, Pacific Avenue, Polk
10 Street, Sacramento Street, SoMa, Union Street, Valencia Street, 24th Street - Mission,
11 24th Street - Noe Valley, West Portal Avenue, and Glen Park Neighborhood Commercial
12 Districts.**

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

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

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

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

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

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

20 (3) **Mission Street NCT, NC-3, and NCT-3 Neighborhood Commercial
21 Districts.**

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

1 sign shall project more than 75 percent of the horizontal distance from the street property line
2 to the curbline, or six feet, whichever is less. Such signs may be nonilluminated or indirectly
3 illuminated, or during business hours, may be directly illuminated.

4 **(4) Special Standards for Automotive Gas and Service Stations.** For
5 automotive gas and service stations in Neighborhood Commercial Districts, only the following
6 signs are permitted, subject to the standards in this Paragraph (f)(4) and to all other standards
7 in this Section 607.1.

8 (A) A maximum of two oil company signs, which shall not extend more
9 than 10 feet above the roofline if attached to a building, or exceed the maximum height
10 permitted for freestanding signs in the same district if freestanding. The area of any such sign
11 shall not exceed 180 square feet, and along each street frontage, all parts of such a sign or
12 signs that are within 10 feet of the street property line shall not exceed 80 square feet in area.
13 No such sign shall project more than five feet beyond any street property line. The areas of
14 other permanent and temporary signs as covered in Subparagraph (B) below shall not be
15 included in the calculation of the areas specified in this Subparagraph.

16 (B) Other permanent and temporary business signs, not to exceed 30
17 square feet in area for each such sign or a total of 180 square feet for all such signs on the
18 premises. No such sign shall extend above the roofline if attached to a building, or in any case
19 project beyond any street property line or building setback line.

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

21 (a) The following districts are established for the purpose of implementing the
22 Commerce and Industry element and other elements of the General Plan, according to the
23 objective and policies stated therein. Description and Purpose Statements outline the main
24 functions of each Neighborhood Commercial (NC) District in the Zoning Plan for San
25 Francisco, supplementing the statements of purpose contained in Section 101 of this Code.

1 The description and purpose statements and land use controls applicable to each of
2 the general and individual area districts are set forth in ~~Sections 710.1 through 784~~ of this Code
3 for each district class. The boundaries of the various Neighborhood Commercial Districts are
4 shown on the Zoning Map referred to in Sections 105 and 106 of this Code, subject to the
5 provisions of that Section.

Neighborhood Commercial General Area Districts	Section Number
NC-1 - Neighborhood Commercial Cluster District	§ 710
NC-2 - Small-Scale Neighborhood Commercial District	§ 711
NC-3 - Moderate-Scale Neighborhood Commercial District	§ 712
NC-S - Neighborhood Commercial Shopping Center District	§ 713
<i>NCT 1 Neighborhood Commercial Transit Cluster District</i>	§ 733A
<i>NCT 2 Small Scale Neighborhood Commercial Transit District</i>	§ 734
<i>NCT 3 Moderate Seale Neighborhood Commercial Transit District</i>	§ 731
<u>Named Neighborhood Commercial Individual Area Districts</u>	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
Upper Fillmore Street Neighborhood Commercial District	§ 718
Haight Street Neighborhood Commercial District	§ 719
<i>Hayes Gough Neighborhood Commercial Transit District</i>	§ 720
Upper Market Street Neighborhood Commercial District	§ 721
North Beach Neighborhood Commercial District	§ 722
Polk Street Neighborhood Commercial District	§ 723
Sacramento Street Neighborhood Commercial District	§ 724
Union Street Neighborhood Commercial District	§ 725

1	<i>Valencia Street Neighborhood Commercial District</i>	<u>§ 726</u>
2	<i>24th Street Mission Neighborhood Commercial District</i>	<u>§ 727</u>
3	<i>24th Street-Noe Valley Neighborhood Commercial District</i>	<u>§ 728</u>
4	<i>West Portal Avenue Neighborhood Commercial District</i>	<u>§ 729</u>
5	<i>Inner Sunset Neighborhood Commercial District</i>	<u>§ 730</u>
6	<i>Upper Market Street Neighborhood Commercial Transit District</i>	<u>§ 732</u>
7	<i>Soma Neighborhood Commercial Transit District</i>	<u>§ 735</u>
8	<i>Mission Street Neighborhood Commercial Transit District</i>	<u>§ 736</u>
9	<i>Ocean Avenue Neighborhood Commercial Transit District</i>	<u>§ 737</u>
10	<i>Noriega Street Neighborhood Commercial District</i>	<u>§739.1</u>
11	<i>Irving Street Neighborhood Commercial District</i>	<u>§ 735 §740.1</u>
12	<i>Taraval Street Neighborhood Commercial District</i>	<u>§ 736 §741.1</u>
13	<i>Judah Street Neighborhood Commercial District</i>	<u>§ 737 §742.1</u>
14	<i>Fillmore Street Neighborhood Commercial District</i>	<u>§ 744.1</u>

(b) The following districts are Neighborhood Commercial Transit (NCT) Districts, including both general area districts and individual area districts identified by street or area name. These districts are a subset of the Neighborhood Commercial (NC) Districts.

<i>Neighborhood Commercial Transit Districts</i>	<i>Section Number</i>
<i>Hayes Gough Neighborhood Commercial Transit District</i>	<u>§ 720</u>
<i>Valencia Street Neighborhood Commercial Transit District</i>	<u>§ 726</u>
<i>24th Street - Mission Neighborhood Commercial Transit District</i>	<u>§ 727</u>
<i>NCT-3 - Moderate Scale Neighborhood Commercial Transit District</i>	<u>§ 731</u>
<i>Upper Market Street Neighborhood Commercial Transit District</i>	<u>§ 732</u>

1	<i>NCT 1 Neighborhood Commercial Transit Cluster District</i>	§ 733A
2	<i>NCT 2 Small Scale Neighborhood Commercial Transit District</i>	§ 734
3	<i>SoMa Neighborhood Commercial Transit District</i>	§ 735
4	<i>Mission Street Neighborhood Commercial Transit District</i>	§ 736
5	<i>Ocean Avenue Neighborhood Commercial Transit District</i>	§ 737
6	<i>Glen Park Neighborhood Commercial Transit District</i>	§ 738

<u>Neighborhood Commercial Transit Districts</u>	<u>Section Number</u>
<i>NCT-1 Neighborhood Commercial Transit Cluster District</i>	§ 733A
<i>NCT-2 Small Scale Neighborhood Commercial Transit District</i>	§ 734
<i>NCT-3 - Moderate-Scale Neighborhood Commercial Transit District</i>	§ 731
<u>Named Neighborhood Commercial Transit (NCT) Districts</u>	<u>702.1</u>
<i>Hayes-Gough Neighborhood Commercial Transit District</i>	§ 720
<i>Valencia Street Neighborhood Commercial Transit District</i>	§ 726
<i>24th Street - Mission Neighborhood Commercial Transit District</i>	§ 727
<i>Upper Market Street Neighborhood Commercial Transit District</i>	§ 732
<i>SoMa Neighborhood Commercial Transit District</i>	§ 735
<i>Mission Street Neighborhood Commercial Transit District</i>	§ 736
<i>Ocean Avenue Neighborhood Commercial Transit District</i>	§ 737
<i>Glen Park Neighborhood Commercial Transit District</i>	§ 738

NCT Districts are transit-oriented moderate- to high-density mixed-use neighborhoods of varying scale concentrated near transit services. The NCT Districts are mixed use districts that support neighborhood-serving commercial uses on lower floors and housing above. These districts are well-served by public transit and aim to maximize residential and

1 commercial opportunities on or near major transit services. The district's form can be either
2 linear along transit-priority corridors, concentric around transit stations, or broader areas
3 where transit services criss-cross the neighborhood. Housing density is limited not by lot area,
4 but by the regulations on the built envelope of buildings, including height, bulk, setbacks, and
5 lot coverage, and standards for residential uses, including open space and exposure, and
6 urban design guidelines. Residential parking is not required and generally limited. Commercial
7 establishments are discouraged or prohibited from building accessory off-street parking in
8 order to preserve the pedestrian-oriented character of the district and prevent attracting auto
9 traffic. There are prohibitions on access (i.e. driveways, garage entries) to off-street parking
10 and loading on critical stretches of commercial and transit streets to preserve and enhance the
11 pedestrian-oriented character and transit function.

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

	<u>Description of Property</u>	<u>Use District to be Superseded</u>	<u>Use District Hereby Approved</u>
16	All parcels zoned NC-3	NC-3	Fillmore Street Neighborhood
17	on Blocks 0677, 0678, 0683,		Commercial District
18	0684, 0702, 0707, 0708, 0725,		
19	0726, 0731, 0732, 0749, 0750,		
20	0755, 0756, and 0774;		

21
22 Section 5. Effective Date. This Ordinance shall become effective 30 days from the
23 date of passage.

24

25

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

6

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

9 By: JUDITH A. BOYAJIAN
10 Deputy City Attorney

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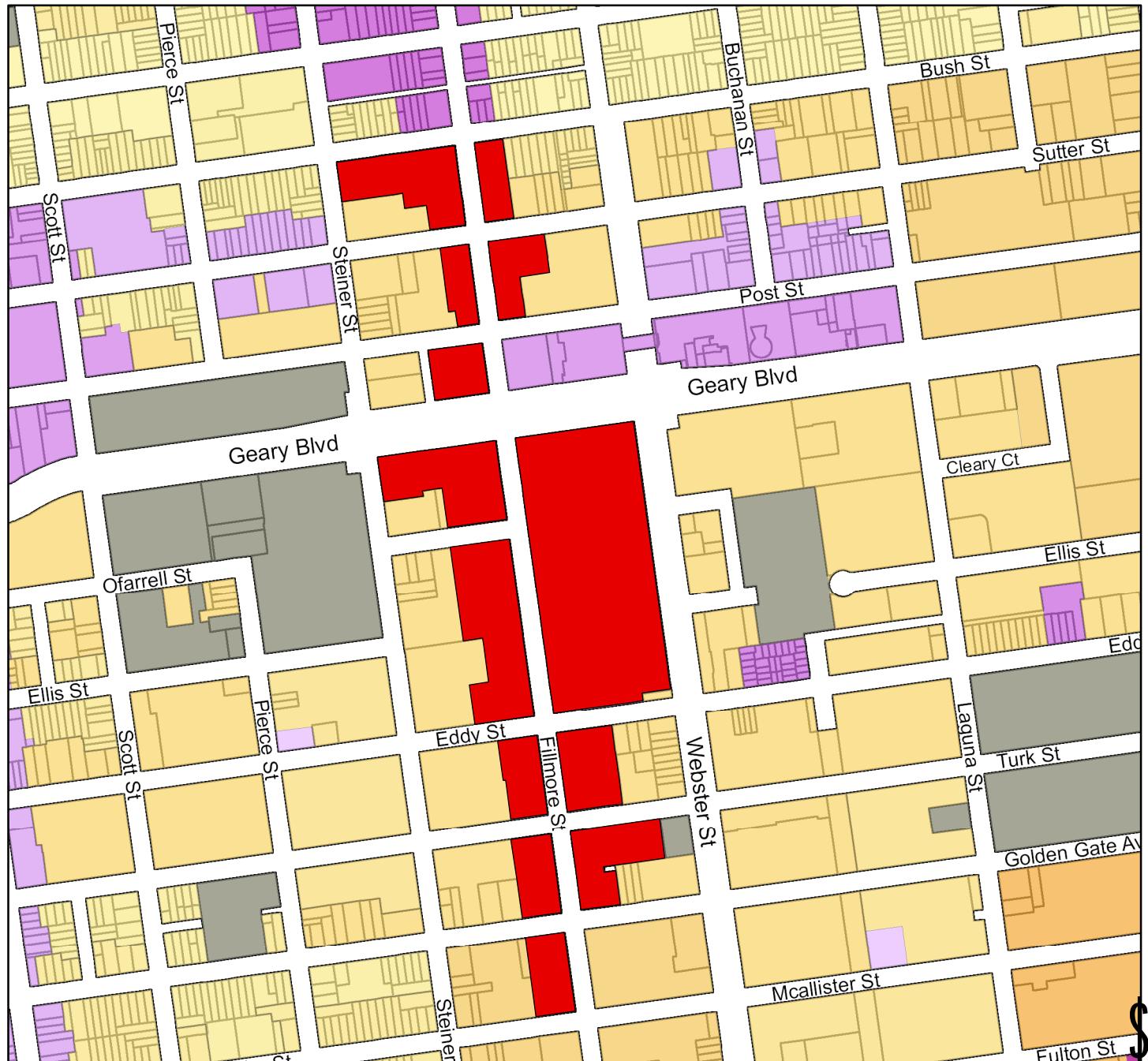
25

Proposed Fillmore Street NCD Exhibit C



Zoning Districts

- Public
- RM-1, Low Density
- RM-2 , Moderate Density
- RM-3, Medium Density
- RM-4, High Density
- NC-1, Cluster
- NC-2, Small-Scale
- NC-3 Moderate-Scale
- NCD, Individually Named
- Proposed Fillmore Street NCD



The City and County of San Francisco (CCSF) does not guarantee the accuracy, adequacy, completeness or usefulness of any information. CCSF provides this information on an "as is" basis without warranty of any kind, including but not limited to warranties of merchantability or fitness for a particular purpose, and assumes no responsibility for anyone's use of the information.

0 215 430 860 Feet

Printed: 31 May, 2013



SAN FRANCISCO
PLANNING DEPARTMENT

Exhibit D

**Certificate of Determination
EXCLUSION/EXEMPTION FROM ENVIRONMENTAL REVIEW**

Case No.: 2012.1087E
Project Title: Board File No. 120814 (Establishing the Fillmore Street Neighborhood Commercial District)
Zoning: NC-1 (Neighborhood Commercial Cluster), NC-3 (Neighborhood Commercial, Moderate-Scale), RM-3 (Residential, Mixed Districts, Medium Density), RM-4 (Residential, Mixed Districts, High Density), and RH-3 (Residential, House Districts, Three-Family)
Height-Bulk: 40-X, 50-X, 65-A, 130-B, 160-F
Block/Lot/ Lot Size: Various
Project Sponsor Supervisor Olague, District 5, San Francisco Board of Supervisors
Staff Contact: Heidi Kline – (415) 575-9043
Heidi.Kline@sfgov.org

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PROJECT DESCRIPTION:

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

[Continued on following page.]

EXEMPT STATUS:

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

REMARKS:

Please see next page.

DETERMINATION:

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

Bill Wycko
Environmental Review Officer

Date

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

Virna Byrd, M.D.F

PROJECT DESCRIPTION (CONTINUED):

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

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

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

REMARKS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Figure 1 Map showing the Proposed Fillmore Street NCD

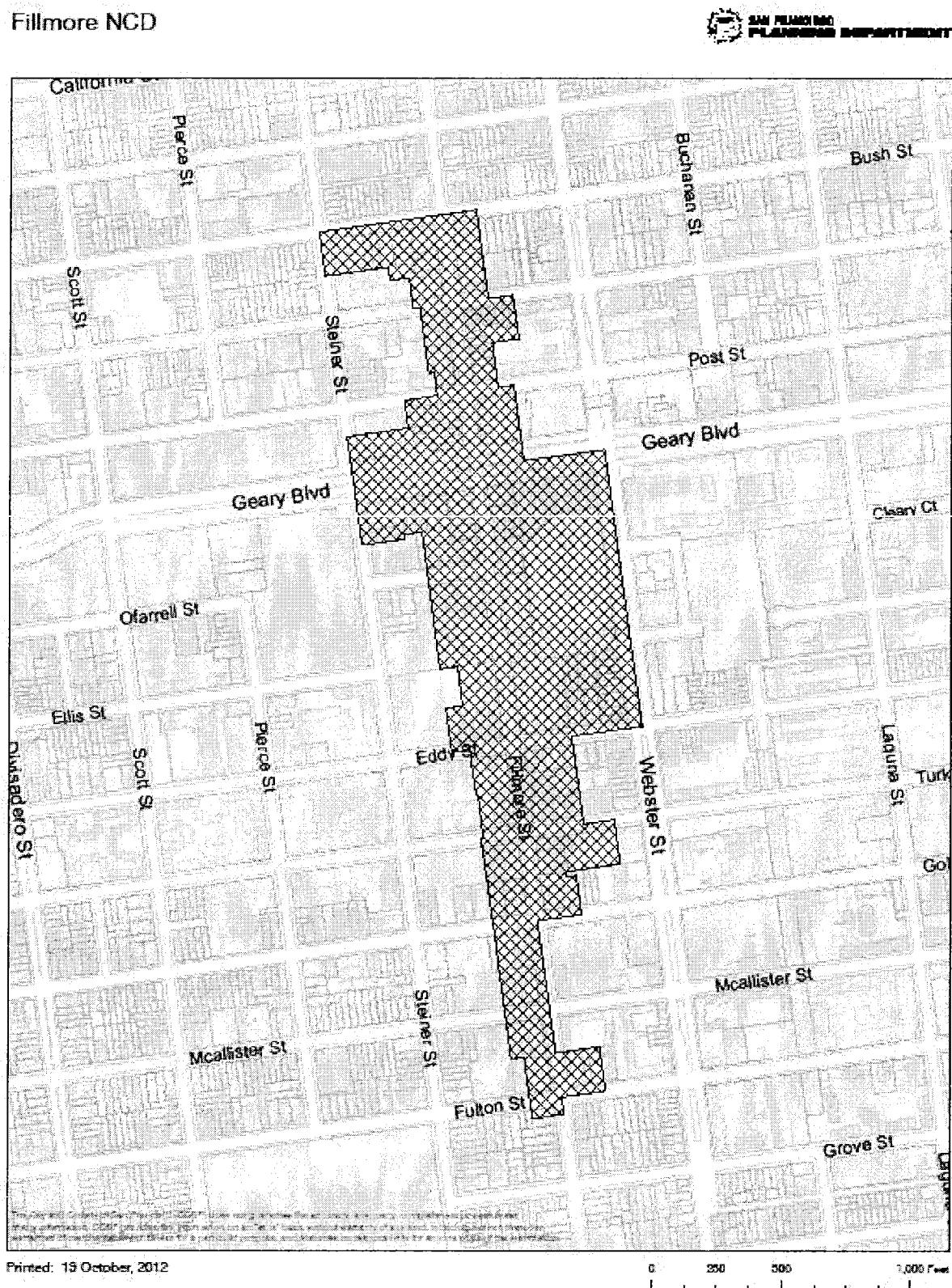


Exhibit E
Proposed Planning Commission Policy:
Determining Formula Retail Concentration in the Upper Market NCD & NCT

For ground floor Formula Retail application in the Upper Market NCD and NCT and properties Zoned NC-3 along Market Street from Church St. to Octavia Blvd., the applicant shall evaluate the concentration of Formula Retail establishments in the immediate vicinity by utilizing the following method. The information provided by the applicant will be verified by the assigned planner.

Defining the Area

Include all parcels that are wholly or partially located within the 300-foot radius map required for Conditional Use application notification and also zoned neighborhood commercial. If analyzing a corner parcel, include all corner parcels at the subject intersection in addition to properties within 300'.

Determining Linear Frontage

For each property, including the subject property, divide the total linear frontage of the lot facing a public right-of-way by the number of store fronts. For example, if a property has 80 feet of street frontage and four store fronts, each store front is considered to have 20 feet of frontage. Separate the Formula Retail store fronts and their total linear frontage from the non-Formula Retail establishments and their linear frontage. Calculate the percentage of the total linear frontage for Formula Retail and Non-formula Retail. $\frac{1}{2}$ of a percentage shall be rounded up.

If the percentage of Formula Retail establishments greater than or equal to 20%, the Planning Department shall recommend disapproval to the Planning Commission, although staff shall evaluate the Formula Retail Conditional Use application against all the criteria in Planning Code Section 303(i)(3) to aid the Commission in its deliberations. If the total linear frontage for Formula Retail establishments is less than 20%, Planning Department staff shall evaluate the Formula Retail Conditional Use application against the criteria in Planning Code Section 303(i)(3) and recommend approval or disapproval accordingly.

Special Lot Situations

- Vacant store fronts are included in the calculation and are counted as Non-formula Retail.
- If the Planning Commission has granted Conditional Use authorization for a Formula Retail establishment that store front is counted as Formula Retail.
- Vacant lots are counted as Non-formula Retail frontage.
- Parking lot frontage is included with the use that it serves.
- All street frontages for corner lots are included in the calculation.
- Residential buildings with no store fronts are excluded from the calculation.
- For through lots, only frontages that contain storefronts are included in the calculations. For example, if a through lot has storefronts on street A but only service doors or garage doors fronting on street B, then only frontage along street A is included in the calculation.
- Second story store fronts are excluded from the calculation. Formula Retail applications that seek approval for a second floor store front won't be evaluated by this method; only the standard criteria found in Section 303 of the Planning Code will apply.

Definition of Formula Retail

Formula Retail is defined in Planning Code Section 703.3. Any nonresidential use on the ground floor not defined as Formula Retail per section 703.3 shall be counted as non-Formula Retail.

Exhibit F

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.