



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Zoning Map and Planning Code Text Change

HEARING DATE: NOVEMBER 29, 2012

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

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PLANNING CODE AMENDMENT

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

The Way It Is Now:

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

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

The Way It Would Be:

The proposed legislation would:

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

ISSUES AND CONSIDERATIONS

NC-2 and Named Neighborhood Commercial Districts

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

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

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

Alcohol Restricted Use District and Fringe Financial Services Restricted Use Districts

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

NCD Height Controls

San Francisco's commercial height districts tend to be base ten numbers such as 40, 50, etc. These base ten districts may lead to buildings that are similar in height to the neighboring buildings but that are lesser in human comfort than buildings of similar scale built prior to the City's height limits. This is due to the desire to maximize the number of stories in new projects. Recent community planning efforts have highlighted some failings of these base 10 height districts. The 2008 Market & Octavia¹ and Eastern Neighborhoods² 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 Street³. Another amendment introduced by Supervisor Avalos in 2009 that now allows a maximum five foot height increase in certain NC-1 parcels in District 11⁴. Most recently, Geary Boulevard, Inner Clement, Outer Clement, the new Outer Sunset NCDs, 24th-Noe Street NCD and NC-2 zoned portions of Balboa Street were added to the list of zoning districts that allow the 5' height bonus.

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

Philanthropic, Administrative Services

Philanthropic Administrative Services is defined as follows:

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

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

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

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

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

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

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

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

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

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

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

REQUIRED COMMISSION ACTION

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

RECOMMENDATION

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

The proposed modifications include:

1. Modify the description of the proposed Divisadero to read: "All parcels currently zoned NC-2 on blocks 1100, 1101, 1126, 1127, 1128, 1129, 1153, 1154, 1155, 1156, 1179, 1180, 1181, 1182, 1201, 1202, 1203, 1204, 1215, 1216, 1217, 1218, 1237, 1238, 1239, and 1240."
2. Reinstate the "Good Neighbor Policies⁵" for General and Specialty Groceries, which was inadvertently removed when the Ordinance was drafted. These policies are listed in the zoning control table for the proposed Divisadero Street NCD in the "SPECIFIC PROVISIONS" section.
3. Modify the Ordinance so that Bars, Restaurants, Limited-Restaurants, Movie Theaters, Other Entertainment, Philanthropic Administrative Services and Trade Shops are permitted on the

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

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

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

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

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

743.68	<i>Fringe Financial Service</i>	§ 790.111	P NP #
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The pound sign (#) refers to a prohibition on Fringe Financial Services, making the P confusing and inconsistent.

8. Adopt clerical changes outlined in Exhibit D.

BASIS FOR RECOMMENDATION

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

Recommendation 1

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

Recommendation 2

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

Recommendation 3

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

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

Recommendation 4

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

Recommendation 5-8

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

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

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

ENVIRONMENTAL REVIEW

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

PUBLIC COMMENT

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

RECOMMENDATION:	Recommendation of Approval with Modification
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Attachments:

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



SAN FRANCISCO PLANNING DEPARTMENT

Draft Planning Commission Resolution

HEARING DATE: NOVEMBER 29, 2012

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

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Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

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

PREAMBLE

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

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

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

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

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

Whereas, the Commission has reviewed the proposed Ordinance; and

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

The proposed modifications include:

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

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

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

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

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

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

743.68	<i>Fringe Financial Service</i>	§ 790.111	P NP #
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The pound sign (#) refers to a prohibition on Fringe Financial Services, making the P confusing and inconsistent.

8. Adopt clerical changes outlined in Exhibit D.

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

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

FINDINGS

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

- Individually named neighborhood commercial districts help to preserve and enhance the character of a neighborhood and a sense of identity.
- The Divisadero Street has been transformed over the past decade by changing demographics and increased involvement from merchants and residents. Creating a named neighborhood commercial district for the Divisadero Street would help continue this transformation and allow the neighborhood to more easily respond to emerging issues and concerns.
- As written, the legislation only includes parcels that front along Divisadero Street in the proposed Divisadero Street NCD; however, several blocks along Divisadero Street contain parcels that are zoned NC-2 and do not front on Divisadero Street. This would result in orphaned NC-2 zoned parcels adjacent to the proposed Divisadero Street NCD. It's the Commission's understanding that this recommendation is consistent with the Supervisor's intent with the legislation.
- The Commission does not find that there is a benefit to excluding spaces that do not currently have a residential unit, but which may have had one 50 years ago from being occupied by a commercial use.

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

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

I. COMMERCE & INDUSTRY ELEMENT

THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN SETS FORTH OBJECTIVES AND POLICIES THAT ADDRESS THE BROAD RANGE OF ECONOMIC ACTIVITIES, FACILITIES, AND 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 Districts along Divisadero Street, which helps to preserve and enhance the character of a neighborhood and create a sense of identity. The proposed changes will also allow these areas to more easily respond to economic and technological innovation in the marketplace and society.

Policy 6.6

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Linda Avery
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: November 29, 2012

LEGISLATIVE DIGEST

[Planning Code – Establishing the Divisadero Street Neighborhood Commercial District]

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

Existing Law

The lots fronting on Divisadero Street between Haight and O'Farrell streets are currently zoned NC-2, Small-Scale Neighborhood Commercial.

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

Amendments to Current Law

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

Bars, Restaurants, Limited-Restaurants, Movie Theaters, Other Entertainment, Philanthropic Administrative Services and Trade Shops, which otherwise are not permitted on the second floor, are permitted on the second floor of existing buildings with no prior residential use. Buildings on lots located in the 40-X height district are permitted an additional 5 feet in height, if that additional height is used to provide a tall ground floor housing active street-fronting

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residential or non-residential uses. Minimum parking requirements for all uses are eliminated from the district. Maximum permitted parking for residential and non-residential uses are reduced to that of a Neighborhood Commercial Transit (NCT) District.

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

2

3 **Ordinance amending the San Francisco Planning Code by 1) adding Section 743.1 to**
 4 **establish the Divisadero Neighborhood Commercial District; 2) repealing the**
 5 **Divisadero Street Alcohol Restricted Use District established in Section 783; 3)**
 6 **amending Section 151.1 and a portion of Table 151.1, Sections 263.20, 607.1(f), and**
 7 **702.3, the Specific Provisions of the Section 711 Zoning Control Table, and Section**
 8 **790.55 to make conforming and other technical changes; 4) amending Sheets ZN02 and**
 9 **ZN07 of the Zoning Map to include the Divisadero Neighborhood Commercial District;**
 10 **5) amending Sheet SU02 of the Zoning Map to delete the Divisadero Street Alcohol**
 11 **Restricted Use SUD; and 6) adopting environmental findings, Planning Code Section**
 12 **302 findings, and findings of consistency with the General Plan and the Priority**
 13 **Policies of Planning Code Section 101.1.**

14 NOTE: Additions are *single-underline italics Times New Roman*;
 15 deletions are ~~*strike-through italics Times New Roman*~~.
 16 Board amendment additions are double-underlined;
 17 Board amendment deletions are ~~strike-through normal~~.

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

19 Section 1. Findings.

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

24 (b) Pursuant to Planning Code Section 302, this Board finds that these Planning
 25 Code amendments will serve the public necessity, convenience and welfare for the reasons

Supervisor Olague
BOARD OF SUPERVISORS

1 set forth in Planning Commission Resolution No. _____ and the Board hereby incorporates
2 such reasons herein by reference. A copy of Planning Commission Resolution No. _____ is
3 on file with the Clerk of the Board of Supervisors in File No. _____.

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

8
9 Section 2. The San Francisco Planning Code is hereby amended by adding Section
10 743.1, to read as follows:

11 **SEC. 743.1. DIVISADERO STREET NEIGHBORHOOD COMMERCIAL DISTRICT.**

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

20 The Divisadero Street District controls are designed to encourage and promote development
21 that enhances the walkable, mixed-use character of the corridor and surrounding neighborhoods. Rear
22 yard requirements above the ground story and at residential levels preserve open space corridors of
23 interior blocks.

24 Consistent with Divisadero Street's existing mixed-use character, new commercial development
25 is permitted at the ground and second stories. Most neighborhood-serving businesses are strongly

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

8 Housing development in new buildings is encouraged above the ground story. Existing
 9 residential units are protected by limitations on demolition and upper-story conversions.

10 **SEC. 743. DIVISADERO STREET NEIGHBORHOOD COMMERCIAL DISTRICT**

11 **ZONING CONTROL TABLE**

			<u>Divisadero Street</u>
<u>No.</u>	<u>Zoning Category</u>	<u>§ References</u>	<u>Controls</u>
<u>BUILDING STANDARDS</u>			
<u>743.10</u>	<u>Height and Bulk Limit</u>	<u>§§ 102.12, 105, 106, 250</u> <u>- 252, 260, 261.1, 263.20,</u> <u>270, 271</u>	<u>Generally, 65-X, and 40-X</u> <u>south of Oak Street; See</u> <u>Zoning Map. Additional 5 feet</u> <u>for parcels in the 40-X and</u> <u>50-X height district with</u> <u>active uses, see § 263.20.</u> <u>Height Sculpting on Alleys:§</u> <u>261.1</u>
<u>743.11</u>	<u>Lot Size</u> <u>[Per Development]</u>	<u>§§ 790.56, 121.1</u>	<u>P up to 9,999 sq. ft.; C 10,000</u> <u>sq. ft. & above § 121.1</u>
<u>743.12</u>	<u>Rear Yard</u>	<u>§§ 130, 134, 136</u>	<u>Required at the second story</u>

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			<i>and above and at all residential levels § 134(a) (e)</i>
<u>743.13</u>	<u>Street Frontage</u>		<i>Required § 145.1</i>
<u>743.14</u>	<u>Awning</u>	<u>§ 790.20</u>	<i>P § 136.1(a)</i>
<u>743.15</u>	<u>Canopy</u>	<u>§ 790.26</u>	<i>P § 136.1(b)</i>
<u>743.16</u>	<u>Marquee</u>	<u>§ 790.58</u>	<i>P § 136.1(c)</i>
<u>743.17</u>	<u>Streetscape and Pedestrian Improvements</u>		<i>Required § 138.1</i>
<u>COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES</u>			
<u>743.20</u>	<u>Floor Area Ratio</u>	<u>§§ 102.9, 102.11, 123</u>	<i>2.5 to 1 § 124(a) (b)</i>
<u>743.21</u>	<u>Use Size</u> <u>[Non-Residential]</u>	<u>§ 790.130</u>	<i>P up to 3,999 sq. ft.;</i> <i>C 4,000 sq. ft. & above § 121.2</i>
<u>743.22</u>	<u>Off-Street Parking, Non-residential</u>	<u>§§ 150, 153 - 157, 159 - 160, 204.5</u>	<i>None required. Maximum permitted as set forth in Section 151.1</i>
<u>743.23</u>	<u>Off-Street Freight Loading</u>	<u>§§ 150, 153 - 155, 204.5</u>	<i>Generally, none required if gross floor area is less than 10,000 sq. ft.</i>

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			<u>§§ 152, 161(b)</u>		
<u>743.24</u>	<u>Outdoor Activity Area</u>	<u>§ 790.70</u>	<u>P if located in front; C if located elsewhere</u>		
			<u>§ 145.2(a)</u>		
<u>743.25</u>	<u>Drive-Up Facility</u>	<u>§ 790.30</u>			
<u>743.26</u>	<u>Walk-Up Facility</u>	<u>§ 790.140</u>	<u>P if recessed 3 ft.;</u>		
			<u>C if not recessed</u>		
			<u>§ 145.2(b)</u>		
<u>743.27</u>	<u>Hours of Operation</u>	<u>§ 790.48</u>	<u>P 6 a.m. - 2 a.m.;</u>		
			<u>C 2 a.m. - 6 a.m.</u>		
<u>743.30</u>	<u>General Advertising Sign</u>	<u>§§ 262, 602 - 604, 608, 609</u>			
<u>743.31</u>	<u>Business Sign</u>	<u>§§ 262, 602 - 604, 608, 609</u>	<u>P</u>		
			<u>§ 607.1(f)(2)</u>		
<u>743.32</u>	<u>Other Signs</u>	<u>§§ 262, 602 - 604, 608, 609</u>	<u>P</u>		
			<u>§ 607.1(c) (d) (g)</u>		
			<u>Divisadero Street</u>		
<u>No.</u>	<u>Zoning Category</u>	<u>§ References</u>	<u>Controls by Story</u>		
		<u>§ 790.118</u>	<u>1st</u>	<u>2nd</u>	<u>3rd+</u>
<u>743.38</u>	<u>Residential Conversion</u>	<u>§ 790.84</u>	<u>P</u>	<u>C</u>	
<u>743.39</u>	<u>Residential Demolition</u>	<u>§ 790.86</u>	<u>P</u>	<u>C</u>	<u>C</u>
<u>Retail Sales and Services</u>					
<u>743.40</u>	<u>Other Retail Sales and Services</u>	<u>§ 790.102</u>	<u>P</u>	<u>P</u>	
	<u>[Not Listed Below]</u>				

1	<u>743.41</u>	<u>Bar</u>	<u>\$ 790.22</u>	<u>P</u>	<u>P #</u>	
2	<u>743.43</u>	<u>Limited-Restaurant</u>	<u>\$ 790.90</u>	<u>P</u>	<u>P #</u>	
3	<u>743.44</u>	<u>Restaurant</u>	<u>\$ 790.91</u>	<u>P</u>	<u>P #</u>	
4	<u>743.45</u>	<u>Liquor Store</u>	<u>\$ 790.55</u>	<u>NP #</u>		
5	<u>743.46</u>	<u>Movie Theater</u>	<u>\$ 790.64</u>	<u>P</u>	<u>P #</u>	
6	<u>743.47</u>	<u>Adult Entertainment</u>	<u>\$ 790.36</u>			
7	<u>743.48</u>	<u>Other Entertainment</u>	<u>\$ 790.38</u>	<u>P</u>	<u>P #</u>	
8	<u>743.49</u>	<u>Financial Service</u>	<u>\$ 790.110</u>	<u>C</u>		
9	<u>743.50</u>	<u>Limited Financial Service</u>	<u>\$ 790.112</u>	<u>P</u>		
10	<u>743.51</u>	<u>Medical Service</u>	<u>\$ 790.114</u>	<u>P</u>	<u>P</u>	
11	<u>743.52</u>	<u>Personal Service</u>	<u>\$ 790.116</u>	<u>P</u>	<u>P</u>	
12	<u>743.53</u>	<u>Business or Professional Service</u>	<u>\$ 790.108</u>	<u>P</u>	<u>P</u>	
13	<u>743.54</u>	<u>Massage Establishment</u>	<u>\$ 790.60</u>	<u>C</u>		
14			<u>\$ 1900 Health Code</u>			
15	<u>743.55</u>	<u>Tourist Hotel</u>	<u>\$ 790.46</u>	<u>C</u>	<u>C</u>	<u>C</u>
16	<u>743.56</u>	<u>Automobile Parking</u>	<u>\$\$ 790.8, 145.1, 156, 160</u>	<u>C</u>		
17	<u>743.57</u>	<u>Automotive Gas Station</u>	<u>\$ 790.14</u>	<u>C</u>		
18	<u>743.58</u>	<u>Automotive Service Station</u>	<u>\$ 790.17</u>	<u>C</u>		
19	<u>743.59</u>	<u>Automotive Repair</u>	<u>\$ 790.15</u>	<u>C</u>		
20	<u>743.60</u>	<u>Automotive Wash</u>	<u>\$ 790.18</u>			
21	<u>743.61</u>	<u>Automobile Sale or Rental</u>	<u>\$ 790.12</u>			
22	<u>743.62</u>	<u>Animal Hospital</u>	<u>\$ 790.6</u>	<u>C</u>		
23	<u>743.63</u>	<u>Ambulance Service</u>	<u>\$ 790.2</u>			
24	<u>743.64</u>	<u>Mortuary</u>	<u>\$ 790.62</u>			

1	<u>743.65</u>	<u>Trade Shop</u>	<u>§ 790.124</u>	<u>P</u>	<u>P #</u>	
2	<u>743.66</u>	<u>Storage</u>	<u>§ 790.117</u>			
3	<u>743.68</u>	<u>Fringe Financial Service</u>	<u>§ 790.111</u>	<u>P #</u>		
4	<u>743.69</u>	<u>Tobacco Paraphernalia</u>	<u>§ 790.123</u>	<u>C</u>		
5		<u>Establishments</u>				
6	<u>743.69B</u>	<u>Amusement Game Arcade</u>	<u>§ 790.4</u>	<u>C</u>		
7		<u>(Mechanical Amusement Devices)</u>				
8	<u>743.69C</u>	<u>Neighborhood Agriculture</u>	<u>§ 102.35(a)</u>	<u>P</u>	<u>P</u>	<u>P</u>
9	<u>743.69D</u>	<u>Large-Scale Urban Agriculture</u>	<u>§ 102.35(b)</u>	<u>C</u>	<u>C</u>	<u>C</u>
10	<u>Institutions and Non-Retail Sales and Services</u>					
11	<u>743.70</u>	<u>Administrative Service</u>	<u>§ 790.106</u>			
12	<u>743.80</u>	<u>Hospital or Medical Center</u>	<u>§ 790.44</u>			
13	<u>743.81</u>	<u>Other Institutions, Large</u>	<u>§ 790.50</u>	<u>P</u>	<u>C</u>	<u>C</u>
14	<u>743.82</u>	<u>Other Institutions, Small</u>	<u>§ 790.51</u>	<u>P</u>	<u>P</u>	<u>P</u>
15	<u>743.83</u>	<u>Public Use</u>	<u>§ 790.80</u>	<u>C</u>	<u>C</u>	<u>C</u>
16	<u>743.84</u>	<u>Medical Cannabis Dispensary</u>	<u>§ 790.141</u>	<u>P #</u>		
17	<u>743.85</u>	<u>Philanthropic Administrative</u>	<u>§ 790.141</u>		<u>P #</u>	
18		<u>Service</u>				
19	<u>RESIDENTIAL STANDARDS AND USES</u>					
20	<u>743.90</u>	<u>Residential Use</u>	<u>§ 790.88</u>	<u>P</u>	<u>P</u>	<u>P</u>
21	<u>743.91</u>	<u>Residential Density, Dwelling</u>	<u>§§ 207, 207.1, 790.88(a)</u>	<u>Generally, 1 unit per 800 sq.</u>		
22		<u>Units</u>		<u>ft. lot area</u>		
23				<u>§ 207.4</u>		
24	<u>743.92</u>	<u>Residential Density, Group</u>	<u>§§ 207.1, 208, 790.88(b)</u>	<u>Generally, 1 bedroom per 275</u>		
25						

	<u>Housing</u>		<u>sq. ft. lot area</u>
<u>743.93</u>	<u>Usable Open Space</u> <u>[Per Residential Unit]</u>	<u>§§ 135, 136</u>	<u>Generally, either 100 sq. ft. if private, or 133 sq. ft. if common</u> <u>§ 135(d)</u>
<u>743.94</u>	<u>Off-Street Parking, Residential</u>	<u>§§ 150, 151.1, 153 - 157, 159 - 160</u>	<u>None required. P up to .5 cars per unit, C up to .75 cars per unit, NP above</u>
<u>743.95</u>	<u>Community Residential Parking</u>	<u>§ 790.10</u>	<u>C</u>

SPECIFIC PROVISIONS FOR THE DIVISADERO STREET

NEIGHBORHOOD COMMERCIAL DISTRICT

<u>Article 7</u>		
<u>Code</u>	<u>Other Code</u>	
<u>Section</u>	<u>Section</u>	<u>Zoning Controls</u>
<u>743.41</u>		<u>A Bar, Restaurant, Limited-Restaurant, Movie Theater, Other Entertainment, Trade Shop, or Philanthropic Administrative Service use is permitted on the Second Story of existing buildings which have had no immediately prior second-story Residential Use.</u>
<u>743.43</u>		
<u>743.44</u>		
<u>743.46</u>		
<u>743.48</u>		
<u>743.65</u>		
<u>743.85</u>		
<u>§ 743.45</u>		<u>(a) Liquor Stores are not permitted within the Divisadero Street NCD.</u> <u>Liquor Store uses which become inactive for more than 180 days may not</u>

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		<p><u>be reestablished. A lawfully existing Liquor Store may relocate within the district with Conditional Use authorization;</u></p> <p><u>(b) Liquor Stores shall comply with the following Good Neighbor requirements:</u></p> <p><u>(1) The business operator shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards. In addition, the operator shall be responsible for daily monitoring of the sidewalk within a one-block radius of the subject business to maintain the sidewalk free of litter associated with the business during business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code.</u></p> <p><u>For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works.</u></p> <p><u>(2) Liquor Stores shall provide outside lighting in a manner sufficient to illuminate street and sidewalk areas and adjacent parking, as appropriate to maintain security, without disturbing area residences.</u></p> <p><u>(3) No more than one-third of the square footage of the windows and clear doors of Liquor Stores shall bear advertising or signage of any sort, and all advertising and signage shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the premises, including the area in which the cash registers are maintained, from the exterior public sidewalk or entrance to the premises.</u></p>
<u>§ 743.68</u>	<u>§ 249.35</u>	<u>FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT</u>

		<p><u>(FFSRUD)</u></p> <p><u>Boundaries:</u> <i>The FFSRUD and its ¼ mile buffer includes, but is not limited to, properties within the Divisadero Street NCD.</i></p> <p><u>Controls:</u> <i>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).</i></p>
§ 743.84 §	790.141 Health Code § 3308	<p><i>Medical Cannabis Dispensaries may only operate between the hours of 8 a.m. and 10 p.m.</i></p>

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

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

~~*There are an unusually large number of establishments dispensing alcoholic beverages, including beer and wine, for off-site consumption in the Small-Scale Neighborhood Commercial District along Divisadero Street between Haight and Geary Streets. The existence of this many alcoholic beverage establishments appears to contribute directly to numerous peace, health, safety and general welfare problems in the area, including loitering, littering, public drunkenness, defacement and damaging of structures, pedestrian obstructions, as well as traffic circulation, parking and noise problems on public streets and neighborhood lots. The existence of such problems creates serious impacts on the health, safety and welfare of residents of nearby single and multiple family areas, including fear for the safety of children, elderly residents and of visitors to the area. The problems also contribute to the deterioration of the neighborhood and concomitant devaluation of property and destruction of community values and quality of life. The number of establishments selling alcoholic*~~

1 *beverages and the associated problems discourage more desirable and needed commercial uses in the*
2 *area.*

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

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

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

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

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

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

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

23 *(A) — A Prohibited Liquor Establishment lawfully existing and selling alcoholic beverages as*
24 *licensed by the State of California prior to the effective date of this legislation, or subsequent*
25 *legislation prohibiting that type of Liquor Establishment, so long as otherwise lawful, may continue to*

1 ~~operate only under the following conditions, as provided by California Business and Professions Code~~
2 ~~Section 23790;~~

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

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

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

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

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

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

18 ~~(4) — Re-location of an existing Prohibited Liquor Establishment in the Divisadero Street~~
19 ~~Alcohol RUD to another location within the same Divisadero Street Alcohol RUD with conditional use~~
20 ~~authorization from the City Planning Commission, provided that the original premises shall not be~~
21 ~~occupied by a Prohibited Liquor Establishment, unless by another Prohibited Liquor Establishment~~
22 ~~that is also relocating from with the Divisadero Street Alcohol RUD.~~

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

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

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

11 (c) — ~~Definitions:~~

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

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

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

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

1 Section 4. The San Francisco Planning Code is hereby amended by amending Section
2 151.1 and a portion of Table 151.1, Section 263.20, Section 607.1(f), Section 702.3, the
3 Specific Provisions of the Section 711 Zoning Control Table, and Section 790.55, to read as
4 follows:

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

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

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

24 (c) **Definition.** Where a number or ratio of spaces are described in Table 151.1, such
25 number or ratio shall refer to the total number of parked cars accommodated in the project

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

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

16 **Table 151.1**

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

Use or Activity	Space Devoted to Off-Street Car Parking or Number of Off-Street Car Parking Spaces Permitted
Dwelling units and SRO units in NCT, <u>RC</u> , C- M, RSD, and SLR <i>Districts, and Chinatown</i> <i>Mixed Use Districts, and the Broadway,</i> <i>Divisadero, Fillmore, North Beach, and the</i> Upper Market NCD <i>Neighborhood Commercial</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 151.1(g); NP above 0.75 cars for each dwelling unit.

1 Districts, except as specified below

2
3 **SEC. 263.20. SPECIAL HEIGHT EXCEPTION: ADDITIONAL FIVE FEET HEIGHT FOR**
4 **ACTIVE GROUND FLOOR USES IN ~~NCT 30-X, 40-X AND 50-X HEIGHT AND BULK~~**
5 **~~DISTRICTS, IN NC-2 AND NC-3 DESIGNATED PARCELS FRONTING MISSION STREET,~~**
6 **~~FROM SILVER AVENUE TO THE DALY CITY BORDER, AND IN SPECIFIED NC-1~~**
7 **~~DESIGNATED PARCELS AND IN SPECIFIED N~~ CERTAIN DISTRICTS.**

8 (a) **Intent.** In order to encourage generous ground floor ceiling heights for commercial
9 and other active uses, encourage additional light and air into ground floor spaces, allow for
10 walk-up ground floor residential uses to be raised slightly from sidewalk level for privacy and
11 usability of front stoops, and create better building frontage on the public street, up to an
12 additional 5' of height is allowed along major streets in NCT districts, or in specific ~~NC-3, NC-2,~~
13 ~~or NC-1~~ districts listed below, for buildings that feature either higher ground floor ceilings for
14 non-residential uses or ground floor residential units (that have direct walk-up access from the
15 sidewalk) raised up from sidewalk level.

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

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

20 (2) project is located:

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

22 (B) in the Upper Market Street, Divisadero, Inner Clement Street and Outer Clement
23 Street NCDs;

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

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

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

7 (F) on a NC-3 designated parcel fronting on Geary Boulevard from Masonic Avenue to
8 28th Avenue, except for parcels on the north side of Geary Boulevard between Palm Avenue
9 and Parker Avenue;

10 (G) on a parcel zoned NC-1 or NC-2 with a commercial use on the ground floor on Noriega
11 Street west of 19th Avenue;

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

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

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

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

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

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

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

4 (c) One additional foot of height, up to a total of five feet, shall be permitted above the
5 designated height limit for each additional foot of ground floor clear ceiling height in excess of
6 10 feet from sidewalk grade, or in the case of residential units, for each foot the unit is raised
7 above sidewalk grade.

8 **SEC. 607.1. NEIGHBORHOOD COMMERCIAL AND RESIDENTIAL-COMMERCIAL**
9 **DISTRICTS.**

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

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

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

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

23 (C) **Projecting Signs.** The number of projecting signs shall not exceed one per
24 business. The area of such sign, as defined in Section 602.1(a), shall not exceed 24 square
25 feet. The height of such sign shall not exceed 15 feet or the height of the wall to which it is

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

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

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

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

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

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

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

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

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

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

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

1 (B) **Wall Signs.** The area of all wall signs shall not exceed three square feet per foot of
2 street frontage occupied by the use measured along the wall to which the signs are attached,
3 or 150 square feet for each street frontage, whichever is less. The height of any wall sign shall
4 not exceed 24 feet, or the height of the wall to which it is attached, or the height of the lowest
5 of any residential windowsill on the wall to which the sign is attached, whichever is lower.
6 Such signs may be nonilluminated, indirectly, or directly illuminated.

7 (C) **Projecting Signs.** The number of projecting signs shall not exceed one per
8 business. The area of such sign, as defined in Section 602.1(a), shall not exceed 32 square
9 feet. The height of the sign shall not exceed 24 feet, or the height of the wall to which it is
10 attached, or the height of the lowest of any residential windowsill on the wall to which the sign
11 is attached, whichever is lower. No part of the sign shall project more than 75 percent of the
12 horizontal distance from the street property line to the curblineline, or six feet six inches,
13 whichever is less. Such signs may be nonilluminated, indirectly, or directly illuminated.

14 (D) **Sign Copy on Awnings and Marquees.** Sign copy may be located on permitted
15 awnings or marquees in lieu of projecting signs. The area of such sign copy, as defined in
16 Section 602.1(c), shall not exceed 40 square feet. Such sign copy may be nonilluminated or
17 indirectly illuminated; except that sign copy on marquees for movie theaters or places of
18 entertainment may be directly illuminated during business hours.

19 (E) **Freestanding Signs and Sign Towers.** With the exception of automotive gas and
20 service stations, which are regulated under Paragraph 607.1(f)(4) of this Code, one
21 freestanding sign or sign tower per lot shall be permitted in lieu of a projecting sign if the
22 building or buildings are recessed from the street property line. The existence of a
23 freestanding business sign shall preclude the erection of a freestanding identifying sign on the
24 same lot. The area of such freestanding sign or sign tower, as defined in Section 602.1(a),
25 shall not exceed 30 square feet nor shall the height of the sign exceed 24 feet. No part of the

1 sign shall project more than 75 percent of the horizontal distance from the street property line
2 to the curblineline, 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 automotive
5 gas and service stations in Neighborhood Commercial Districts, only the following signs are
6 permitted, subject to the standards in this Paragraph (f)(4) and to all other standards in this
7 Section 607.1.

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

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

20 **SEC. 702.3. NEIGHBORHOOD COMMERCIAL RESTRICTED USE SUBDISTRICTS.**

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

1 The purposes and provisions set forth in Section 781.1 through ~~781.6~~ 781.10 of this
 2 Code shall apply respectively within these districts. The boundaries of the districts are as
 3 shown on the Zoning Map as referred to in Section 105 of this Code, subject to the provisions
 4 of that Section.

Neighborhood Commercial Restricted Use Subdistricts	Section Number
Taraval Street Restaurant Subdistrict	§ 781.1
Irving Street Restaurant Subdistrict	§ 781.2
Ocean Avenue Fast Food Subdistrict	§ 781.3
Geary Boulevard Formula Retail Pet Supply Store and Formula Retail Eating and Drinking Subdistrict	§ 781.4
Mission Street Formula Retail Restaurant Subdistrict	§ 781.5
North Beach Financial Service, Limited Financial Service, and Business or Professional Service Subdistrict	§ 781.6
Chestnut Street Financial <u>Service Subdistrict</u>	§ 781.7
Haight Street Alcohol Restricted Use District	§ 781.9
Divisadero Street Alcohol Restricted Use District	§ 783
Lower Haight Street Alcohol Restricted Use District	§ 784
Excelsior Alcohol Special Use District	§ 785
Lower Haight Tobacco Paraphernalia Restricted Use District	§ 786

1 **SEC. 790.55. LIQUOR STORE.**

2 A retail use which sells beer, wine, or distilled spirits to a customer in an open or closed
3 container for consumption off the premises and which needs a State of California Alcoholic
4 Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-sale general)
5 This classification shall not include retail uses that (1) are both (a) classified as a general
6 grocery store use as set forth in Section 790.102(a), a specialty grocery store use as set forth
7 in Section 790.102(b), or a self-service specialty food use as set forth in Section 790.93, and
8 (b) have a gross floor area devoted to alcoholic beverages that is within the accessory use
9 limits set forth in Section 703.2(b)(1)(C)(vi); or (2) have both a) a use size as defined in
10 Section 790.130 of this Code of greater than 10,000 gross square feet and (b) a gross floor
11 area devoted to alcoholic beverages that is within accessory use limits as set forth in Section
12 204.2 or 703.2(b)(1)(c) of this Code, depending on the zoning district in which the use is
13 located. For purposes of Planning Code Sections 249.5, 781.8, 781.9, 782, ~~783~~, and 784, the
14 retail uses explicitly exempted from this definition as set forth above shall only apply to
15 general grocery and specialty grocery stores that exceed 5,000s/f in size, shall not:

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

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

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

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

<u>Description of Property</u>	Use District	<u>Hereby Approved</u>
The properties fronting both sides of Divisadero Street between Haight Street and O'Farrell Street	Divisadero Street Neighborhood	Commercial District

3
4
5
6
7
8
9 Section 6. Sheet SU02 of the Zoning Map of the City and County of San Francisco is
10 hereby amended to delete the Divisadero Street Alcohol Restricted Use SUD.

11
12 Section 7. Effective Date. This Ordinance shall become effective 30 days from the
13 date of passage.

14
15 Section 8. This section is uncodified. In enacting this Ordinance, the Board intends to amend
16 only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation,
17 charts, diagrams, or any other constituent part of the Planning Code that are explicitly shown
18 in this legislation as additions, deletions, Board amendment additions, and Board amendment
19 deletions in accordance with the "Note" that appears under the official title of the legislation.

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

23 By: _____
24 JUDITH A. BOYAJIAN
25 Deputy City Attorney

Divisadero NCD Exhibit C



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 warranty of merchantability or fitness for a particular purpose, and assumes no responsibility for anyone's use of the information.

Exhibit D

263.20

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

607.1(f)

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

SEC. 702.3. NEIGHBORHOOD COMMERCIAL RESTRICTED USE SUBDISTRICTS.

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

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

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

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

ZONING CONTROL TABLE

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

SPECIFIC PROVISIONS FOR NC-2 DISTRICTS

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

SEC. 790.55. LIQUOR STORE.

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

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

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

(c) For purposes of Planning Code Sections [249.5](#), [781.8](#), [781.9](#), [782](#), ~~783~~, and [784](#), the retail uses explicitly exempted from this definition as set forth above shall only apply to general grocery and specialty grocery stores that exceed 5,000s/f in size, ~~shall that do~~ not:

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

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

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

Noriega and Irving Street NCDs

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

810.20

20	Use Size [Nonresidential]	§ 890.130	P up to 5,000 sq. ft. C 5,000 sq. ft. & above § 121.4 Except for <i>full-service</i> R Restaurants
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811.20

20	Use Size <i>[Nonresidential]</i>	§ 890.130	P up to 2,500 sq. ft. C 2,501 to 5,000 sq. ft. Except for full-service R Restaurants - 5,000 sq. ft. § 121.4
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811.47b reference

§ 811.47b	§ 890.37	The other entertainment use must be in conjunction with an existing full- service R Restaurant
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SAN FRANCISCO PLANNING DEPARTMENT

Certificate of Determination EXCLUSION/EXEMPTION FROM ENVIRONMENTAL REVIEW

Case No.: 2012.1085E
 Project Title: Board File No. 1207962 (Establishing the Divisadero Street Neighborhood Commercial District and repealing the Divisadero Street Alcohol Restricted Use District)
 Zoning: NC-2, NC-3, and RM-3
 Height-Bulk: 40-X, 65-A, and 105-E
 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 743.1, establishing the Divisadero Street Neighborhood Commercial District (Divisadero Street NCD) on Divisadero Street between Haight and O'Farrell streets, and repealing Section 783, the Divisadero Street Alcohol Restricted Use District that includes parcels on Divisadero Street between Haight Street and Geary Boulevard. The ordinance would also amend Sections 151.1, 263.20, 607.1(f), 702.3, 709.55, and 711 (Zoning Control table), to make conforming and other technical changes. Zoning Map Sheets ZN02 and ZN07 would be changed to reflect the rezoning of parcels to the Divisadero Street NCD and Sheet SU02 amended to reflect the repeal of the Divisadero Street Alcohol Restricted Use Special Use District.

[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

Distribution List
 Virna Byrd, M.D.F

PROJECT DESCRIPTION (CONTINUED):

Section 743.1, the Divisadero Neighborhood Commercial District, would include 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 Fillmore, 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.

The Divisadero Street Alcohol Restricted Use District would be repealed as part of this project as similar regulations governing liquor stores would be included in the new Divisadero Street NCD.

Figure 1 identifies the parcels proposed for the 5-foot height increase as part of the new Divisadero Street NCD under proposed Board of Supervisors Ordinance No.1207962.

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 Divisadero Street between Haight and O'Farrell streets from NC-3 to Divisadero Street NCD. Parcels within the new NCD that are also in the 40-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 is included in the

building design. Two blocks within the proposed Divisadero Street NCD, on Divisadero Street from Haight to Oak streets, are within the 40-X height and bulk district, and the remaining parcels are within the 65-A height and bulk district. Planning Department staff considers the 65-A height and bulk district to be a sufficient height to accommodate a taller ground-floor retail use, therefore, an additional 5 feet in 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. Most parcels are developed with a range of one- to seven-story buildings, though the majority of buildings are two- and three-story in height. All parcels affected by this legislation that would be eligible for the additional 5-foot height are within the 40-foot height district (40-X) on Divisadero Street between Haight and Oak streets where the existing buildings 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 story in all the NCDs covered in the proposed project. Future commercial growth is directed to the ground story in order to promote more continuous and active retail frontage. A provision in the proposed Divisadero Street NCD would allow commercial uses on upper floors provided that no immediate residential use was existed on that floor. It is anticipated that this provision would apply to commercial buildings, such as an auto repair garage, that historically had a second-floor office associated with the use that would not be a desirable residential unit upon conversion of the bottom floor to another commercial use. Therefore, as the conversion of upper floors to commercial use could not occur if it had a previous residential use, no residential units would be displaced 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 Divisadero 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-2 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 two-block portion of the Divisadero Street NCD. 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 RH-1 (Residential House, One-Family), RM-1 (Low-Density Mixed Residential), and RM-3 (Low-Density Mixed Residential), and all which are designated 40-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 in which a project is proposed 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 that could 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 on the portion of the properties identified in Figure 1. The parcels affected by this legislation which would be eligible for an additional five-foot height increase are within the 40-foot height district; thus, the maximum resulting building height would be thus 45 feet. In general, buildings up to 55 feet in height do not result in wind speeds that 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 have been received on the project.

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 Divisadero Street NCD

Figure 1 Map showing the Proposed Divisadero Street NCD

Divisadero NCD

