



NC@20



Looking Back on Twenty Years of Neighborhood Commercial Zoning

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**SAN FRANCISCO
PLANNING DEPARTMENT**

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Executive Summary

The zoning controls that apply to San Francisco's Neighborhood Commercial Districts (NCD's) have been in place for more than 20 years. As part of the original legislation establishing the NCD's, periodic status reports to the Planning Commission and Board of Supervisors were required.

This document satisfies that requirement by providing an examination of the nature and impacts of the NC zoning controls over the previous two decades. Also provided is a preliminary discussion of major outstanding issues in the NC districts and recommended approaches to address those issues. In broad terms, the purpose of this report is to provide a body of information which can help frame future discussions on the continued evolution of Neighborhood Commercial zoning controls in the years to come. The three principal sections of the report, along with issues central to each, are summarized below.

1. Origins of NC Zoning. Prompted partly by economic and population shifts along with increasing competition for scarce land, in the 1970's and 1980's San Francisco re-envisioned and re-drafted land use controls for its neighborhood commercial districts. While only 6 percent of San Francisco's total number of parcels are regulated by NC Zoning, the central locations of these districts and the commensurate potential for both great amenity and great nuisance has resulted in tremendous interest both in NC controls and individual NC development proposals.

2. Facts and Figures. Key empirical data from 1987 to the present is analyzed: (1) Conditional Use applications, (2) Building Permit applications and related neighborhood notices and Discretionary Review hearings, (3) legislative changes to the NC controls themselves, and (4) a case study of the on-the-ground effects of NC zoning in the North Beach Neighborhood Commercial District.

3. Recommendations and Emerging Issues. NC controls have proven to be remarkably adaptable and generally successful in preserving critical balances of neighborhood-serving uses while allowing for suitable growth and change over time. Nonetheless, three 'cornerstone' recommendations have emerged to guide future discussions regarding the NC Districts: (1) the need for a comprehensive, community-driven update to the neighborhood commercial controls, along with a complete land use survey of all NC districts, (2) modifications which would benefit small businesses in order to maintain the vital mix of uses that help to define our neighborhoods, and (3) a comprehensive revision to land use controls associated with eating and drinking establishments in order to reflect broader cultural and economic shifts over the previous decades. Additional district, use, and broad process recommendations are provided as well.

SECTION 1

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Origins of NC Zoning

The City's NC Zoning Controls took effect in April of 1987 and were the culmination of investigations into the treatment of neighborhood commercial areas which began in the mid-1970's. This section provides a discussion of the background of, and studies related to, neighborhood commercial zoning in San Francisco.

ZONING CONTROLS AND NEIGHBORHOOD TRENDS IN THE 1960'S AND 1970'S

Adopted in 1960, the zoning provisions that immediately preceded today's neighborhood commercial districts were the results of studies made by the Planning Department in the late 1950's. The 1960 zoning ordinance was a traditional one, identifying and delineating district boundaries according to prevalent uses and describing permitted activities primarily in terms of broad land uses. Most of San Francisco's neighborhood commercial areas were zoned C-2 (Community Business) or C-1 (Neighborhood Shopping). One of the major issues that emerged regarding the C-1 and C-2 zoning controls was that the use categories involved were overly broad. For example, a single control category addressed each "all retail sales and personal services" and "office" uses. These broad categories precluded the differentiation of unique uses – such as a bar and a flower shop - from one another. The 1960 controls persist today in Sections 218 and 219, respectively, of the Code, but they now apply only to more intense commercial and industrial districts where such broad categories can be more appropriate.

Beginning in the 1970's, the downward trend in San Francisco's population began to reverse, and a new generation began to migrate to the City. Changes in local population, retailing techniques, and other economic and social factors brought new vitality to many of San Francisco's neighborhood commercial districts. In most cases, the increased activity benefited both business and residential communities. However, economic revitalization was at times rapid and disorganized, causing both residents and merchants to voice concern that their neighborhoods were losing character and orientation. Other negative side effects, whether perceived or real, included loss of neighborhood serving shops and services and increases in traffic and parking congestion. Littering, trash, noise, raucous behavior, loitering, and disruptive late-night activity were all topics of concern.

The most dramatic change in land use patterns in neighborhood commercial areas - and one of the major causes of displacement of neighborhood serving uses - was the growth of eating and drinking establishments and financial institutions which, due to their business volume, were able to afford higher rents. The loss of convenience stores, such as mom-and-pop corner grocery stores, shoe repair shops, hardware stores, and laundromats, made it difficult for some neighborhood residents to find essential goods and services in their neighborhood commercial areas.

Meanwhile, rising rents in downtown San Francisco forced smaller businesses to look for office space in neighborhood commercial areas. Strong demand and competition for first floor space by retail uses in neighborhood commercial areas led office activities to look for upper-story space, resulting in an increase in conversions of residential units to commercial uses, including medical, business, and professional services. These conversions threatened the mixed-use character of neighborhood commercial districts and threatened a valuable source of housing.

Large-scale development also changed the physical scale of many neighborhood commercial districts. Financial institutions and office or retail uses often occupied new buildings on large corner lots; this frequently redefined the physical character of the immediate area. Some new buildings used architectural styles and building materials which were not consistent with the traditional form of established neighborhood commercial areas. By disregarding the prevailing architectural nature and scale of small buildings and commercial uses, these newer buildings disrupted the visual cohesiveness of many areas.



THE CITY RESPONDS

In the mid-1970s, the Planning Department began to revise General Plan policies for commercial and industrial districts. The Commerce and Industry Element of the General Plan was adopted in 1978 and included policies for neighborhood commercial areas. The completion of the Commerce and Industry Element and the conclusion of the 1978 Residential Zoning Study (which led to the creation of the now-ubiquitous RH and RM districts) led to an examination of policies and zoning controls for neighborhood commercial areas.



Tangible change began first along Union Street, where merchants and residents expressed concern about losing their neighborhood character in the face of rapid commercial change. The Board of Supervisors responded to these concerns by adopting a resolution calling for a zoning study and establishing a moratorium on approval of permits for bars, restaurants, take out foods, and banks. Subsequently, in March of 1979, with the release of the Union Street Study, a Special Use District (SUD) with similar provisions was established to supersede the moratorium and to supplement the existing C-2 commercial zoning.

Further review led to the October 1979 publication of the Neighborhood Commercial Conservation and Development report which analyzed nine other neighborhood commercial areas undergoing dramatic growth. That document further recommended interim SUD's to regulate residential conversions along with other problematic uses. Consistent with the report's recommendations, and because of the inability of the underlying zoning districts to address the problems at hand, the Planning Commission and Board of Supervisors enacted an assortment interim and permanent zoning controls to address the situation. For example, at various points in the early-1980s, any combination of the following controls might have been in effect: moratoria on banks in North Beach, Broadway, Polk, and Inner Clement; moratoria on restaurants, bars, and fast foods in Polk, Inner Clement, and Outer Clement; moratoria or restrictions on residential conversions in Hayes-Gough and North Beach; moratoria on entertainment, dance halls, movie theaters, hotels, and bath houses in Polk; and special use districts regulating use size, residential conversion, eating and drinking, banks, entertainment and hotels in Union, Sacramento, Fillmore, Haight, Castro, Upper Market West, Upper Market East, 24th Street-Mission, 24th Street-Noe Valley, and Valencia.

Out of this patchwork of controls emerged the need to develop new comprehensive permanent zoning for all neighborhood commercial districts that would afford appropriate consideration to the unique needs of each district.

LAUNCH OF THE NCRS

Shifting away from the piecemeal strategy of years past, the Planning Department initiated the Neighborhood Commercial Rezoning Study (NCRS) in 1981. The primary goals of the Neighborhood Commercial Rezoning Study were to (1) make necessary revisions and additions to General Plan policies relating to neighborhood commercial areas, (2) develop a citywide neighborhood commercial zoning framework with the flexibility to address the individual needs of each district, and (3) update, clarify, and consolidate all current zoning controls into a new section of the Planning Code, Article 7, which was to be reserved exclusively for neighborhood commercial districts.



The project was a comprehensive yet individualized approach for regulating physical development and land uses for approximately 210 neighborhood commercial areas ranging from large districts, such as the North Beach NCD or the NC-3 portions of Mission Street, to the smaller-sized NC-1 districts, which typically comprised corner clusters of grocery and convenience stores. Notably, the NCRS was designed to address all neighborhood commercial districts, not just districts with known established concerns.

The NCRS effort included the publication of several documents which examined specific issues associated with the project. The March 1982 “Proposed Zoning Framework” outlined Department recommendations for a comprehensive neighborhood zoning system. The January 1983 “Proposed Article of the Planning Code for Neighborhood Commercial Districts” provided a first draft of Planning Code revisions for neighborhood commercial districts. An “Economic Assessment and Impact Methodology” was prepared by Recht Hausrath and Associates in February 1983 to assess the economic impacts of the revised zoning framework. In March 1983, the “24th Street-Noe Valley Neighborhood Commercial District Study” presented an example of how the detailed application of the zoning framework and new control methodology could work in a specific neighborhood commercial district.

In May 1984, the Planning Department released “Neighborhood Commercial Rezoning – Proposal for Citizen Review” which was widely distributed and provided a basis for comments and discussion as Planning Department Staff began widespread outreach efforts. After significant input from the community and associated adjustments to the proposal, “Neighborhood Commercial Rezoning – Proposal for Adoption” was released in February 1985. To discourage a rush to file applications under the “old” rules (C-1 and C-2 zoning controls), the Planning

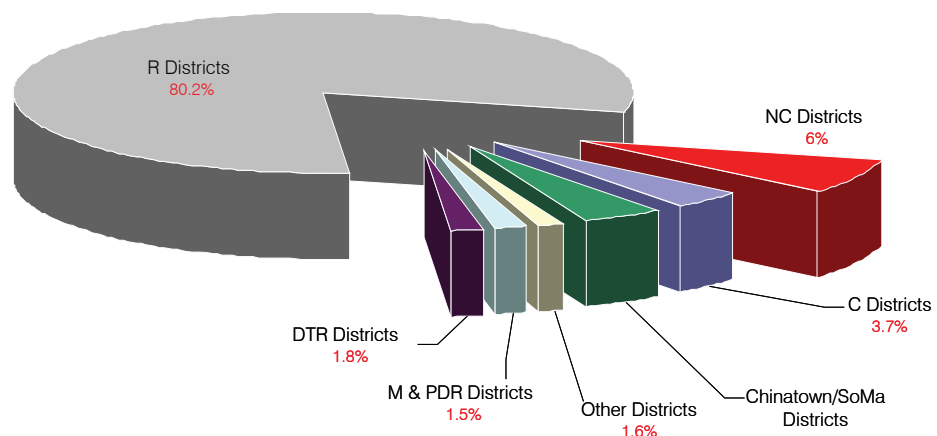
Commission in March 1985 adopted the controls set forth in the Proposal for Adoption as interim controls. Further revisions were incorporated in “Neighborhood Commercial Rezoning – Proposal for Permanent Adoption,” released in November 1986. The Department also prepared a “Neighborhood Commercial Rezoning – Economic Impact Assessment” which was made available in January 1987.

ADOPTION OF NC ZONING CONTROLS

After additional outreach and fine-tuning and two extensions of the interim controls, the Board of Supervisors adopted Ordinance 69-87 which enacted permanent NC zoning controls. Signed by the Mayor on March 13, 1987, the permanent controls became effective on April 12, 1987. One last round of corrections, changes, and refinements led to the adoption of a final Ordinance, 445-87, which was adopted and signed into law on November 12, 1987. The controls established a comprehensive zoning system through a new Planning Code Article 7 which, most notably, enabled a great deal of sensitivity to the unique characteristics of individual neighborhood districts while using a single shared zoning framework. Specifically, it provided the ability to separately regulate a specific neighborhood commercial district with an individual zoning classification and a set of controls tailored and applicable only to that area.

The NC Zoning Control Table currently contains more than 60 specific land use categories which apply to all districts and provide regulation not only on a conventional horizontal parcel-by-parcel basis but also on a vertical floor-by-floor basis. Although many of the NC land use categories were regulated under the existing zoning, new types of controls reflecting sensitivity to neighborhood commercial issues were added. These included fine-grained controls for lot size limits, use size limits, residential conversions to non-residential use, residential demolitions, eating and drinking establishments, office uses, and professional services.

Figure I-1
Citywide distribution of all
zoning districts by number
of parcels



Despite comprising only 6 percent of all parcels in the City, Neighborhood Commercial districts are in the center of neighborhoods throughout San Francisco. They generally encompass all of the commercial districts outside of downtown excepting Fisherman's Wharf and the northeastern waterfront areas, Stonestown Galleria, Chinatown, and the South of Market.

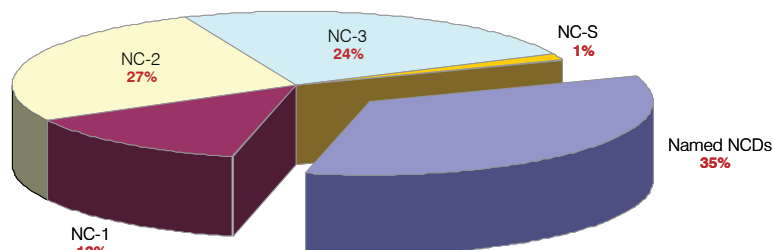


Figure I-2
Distribution of all NCD's by number of parcels

The NC controls established four general types of zoning districts, as follows:

- General NC Districts.** Four general area zoning districts were established and applied to most neighborhood commercial areas that were previously zoned C-1, C-2, C-M, RC-1, RC-2, and RC-3. They were: NC-1 (Neighborhood Commercial Cluster), NC-2 (Small Scale Neighborhood Commercial), NC-3 (Moderate Scale Neighborhood Commercial), and NC-S (Neighborhood Commercial Shopping Center). General NC Districts (rather than named districts) account for 65 percent of all NC zoned parcels.
- Named NC Districts.** As of 2007, separate individual area zoning districts were implemented for 17 neighborhood commercial locations. Permanent controls were tailored to the needs of each of the following districts: 24th - Mission; 24th - Noe Valley, Broadway, Castro, Haight, Hayes-Gough, Inner Clement, North Beach, Outer Clement, Polk, Sacramento, Union, Upper Fillmore, Upper Market, Valencia, and West Portal. This original group was supplemented by the Inner Sunset NCD, which was added in 2000 and the Pacific Avenue NCD which was added in 2007. Taken together, the original individual area districts represent 29 percent of the City's NC-zoned properties. The size of the individual area districts varies greatly — from two districts with fewer than 100 parcels [Broadway (62) and West Portal (90)] to two districts with over 300 parcels [Valencia (335) and North Beach (342)].

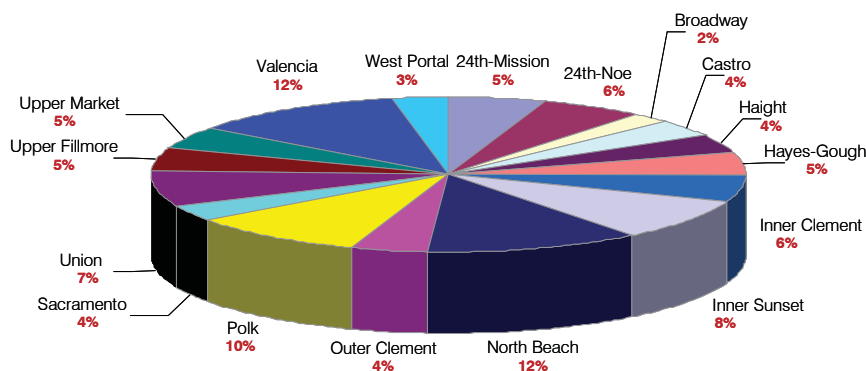
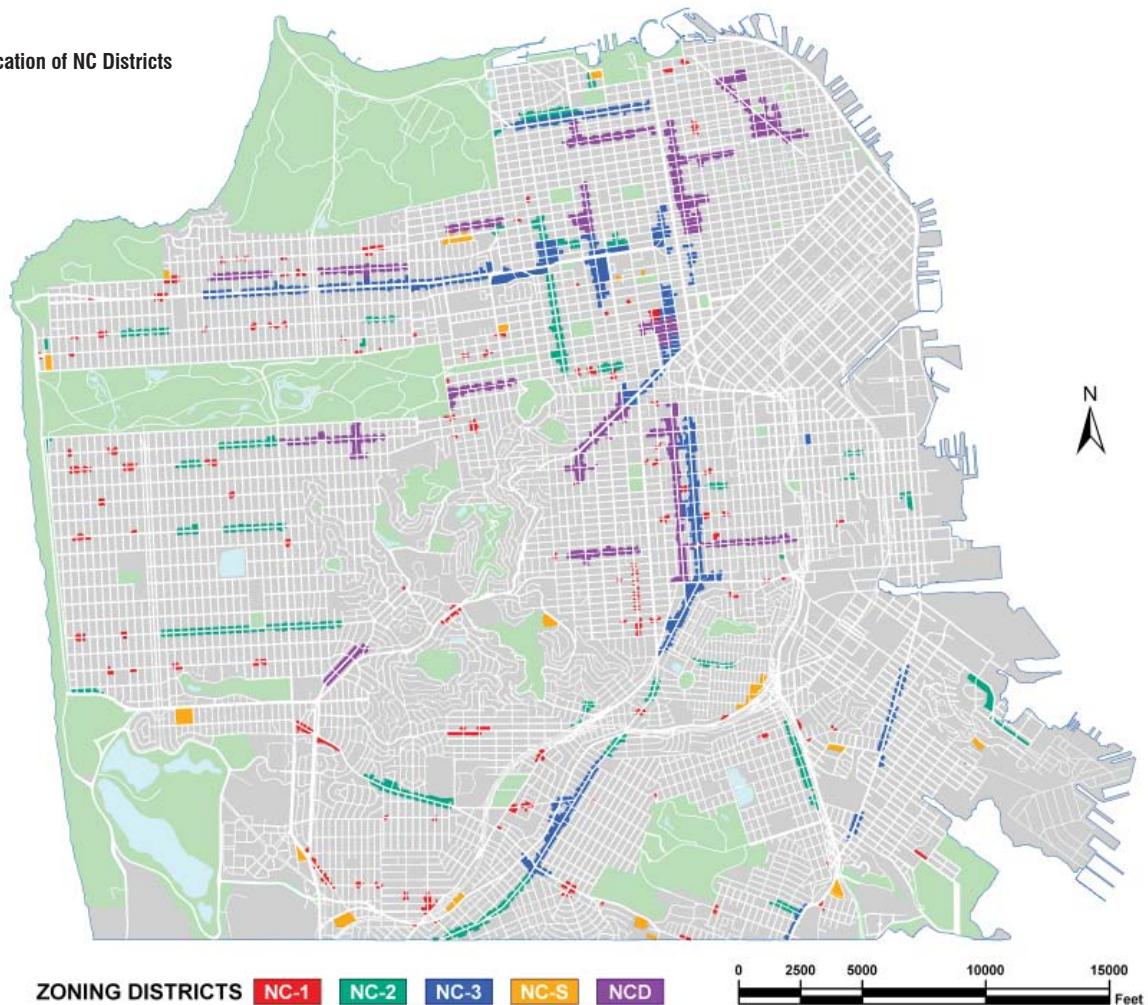


Figure I-3
Distribution of Named NCD's by number of parcels

- **SUD's.** Originally, Neighborhood Commercial Special Use Districts were established for Lakeshore Plaza and the Bayshore-Hester area. Other SUD's, such as the 17th Street – Rhode Island Grocery Store SUD were established in the following years to address focused emerging issues.
- **Subdistrict Overlays:** Subdistrict overlays, which allow fine tuning of NC controls for particular uses in specific areas which need not be geographically contiguous with particular NC districts, were implemented for ten general NC district locations and portions of two named districts. Examples included the Taraval Restaurant and Fast Food Subdistrict and the Chestnut Financial Services Subdistrict.
- **Neighborhood Commercial Transit (NCT) Districts.** In 2008, upon the adoption of the Market and Octavia Plan, a new type of NC District emerged. Neighborhood Commercial Transit Districts employ the same basic framework as used for other NC Districts in the City to regulate and encourage a mix of uses and vital ground floor commercial activities. Notably, the NCT districts (1) allow for an overall height increase of up to five feet when that increase is applied to the ground floor, (2) eliminate parking minimums and establish parking maximums, and (3) eliminate proscriptive density limitations. NCT Districts are found in the Market and Octavia, Eastern Neighborhoods, and Balboa Park Plan Areas.

Figure I-4
Citywide location of NC Districts



SECTION 2

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Facts and Figures: 20 Years of NC Zoning

A better understanding of the impacts of twenty years of NC zoning is afforded through the examination of four key data sources: (1) Conditional Use [CU] applications, 3,000 of which were reviewed by the Planning Commission during the study period, provide insight to a universe of land uses which may be suitable for a given district. (2) Building Permit applications, 14,000 of which were acted on during the study period and related neighborhood notices and Discretionary Review hearings identify uses and issues which were not originally contemplated as problematic, but which have, through the public process, been identified as inappropriate. (3) Changes to the NC controls themselves, while perhaps an atypical metric, provide a better understanding of the issues most relevant to stakeholder groups throughout the tenure of the NC controls, and reveal trends and emerging directions in neighborhood commercial priorities. 66 legislative changes to the NC controls were made since the onset of the controls and included in analyses. Finally, (4) a case study of the on-the-ground effects of NC zoning provides further insight to the actual implementation of at least one district's unique controls. Land uses in the North Beach Neighborhood Commercial District were surveyed in 1987, 1999, and 2007, and the results help to demonstrate the efficacy of provisions applicable to that particular district as well as broader NC controls.

CONDITIONAL USE APPLICATIONS

As a major instrument of growth and change in NC Districts, CU statistics represent a significant body of quantifiable data. When the NC controls were originally drafted, those uses which were felt to be appropriate only under certain circumstances or only with certain conditions were placed into this discretionary category so that each individual application could be weighed on its own unique merits.

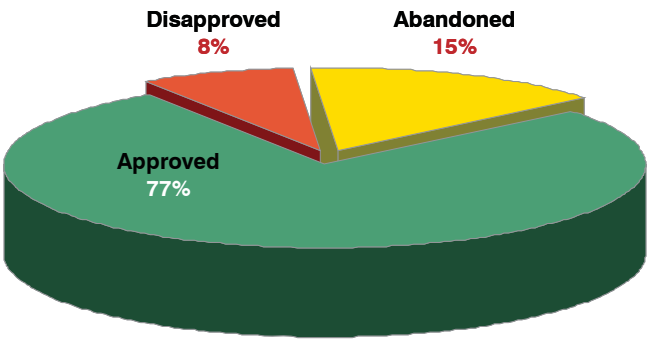
Only the seven-member Planning Commission has the authority to grant Conditional Uses. Before doing so, the Commission must affirmatively determine that a project is necessary or desirable for a given neighborhood or community. The appellate body for all CU's is the Board of Supervisors. In order for the Board to hear a CU appeal, one of two criteria must be met: (1) owners of 20 percent of the property within 300 feet of the subject property must support the appeal or (2) at least 5 members of the Board must support the hearing of the appeal. The Board may only overturn a Planning Commission CU decision with the vote of a super majority (8 of 11 members) of the Board.

Conditional Use data examined in this document spans from March 1, 1987 until March 1, 2007. During that time, the Department received a total of 3,010 Conditional Use applications. Of those, 46 percent were located in neighborhood commercial districts – an interesting statistic in light of the 6 percent of City parcels with NC zoning designation.

It should be noted that in any one application multiple Conditional Use authorizations may be sought. Multiple authorization requests occurred 323 times during the study period. Of the Department's twenty years of Conditional Use data, this analysis focuses on 1,801 discrete Conditional Use authorizations among the 1,396 cases. Also of note are the 348 parcels for which there has been more than one Conditional Use case application, accounting for more than one-quarter of all parcels with a Conditional Use authorization.

Conditional Use applications typically have one of three outcomes: (1) Approval, typically with conditions and possible modifications, (2) disapproval, or (3) abandonment. This third category comprises both cases that were closed by the Department for inactivity or failure to provide requested information and those cases where an applicant withdraws a case from consideration before a final decision can be made. Anecdotal evidence suggests that the majority of abandoned cases would not have been approved should they have been pursued to completion. Moreover, because the Planning Code prohibits new applications for any project considered to be 'substantially the same' as one which was disapproved by the Commission within a one year period, many applicants choose to abandon an application rather than risk disapproval and preclude a similar near-term project.

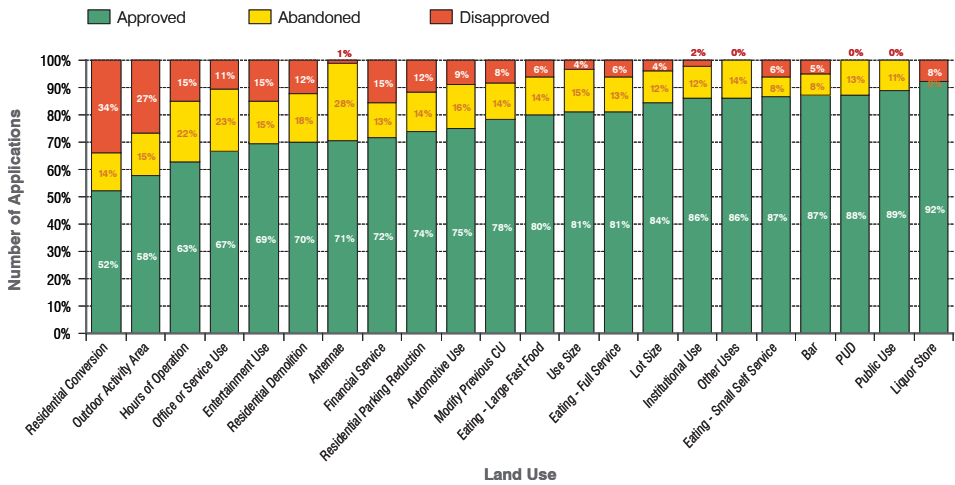
Figure II-1
CU Application Outcomes,
1987-2007



Trends by Land Use

Because the use categories identified in Article 7 are too numerous for a meaningful analysis, land use examinations have been performed using a generalized grouping of major cases. An analysis of land uses (and related application types) with respect to zoning districts, outcomes, and chronologically yields the following key observations:

Figure II-2
CU Applications, outcomes
by land use



- **Disfavored land uses.** Of all application types, those seeking to convert residential uses to non-residential uses were the least approved at 52 percent. Similarly, this category had the highest disapproval levels at 34 percent. Applications for commercial outdoor activity areas and extended hours of operation were also relatively seldom approved, at 58 and 63 percent, respectively.
- **Favored land uses.** Contrary to what one might assume, applications for liquor stores were proportionately the most approved land use (92 percent) of any other. This statistic should be viewed with some skepticism, however, as the liquor store land use category was only added in 2000 and has resulted in a pool of only 13 total applications. Liquor stores are further distinguished from other use categories in that unlike all other uses types, no applications had been abandoned. Small self-service restaurants, bars, and public uses also enjoyed high approval ratings, the former two each with 87 percent approval and the latter with 89 percent.

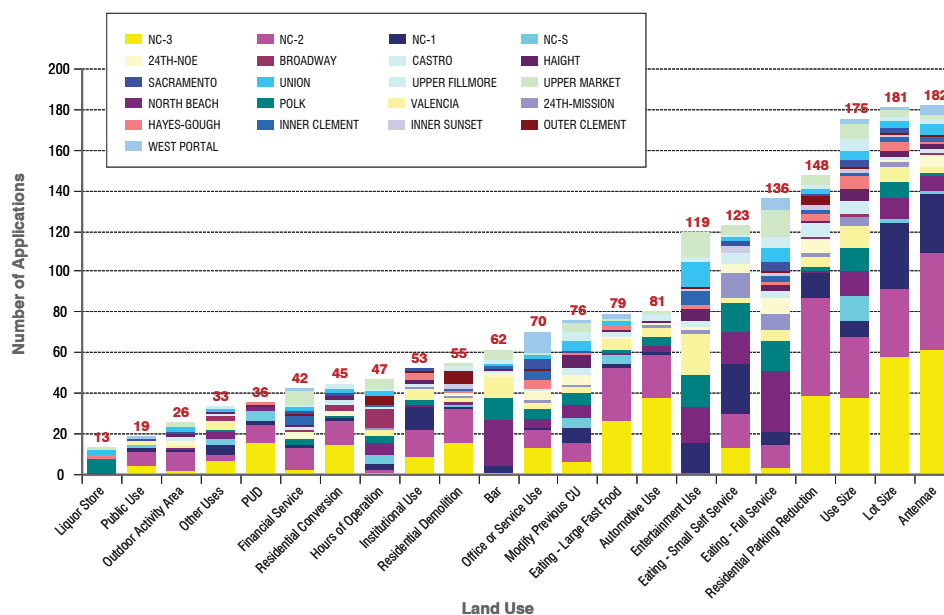
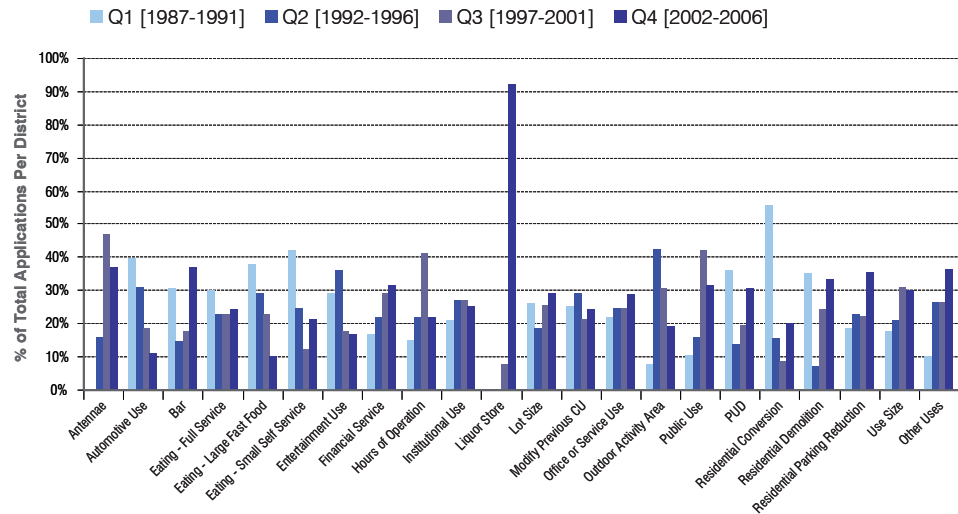


Figure II-3
CU Applications, locational distribution by land use

- **High abandonment.** Cellular telephone antennas, with 182 total applications, diverge from all other land uses in that they demonstrated an extremely high abandonment rate (28 percent). Only 1 percent of these applications were disapproved. The next highest abandonment rate of 23 percent was displayed by applications for office or service uses, although with only 70 total applications this statistic is somewhat less meaningful.
- **Application volume.** Applications for antennae (182 total applications), lot size (181 total applications), and use size (175 total applications) have been the most numerous, with applications for liquor stores (13 total applications), public uses (19 total applications), and outdoor activity areas (26 total applications) being the least numerous.

- **Geographic distribution.** Applications were distributed among districts relatively even based on the amount of land area that each district comprises – NC-3, NC-2, and NC-1 being the most prominent. Few deviations from this trend exist, although it should be noted that 7 of the total 13 applications for liquor stores have been within the Polk NCD. Similarly, 23 of the 62 applications for bar uses were lodged in the North Beach NCD. The North Beach NCD was also where 22 percent of all full service restaurant applications were lodged.

Figure II-4
CU Applications, trends in
application filings by land
use



- **Declining filings.** Of all land uses, only two demonstrate a consistent downward trend during the 20 years of NC controls: automotive uses and large fast-food uses, with only 11 percent and 10 percent, respectively, of the total number of applications for each use being filed in the most recent five year period.
- **Increasing filings.** Applications for financial services were the only application type to have seen a clear upward trend during the study period, although office and service uses, residential parking reductions, and non-residential use size applications all exhibited a subtle rise in filings.

Trends Among Zoning Districts

An analysis of the various Neighborhood Commercial zoning districts – both named and generic - with respect to land use, outcomes, and over time yields the following key observations:

- **Districts with more overall approvals.** The 24th Street Mission NCD, with 89 percent of all applications approved, was the district with the largest portion of approved applications. The Sacramento NCD (87 percent), Polk (87 percent), Valencia (86 percent), and Hayes-Gough (86 percent) NCD's follow closely.
- **Districts with fewer overall approvals.** With only 55 percent of all applications approved and 23 percent disapproved, the Outer Clement NCD was the district with the smallest portion of approved applications. The Broadway NCD (60 percent), Haight (66 percent), and Inner Sunset (69 percent) NCD's also displayed notably low approval ratings.
- **High abandonment.** 24 percent of all applications in NC-1 districts were abandoned, only 1 percentage point higher than the next highest district, the Outer Clement NCD, but with 171 total applications in the NC-1 district versus 22 in the Outer Clement NCD, the NC-1 statistic is more meaningful.
- **Application volume.** In broad terms, more applications were received in districts with greater land area. 371 total CU applications were filed in NC-3 Districts (the second largest district) and only 20 were filed in the Broadway NCD (the smallest). NC-2, the district with the greatest number of parcels, was the location of 335 total CU applications. Compared to the NC-3 District, this accounts for 10 percent fewer filings in a district with 10 percent more parcels.
- **Filing trends.** The 24th Street Mission, NC-S, and Upper Market NCD's all demonstrated a gradual downward trend in filings, although no single district displayed a dramatic decrease. Applications in the Hayes-Gough NCD and NC-3 Districts demonstrated a consistent increase in filings during the study period, with 44 percent of the Hayes-Gough applications occurring in the most recent five year period.

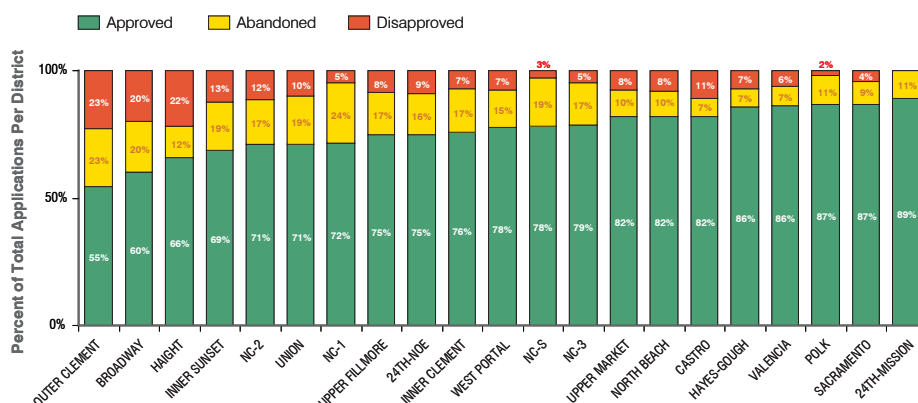


Figure II-5
CU Applications, outcomes
by district

Trends Within Zoning Districts

A detailed examination of the characteristics and trends present throughout the study period in each of the individual NC zoning districts yields the following key points.

- **NC-1:** The Conditional Use case types with the highest prevalence in NC-1 districts were lot size (29 applications), antennae (26 applications), small self service restaurants (25 applications), and entertainment uses (15 applications). Of the 165 total cases in NC-1 districts, 39 (or 24 percent) of the cases were abandoned. The Conditional Use types with the highest incidence of abandonment are antennae (9 applications), residential parking reductions (6 applications), use size (5 applications), lot size (5 applications), and small self service restaurants (3 applications). The majority of applications for use size and residential parking reduction were not approved, with 5 of the 8 applications for the former being abandoned and 6 of the 11 applications for the latter being abandoned.
- **NC-2:** These districts had the second highest total number of Conditional Use cases of all NCD's, trailing only NC-3 districts. The case types with the highest application numbers are antennae (48 applications), residential parking reductions (45 applications), lot size (32 applications), use size (29 applications), large fast food restaurants (26 applications), and automotive uses (21 applications). 12 percent of all NC-2 applications were disapproved. Several NC-2 case types had significant numbers of disapprovals: residential parking reductions (9 disapprovals), residential conversions (6 disapprovals), and small self service restaurants (5 disapprovals). Abandoned cases comprise 18 percent of all NC-2 cases. Uses with particularly high numbers of abandoned cases included antennas (12 abandonments) and residential parking reductions (6 abandonments).
- **NC-3:** NC-3 districts had more Conditional Use applications than any other neighborhood commercial district with 349 filings. The most prevalent Conditional Use types were antennae (59 applications), lot size (55 applications), automotive uses (37 applications), residential parking reductions (36 applications), use size (36 applications), and large fast food restaurants (27 applications). 16 percent of all NC-3 cases were abandoned. The Conditional Use types with the highest number of abandoned cases were antennae (12 abandoned), automotive uses (7 abandoned), and lot size (7 abandoned).
- **NC-S:** The Conditional Use applied for most often in NC-S districts was use size with 11 applications. Of particular note in the NC-S district is that there was only one disapproval – for hours of operation - among the 37 total cases. 19 percent of all NC-S cases were abandoned, with the most frequent case type being use size (3 abandoned). While a number of application types were universally approved by the Commission, the relatively low number of total applications suggest that these statistics may not be entirely significant.
- **24th Street-Mission NCD:** The most noticeable aspect of this district's outcomes is the absence of any disapprovals. Of 37 total cases, all but 3 were approved, with the remainder being abandoned. Also interesting about this district is the preponderance of food-related applications. The Conditional Use case types with the greatest numbers were small self service restaurants (13 applications) and full service restaurants (8 applications).

- **24th Street-Noe Valley NCD:** Of the 44 total cases, the most numerous applications were full service restaurants (8 applications) and residential parking reductions (6 applications). The 24th-Noe NCD had 75 percent of all cases approved, with 4 cases disapproved and 7 abandoned. Particularly notable is that all 3 antennae applications were abandoned along with the single large fast-food application, while both applications for entertainment uses were disapproved. Also significant regarding the most numerous application type (full-service restaurants) is that this use was until recently not permitted. These 8 CU applications – all of which were approved - were lodged in order to expand existing nonconforming full-service restaurants.
- **Broadway NCD:** Broadway is the smallest of the NCD's and hosted only 20 total cases over the study period. The most numerous CU type in the Broadway NCD was extended hours with 8 applications. Twenty percent of all cases (4 applications) were disapproved while another twenty percent were abandoned (4 applications). No applications for residential conversion were successful, with one being abandoned and the remaining 3 being disapproved. In contrast, only 2 of the 8 applications for extended hours of operation were abandoned while the balance were approved.

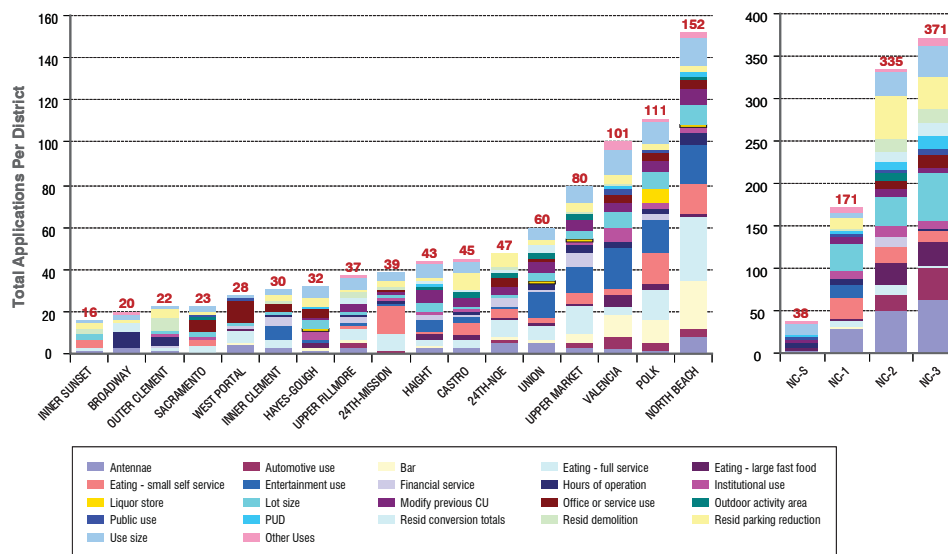
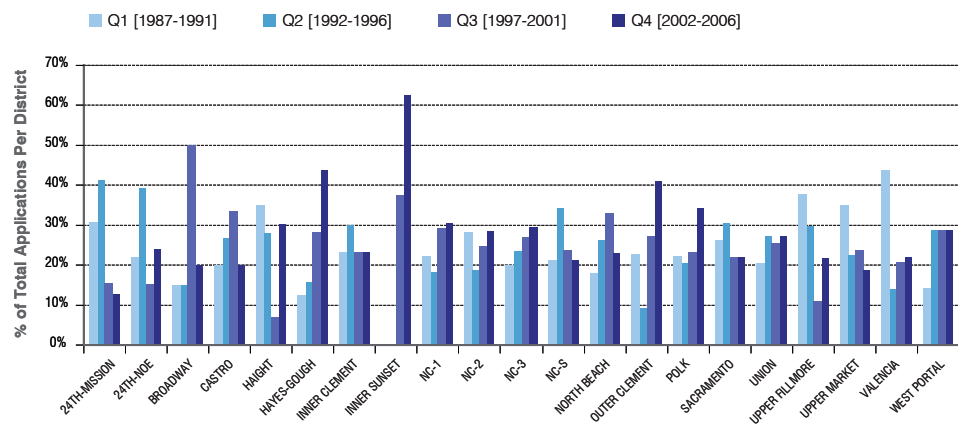


Figure II-6
CU Applications, uses by district

- **Castro NCD:** The Conditional Use case types with the greatest preponderance in this district were residential parking reductions (7 applications), use size (6 applications), and small self service restaurants (5 applications). Both applications for outdoor activity areas were disapproved as was the sole office use. Also notable is that all applications for use size (6) and full-service restaurants (4) were approved. Much like the 24th Street Noe Valley NCD, new full-service restaurants are not permitted in this District. Accordingly, each full-service restaurant application was filed in order to expand an existing facility.

- Haight NCD:** Of the 41 total authorizations sought, the greatest numbers were evenly divided between use size (6 applications), the modification of previous CU's (6 applications) and entertainment uses (6 applications). Twenty-two percent of CU's in the Haight NCD were disapproved by the Commission. The Haight NCD also had one of the lowest total approval rates with only 66 percent of all cases being approved. Notable land uses include entertainment uses- of the 6 proposed, 3 were abandoned and one was disapproved. Much like elsewhere, full service restaurants, while technically permitted, could not serve alcohol, hence reducing the likelihood of any new restaurant seeking to open there. Nonetheless, all 3 applications to expand existing facilities were approved.
- Hayes-Gough NCD:** Applications with the highest frequency in this district were use size (5 applications) and office uses (4 applications). Hayes-Gough has one of the highest overall approval rates among the NCD's at 86 percent. Only 2 disapproved and 2 abandoned cases were noted among all 28 cases. This being said, with the possible exception of applications for use size (all 5 of which were approved), the pool of applications is too small to allow significant conclusions to be drawn.
- Inner Clement NCD:** Entertainment uses accounted for most of the Conditional Use authorizations sought (7 applications) in this NCD – with the majority being not approved (2 each disapproved and abandoned). Disapprovals and abandoned cases combined accounted for 24 percent of all 29 cases within the district.
- Inner Sunset NCD:** The overall number of cases (16 applications) in this NCD was low in part because the Inner Sunset district is a relatively new NCD, having been created in November 2000. The most prevalent CU's were for small self service restaurants (3 applications) and residential demolitions (3 applications). Of these 3 applications in each category, 1 each was approved, disapproved, and abandoned. Disapproved and abandoned cases accounted for 31 percent of the total number of cases.

Figure II-7
CU Applications, trends in
application filing by district



- **North Beach NCD:** North Beach is the largest of the individual neighborhood commercial districts and in turn had the largest total number of CU applications with 152 filings. The most common case types in North Beach were full service restaurants (30 applications), bars (23 applications), entertainment uses (18 applications), and small self service restaurants (15 applications). Also interesting are the small self-service restaurant and entertainment use categories, which had only 1 and 2 applications, respectively; all were abandoned. A more detailed discussion of the North Beach NCD appears later in this section.
- **Outer Clement NCD:** Of the 22 total cases, most were concentrated in the residential demolition category (6 applications), residential parking reduction (4 applications), and hours of operation (4 applications). Outer Clement had the lowest overall percentage approved at 55 percent. It should be noted that Outer Clement is the only individual district that requires Conditional Use authorization for an establishment to stay open beyond 11 pm. 2 of the 4 applications for such authorization were disapproved.
- **Polk NCD:** Polk NCD had the second highest number of cases among the individual districts at 111 and one of the lowest disapproval levels with only 2 applications disapproved. Uses with the greatest number in the Polk district were entertainment uses (15 applications), small self service restaurants (14 applications), full service restaurants (14 applications), use size (11 applications), and bars (11 applications). Polk had the second highest overall approval rate at 87 percent. Particularly notable about this District is that all 14 applications for small self service restaurants were approved. Following closely were applications for entertainment uses (14 approved and 1 abandoned) and applications for bars and for use size, both with 10 approved applications and 1 abandoned application.
- **Sacramento NCD:** Office uses (5 applications) and full service restaurants (4 applications) were the predominant Conditional Use applications in this district. Also of note is the single disapproval (for a full service restaurant) among the 23 total applications examined. 95 percent of all cases heard by the Commission in this District were ultimately approved.
- **Union NCD:** By far, the dominant type of application in this district was entertainment use with 12 total applications, 3 of which were abandoned and 4 of which were disapproved. Other Conditional Use types occurring with some frequency were full service restaurants (7 applications), use size (5 applications), and antennae (5 applications). The most numerous approvals in this district were for full service restaurants- a category with 6 approvals, no disapprovals, and only 1 abandonment.
- **Upper Fillmore NCD:** The most commonly observed Conditional Uses applications in this district were full service restaurants (5 applications), use size (4 applications), and modifications to previous CU's (4 applications). Almost 17 percent (6 applications) of Conditional Use applications were abandoned. It is noteworthy that neither of the two bar applications were approved; one was disapproved while the other was abandoned.

- **Upper Market NCD:** With 80 cases, Upper Market had the fourth highest number of applications among the individual districts. Full service restaurants (14 applications), entertainment uses (12 applications), use size (7 applications), and financial services (6 applications) account for the majority of the Conditional Use applications. The Upper Market NCD contained more applications for financial services than any other NC district. Moreover, all of these applications were approved.
- **Valencia NCD:** This district had the third highest number of Conditional Use applications among the individual area districts (101 applications). Entertainment uses (19 applications), use size (11 applications) and bars (10 applications) comprise the Conditional Use types with the greatest numbers of filings. Of the 19 entertainment uses, 4 were disapproved and another 2 were abandoned. Much like the West Portal NCD, all 3 applications for antennae in the Valencia district were abandoned. Interestingly, all 10 applications for bar uses were approved.
- **West Portal NCD:** Of the 28 total applications, most were confined to office use (10 applications) or full service restaurants (5 applications) categories. While all 3 applications for antennae were abandoned, the single application to expand an existing financial service use was disapproved. (New financial service uses are already prohibited in this district.)

Trends Over Time

A study of the chronological patterns with respect to land uses (and associated application types), case outcomes, and across zoning districts yields the following key observations:

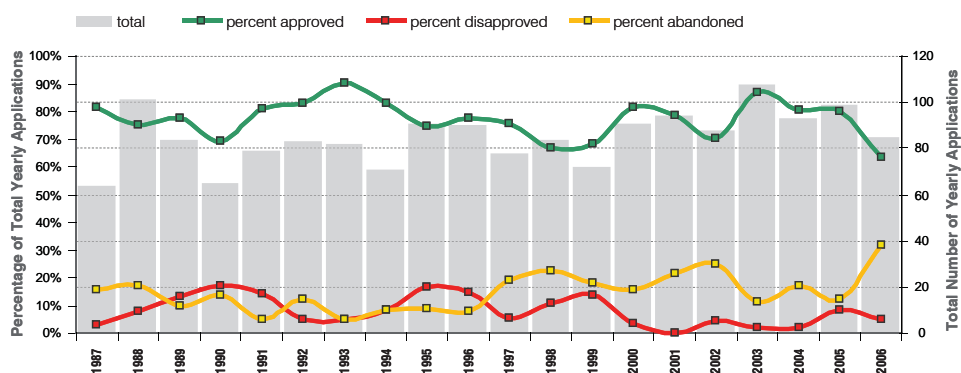


Figure II-8
CU Applications, outcomes
and applications over time

- **Permissive eras.** While Commission approvals did not vary dramatically over time, 90 percent of all NC CU applications which were heard in 1993 were approved – an all time high. That figure enjoyed a similar peak again in 2003, with 87 percent of applications approved. Interestingly, in 2001, no applications were disapproved, although 21 percent of all applications that year were abandoned.
- **Impermissive eras.** Approvals were at their lowest rate (64 percent) in 2006, the most recent full year examined in this study. That same year, abandoned applications reached an all-time high of 32 percent.
- **Application volume.** While no clear patterns exists in application filings over the years, slight up-ticks in filings can be seen in 1988 (with 101 CU applications) and in 2003 (with 108 CU applications). Particularly few applications were filed during 1987, 1990, 1994, and 1999, when filings ranged from 64 to 72)
- **Land use trends.** Entertainment applications spiked somewhat in 1993, along with antennae in 1996 and again in 2000. Use size applications began to rise substantially in prominence beginning in 1998 and varied somewhat thereafter.
- **District trends.** Overall applications in the Valencia NCD and NC-2 Districts coincide with one another until 1994; both exhibit decreases in the late 80's and a mild spike in 1991. Between 1987 and 2000, the North Beach NCD was the locus of a noticeable up-tick in applications, while NC-1 filings began to increase in 1999, peaked in 2001, and have been gradually decreasing since that time. 2002 and 2003 were also high-filing years for NC-2 and NC-3.

Figure 11-9
CU Applications, land uses over time

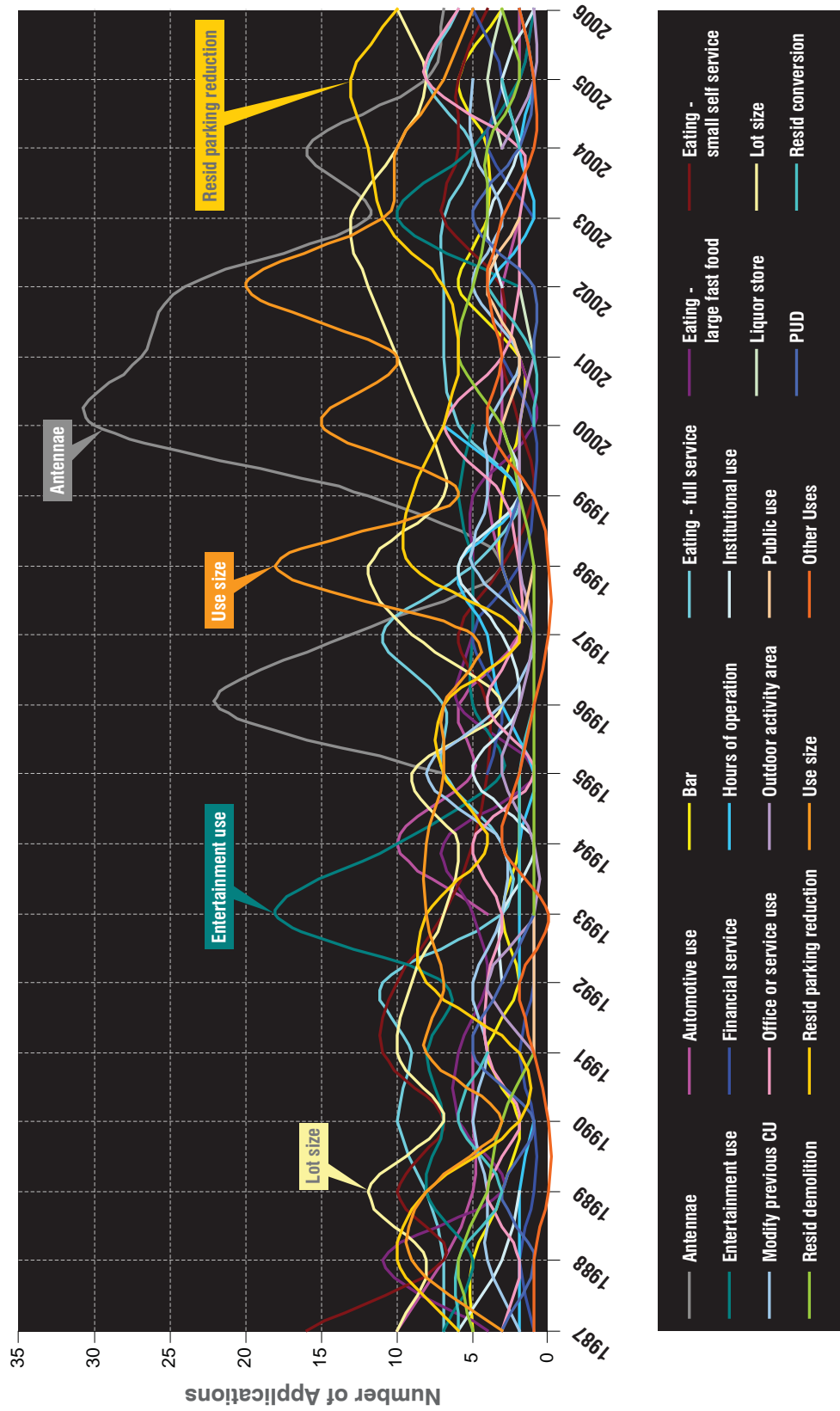
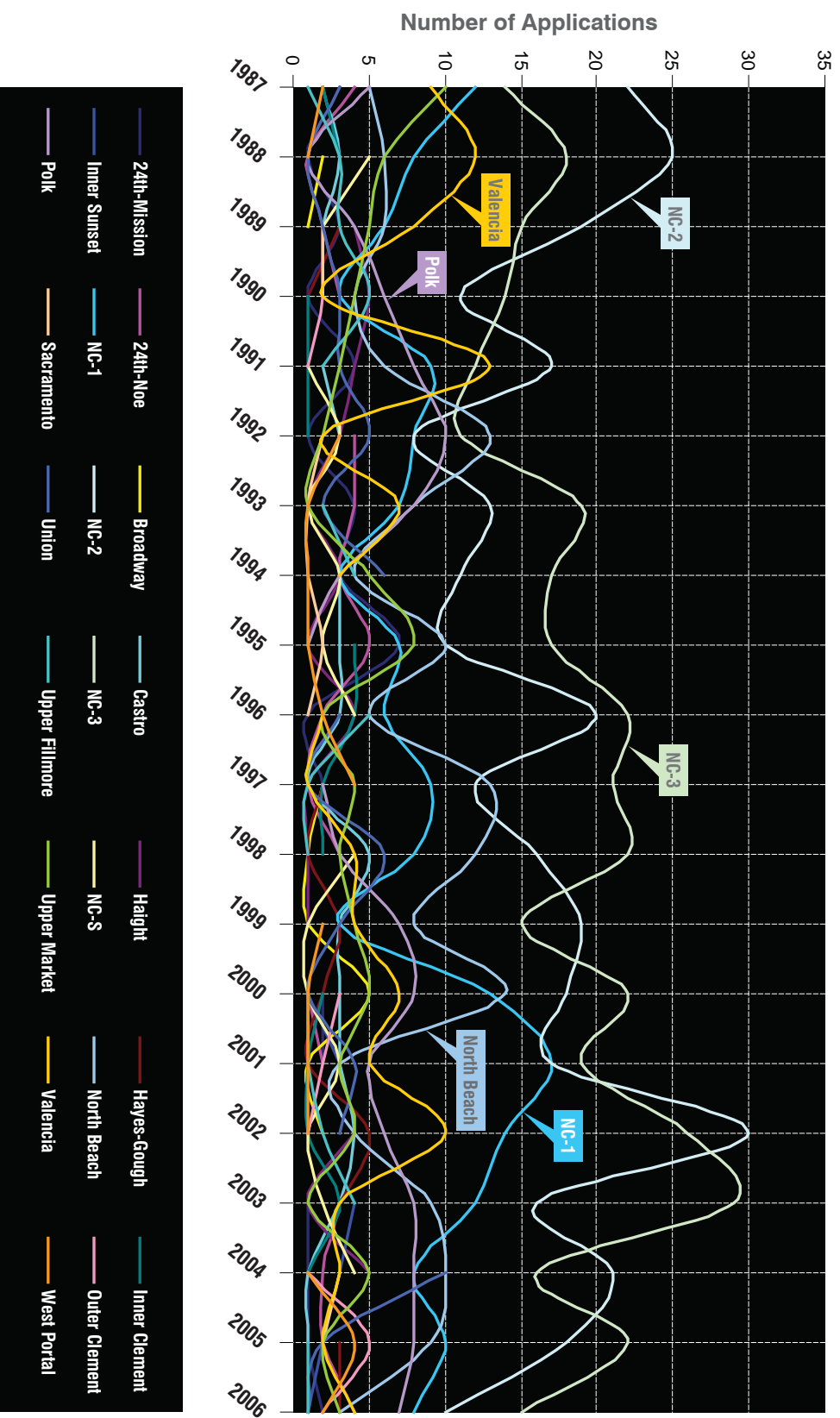


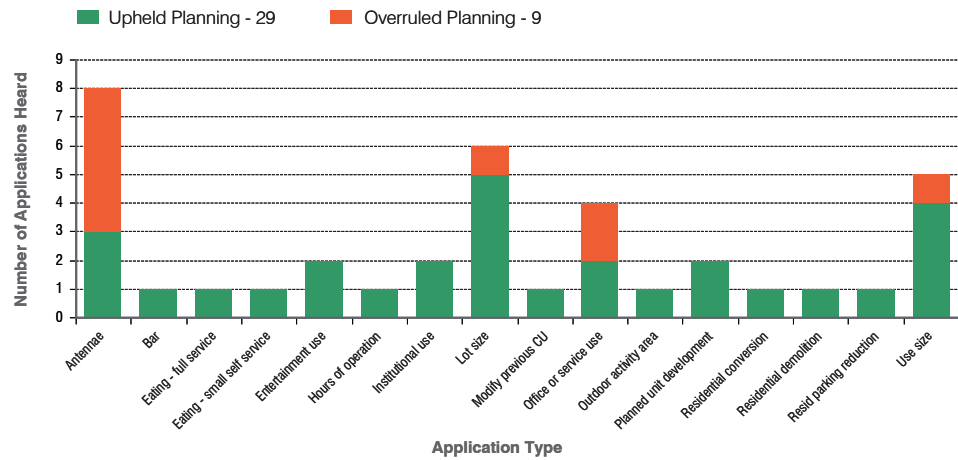
Figure 11-10
CU Applications, number of applications per district over time



CU Case Appeals

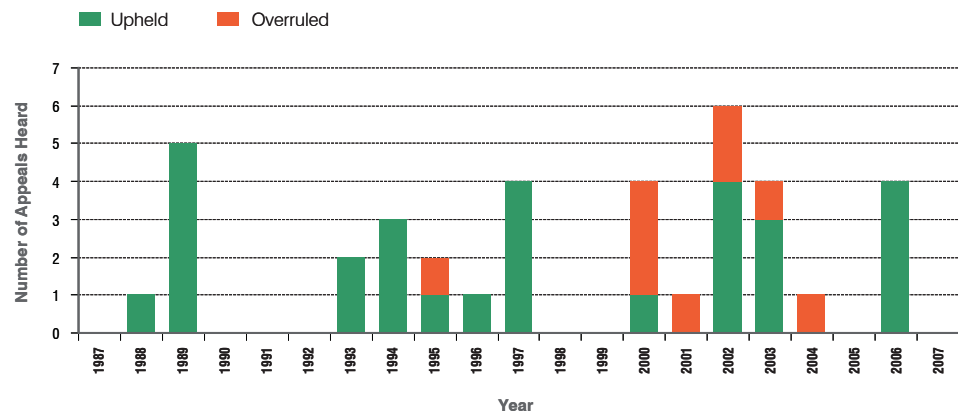
In broad terms, appeals of CU's do not occur with great frequency; 38 total CU appeals in NC Districts have been heard by the Board during the study period. This accounts for less than 3 percent of all NC CU's. While the small sample pool of CU appeals diminishes the validity of most generalizations, the following issues nonetheless merit noting:

Figure II-11
CU Appeals, outcome by
land use



- **Land Use Trends.** While 16 different application types were the subject of Board appeals, applications in only 4 categories – antennae, lot size, office use, and use size – were actually overruled. Antenna applications, with 5 overruled cases of 8 total cases, were the most overruled application type. Moreover, throughout the study period, 29 applications (or about 76 percent) were upheld at the Board. This statistic is nearly identical to the Commission's generalized CU approval percentage.

Figure II-12
CU Appeals, outcome over
time



- **Trends Over Time.** Three primary time periods demonstrate spikes in appeals: 1988-1989 (shortly after the adoption of the NC Controls), 1993-1997, and 2000 to 2004 (a period which coincided with the tenure of a new, district-elected Board of Supervisors). It should be noted that this latter period contains all but one of the instances of the Commission being overruled.

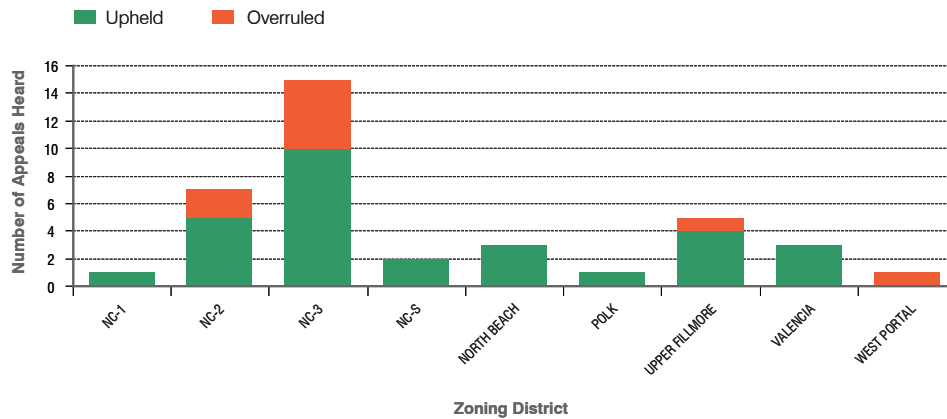


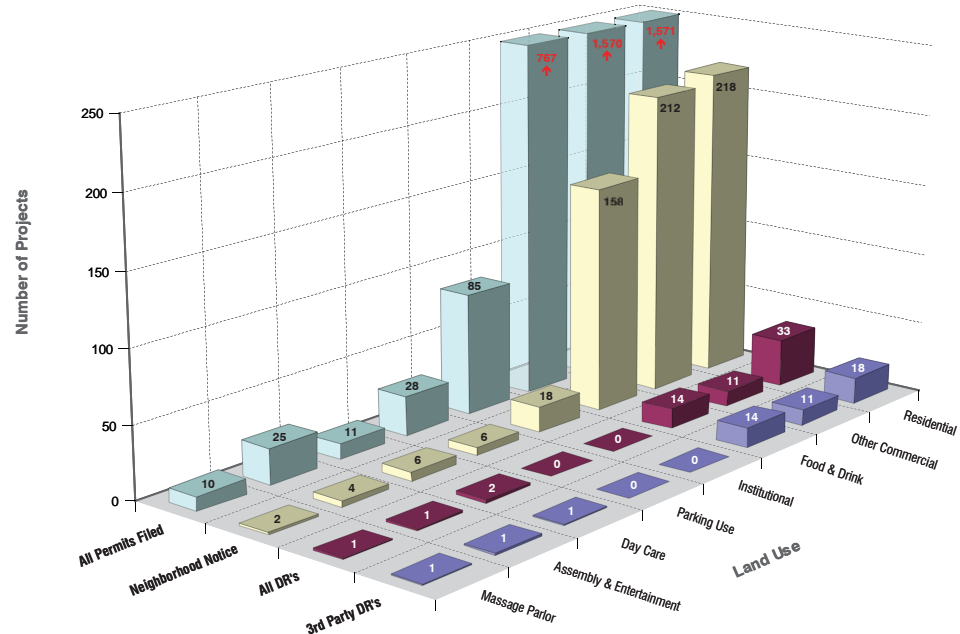
Figure II-13
CU Appeals, outcome by district

- **District Trends.** Only 5 named NCD's, along with all the generic NC districts, were host to a CU appeal. Of those, only West Portal and Upper Fillmore contained an instance of the Commission being overruled. Interestingly, the NC-1 Districts, which comprise 13 percent of the City's NC land area, had only one appeal – in which the Planning Commission was upheld.

BUILDING PERMIT APPLICATIONS

As the primary instrument for physical alterations to, and new construction of, buildings throughout San Francisco, a study of building permit applications is necessary to better understand changes and trends in the NC Districts. Building permits are required for nearly all modifications to property, with a very few exceptions for minor maintenance and detailed finish work. The majority of Building Permits, especially those for building infrastructure upgrades (including plumbing, electrical, and structural permits) are not reviewed by the Planning Department because they have no bearing on land use or urban design issues. Building permits which do relate to the Planning Department's functions, such as proposals for new or changed land uses, new buildings, demolitions, façade changes, and changes to the physical dimensions of existing buildings, are routed to the Department for review.

Figure II-14
Building permit applications issued, neighborhood notices issued, and DR's filed since the establishment of notification requirements (December 2001) by land use



Building permits filed between January 1, 1987 and March 1, 2007 were used as the basis for this section. During that time 14,143 permits in NC Districts were referred to the Planning Department for its review. Building permits are typically reviewed in one of two ways: (1) over-the-counter, in which a simple project is reviewed, found to be in compliance with applicable policies and Code-provisions and approved by staff immediately, or (2) routed to specialist staff for a more detailed review. In the case of the latter, after a permit is examined with greater scrutiny, it could be (a) approved on an as-of-right basis, (b) the subject of a neighborhood notice, and/or (c) the subject of a Discretionary Review (DR) hearing at the Planning Commission.

Neighborhood notice has become a defining feature of the permitting process in Neighborhood Commercial Districts. Beginning in December of 2000, projects in NC districts that involve an expanded building envelope or certain changes of use are subject to a 30-day notice, during which time any concerned party may request a DR hearing. This is referred to as a '3rd Party DR' in this section. DR's also are triggered by Planning Commission policy (e.g. mandatory DR for all losses of dwelling units) or at the discretion of staff (e.g. a project does not comply with applicable design guidelines). In 2004, NC notification procedures were legislatively amended in order to specifically target changes of use with a greater potential for adverse neighborhood impacts. This change is discussed in greater detail later in this section.

Building Permit statistics have been obtained through records maintained by the Department of Building Inspection (DBI). Because of the nature of DBI's record-keeping and the different processes that DBI uses to track and file information, the data included in this section should be viewed as general indicators of development. As with Conditional Use applications, the land use categories used by the Department of Building Inspection are too numerous for a meaningful analysis. Accordingly, land use typologies have been consolidated for use in this analysis. Additionally, the reconciling of that data with Planning Department records, while generally accurate, has resulted in a small number of discrepancies. Nonetheless, this large pool of detailed data provides insight into those uses which are contemplated by NC zoning provisions to be appropriate on an as-of-right basis.

The balance of this section provides key observations about this important pool of data.

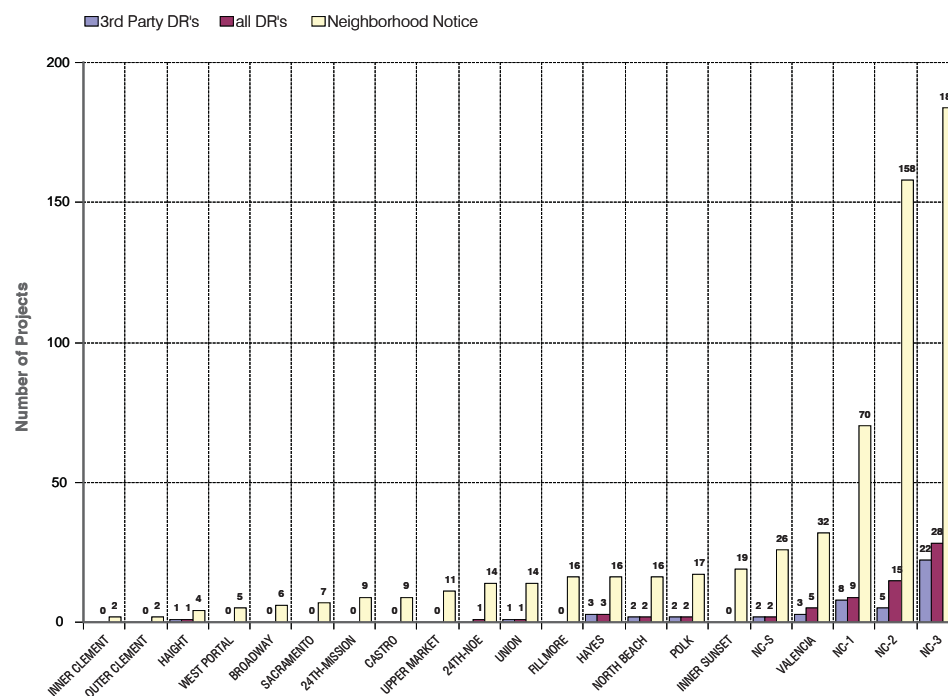


Figure II-15
Neighborhood notices issued and DR's filed since the establishment of notification requirements (December 2001) by district

Permits Filed, Neighborhood Notice, and Discretionary Review

- **Notice without DR.** Despite the Department's issuance of a cumulative total of 624 neighborhood notices, 10 separate districts were without a single DR filing.
- **Few 3rd party DR's.** No named NCD had more than 3 DR's which were initiated by a member of the public. Only 14 total 3rd Party DR's were filed in the 18 separate named NCD's.
- **Disproportionate Number of 3rd Party DR filings.** NC-3 Districts (the 2nd largest NC district by parcels), despite comprising only 10 percent fewer parcels than the NC-2 district (the next largest district), had 340 percent more DR's filed by members of the public (22 vs. 5).
- **Non-Residential Notices.** The greatest number of neighborhood notices for non-residential uses were attributable to eating and drinking establishments. 158 notices were issued, with 14 3rd party DR's filed.
- **Significant Staff/ Commission DR's.** Residential projects were the subject of 15 Staff/ Commission DR's. This figure likely relates to the high number of demolitions, mergers, and other similar Commission policies which relate to residential projects and may not have had particular bearing on the Neighborhood Commercial districts.
- **Notice but no DR.** Parking and institutional uses were the only land uses for which notices were sent but no DR's were filed. Both are uses which require CU in many NC districts. As such, a public hearing was required independent of the neighborhood notification requirement.
- **Few overall DR's.** 3rd Party DR's were filed on only 1.1 percent of residential permits, 0.7 percent of general commercial permits, and 1.8 percent of permits for eating and drinking establishments.
- **DR's without Notice.** As previously discussed, neighborhood notice in NC Districts was not required until December of 2000. It should be noted that 3rd Party DR's, while not common, were indeed filed before that time. 12 DR's were filed in the 6 years immediately before notice was required, while 50 were filed in the 6 years afterward. Even with this increase, the total numbers of DR filings in NC districts reached double-digits only once, in 2004, with 14 filings. That same year, 131 notices were issued in NC districts. This could be explained by the generally controversial nature of those uses that are likely to draw a 3rd Party DR; many of these uses are already subject to the Commission's Conditional Use authorization and public hearing requirements.

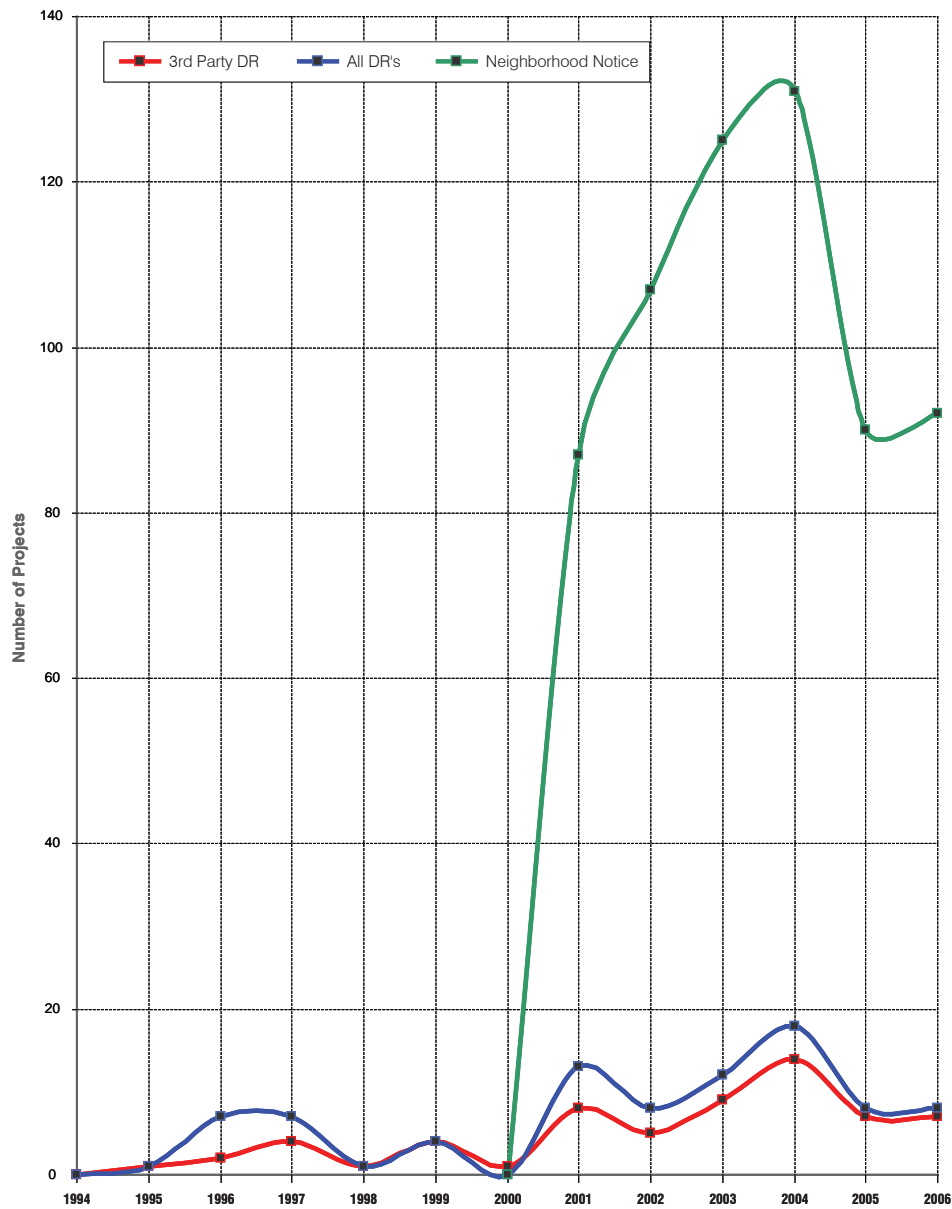
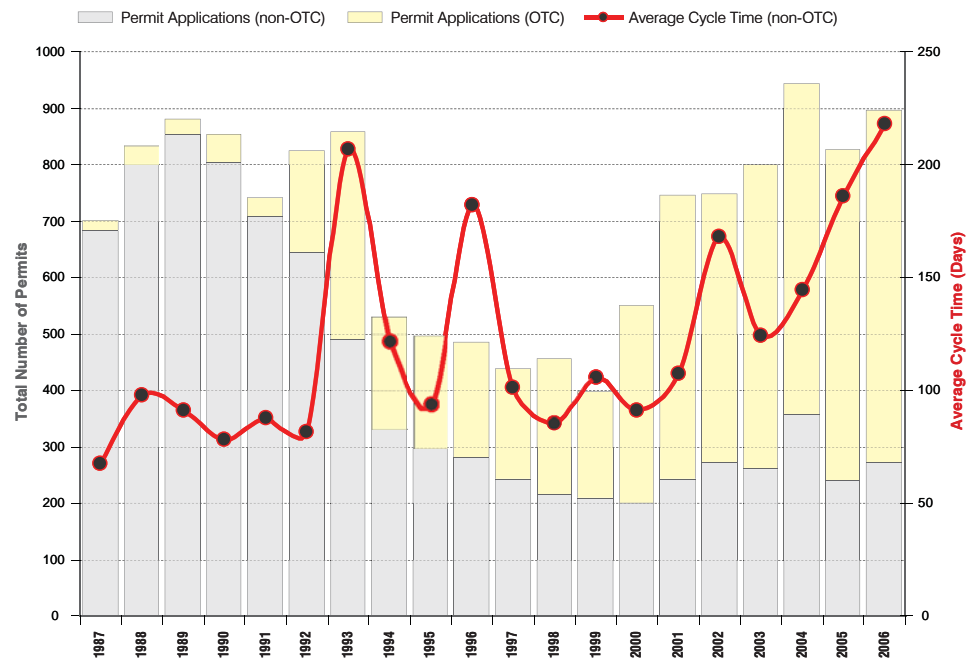


Figure II-16
Neighborhood notices
issued and DR's filed over
time - 6 years before and
after the establishment of
notification requirements

Timing and Staffing

- Permit/Process Complexity.** During the study period, a steady and significant shift occurred from permits which were approved almost entirely over-the-counter to permits which were reviewed in detail by staff. In 1987, 97 percent of all permits in NC districts were reviewed over-the-counter. In 2006, 30 percent of permits were reviewed over-the-counter. Also notable is a marked decline in NC permit filings beginning in 1994 and ending in 2000.

Figure II-17
Building permit
applications, type of review
and review cycle-times



- **Cycle Time Increase.** Despite some fluctuation, a general upward trend can be seen in the time required to process non-over-the-counter permits, especially between 2000 and the present. During that period, the average cycle time increased from 85 days to 218 days. This first portion of this increase generally coincides with the return of district elections, a greater number of amendments to the NC districts, and an overall increase in scrutiny possibly associated with the dot-com boom and bust.

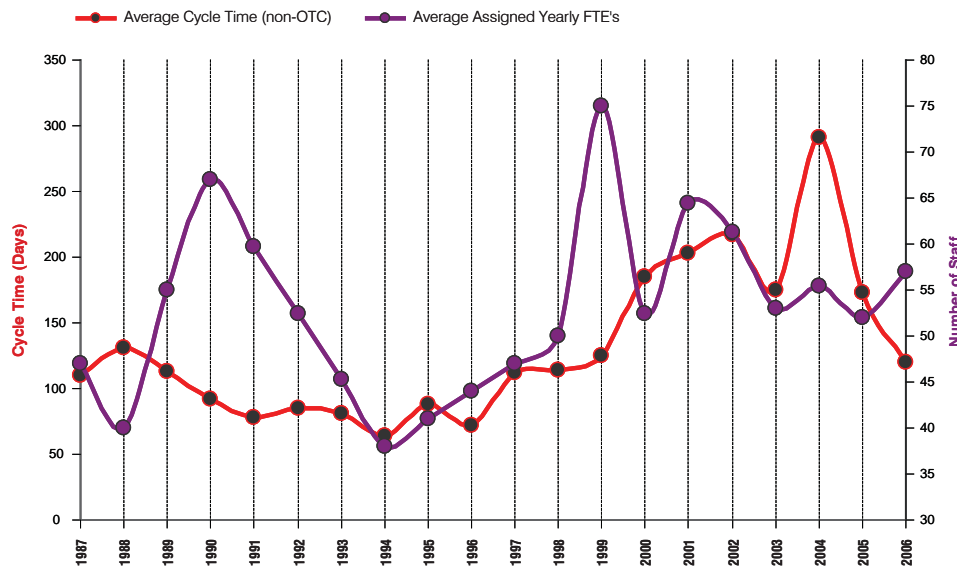


Figure II-18
Building permit applications, review cycle-times and Department staffing levels in the Neighborhood Planning Division (which is responsible for such work)

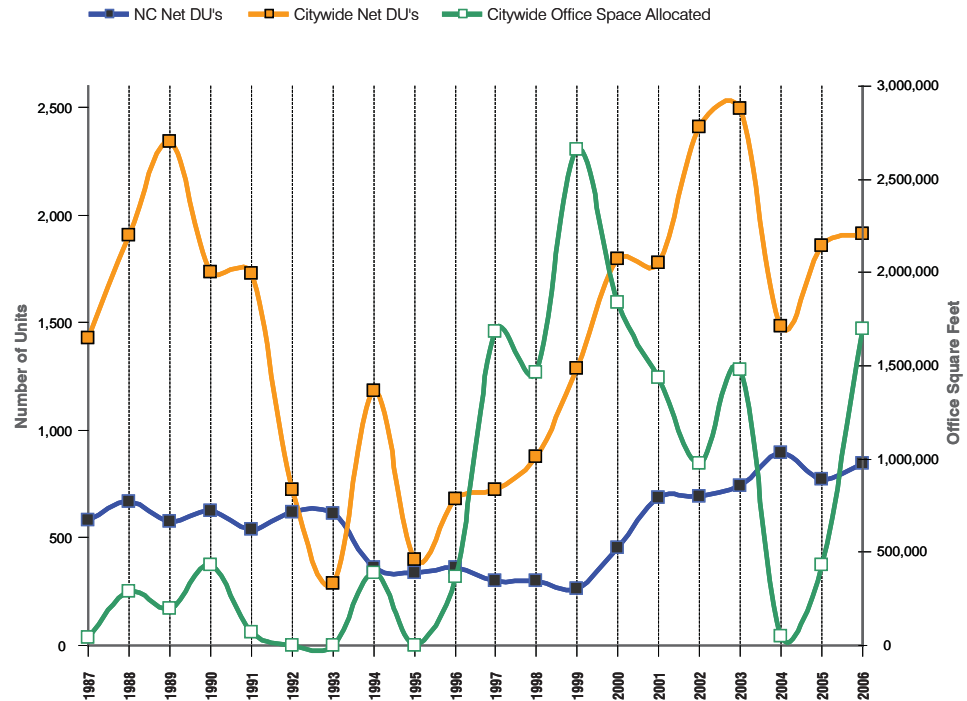
- **Trends in Assigned Staff.** There is significant variance in this metric over time. It should be noted that because of Departmental reorganizations and the shifting and multiple responsibilities of work groups and individuals, FTE numbers are not as useful as other metrics used in this document. Nonetheless, a significant growth in implementation staff between 1988 and 1990 corresponded with a modest decrease in cycle times. However a similar spike in staffing levels in 1999 did not correspond with a decrease in cycle time. This latter example could be explained by an increase in implementation staff to address the remarkably large volume of 'dot-com' office developments taking place outside of neighborhood commercial areas. In other words, while the implementation staff grew, the focus of added staff may have been on projects outside of the Neighborhood Commercial districts.

Dwelling Unit Production and Economic Trends

- **NC Housing discrepancy.** Housing production in NC Districts remained generally upward trending between 1991 and 1993, when citywide housing production declined precipitously. Oddly, when citywide housing began to recover in 1994, housing production in NC districts fell - and didn't begin to recover until 2000.

Figure II-19

Net dwelling units in NC districts compared to citywide net dwelling units and citywide office space allocations (based on building permit applications and office allocation requests filed)



- **NC Housing consistency.** Notwithstanding the above issues, NC housing production appears to generally mimic but nonetheless be somewhat buffered from the wider fluctuations seen in citywide housing production. That trend is particularly evident after 1999.
- **NC Housing in the broader economic context.** Excepting a 2 to 4 year delay in the late 1990's, Citywide housing production trends mimic Citywide office allocation requests - one barometer of the local economy's overall health. By this admittedly limited standard, it should be noted that the NC housing production trend appears completely unrelated to overall economic conditions.

- **Less housing than expected given district size.** NC-1, NC-2, Polk NCD, North Beach NCD, and Union NCD all demonstrated a lesser percentage of overall housing production than was expected given their relative sizes. Nonetheless, this should be further studied, as different land use controls applicable and pre-existing build-out levels associated with each of these areas may have intentionally shaped these trends.

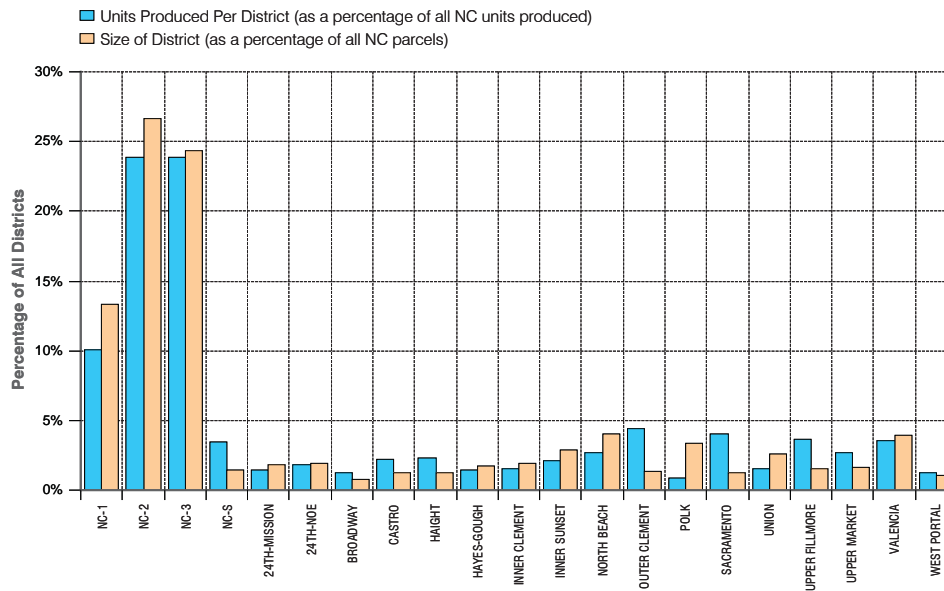


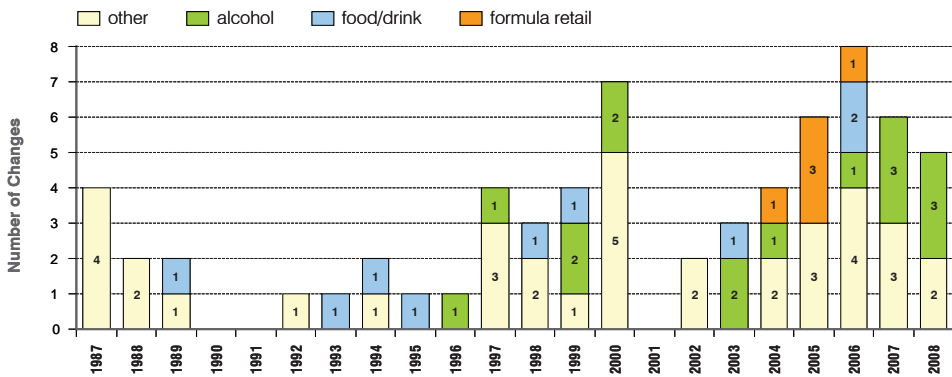
Figure II-20
Net dwelling units produced
relative to district size
(based on building permit
applications filed)

- **More housing than expected given district size.** Castro NCD, Haight NCD, Outer Clement NCD, Sacramento NCD, and Upper Fillmore NCD all demonstrated a greater percentage of overall housing production than was expected given their relative sizes. As above, there is likely a relationship between this observation and applicable land use controls and neighborhood build-out. Market conditions unique to the City's varying neighborhoods, also certainly played a role.
- **Housing Location.** Not surprisingly, the greatest portion of housing by far was generated in the NC-1, NC-2, and NC-3 districts. Comprising nearly 65 percent of all NC parcels, it is not unexpected that these three districts combined accounted for 58 percent of all housing in NC districts.

LEGISLATIVE CHANGES TO THE NC CONTROLS

The Neighborhood Commercial zoning controls have been rather resilient over the more than twenty years they have been in effect, with the NC zoning ‘matrix’ successfully accommodating most modifications needed to date. Putting aside major zoning efforts such as the Market and Octavia and Eastern Neighborhoods Planning Processes and their associated NCT (Neighborhood Commercial Transit Districts), two entirely new individual area districts were created: the Inner Sunset NCD in 2000, and the Pacific Avenue NCD in 2007. Both Districts fully utilized the existing Article 7 framework.

Figure II-21
Amendment to the
NC districts, type of
amendments over time



Through the end of 2008, there had been 66 legislative Planning Code amendments which have had a primary focus on the neighborhood commercial zoning controls. These amendments are a unique indicator of change and of the evolving relevancy of the NC controls, as discussed below:

- **New land uses.** Video stores, liquor stores, fringe financial establishments and medical cannabis dispensaries are among the new land uses that have been added to the zoning matrix in Article 7. The inclusion of these new uses represents either the rise to prominence of particular externalities associated with these uses or the introduction of completely new land uses.
- **Land use-specific relaxations.** Varying land uses now enjoy a somewhat more permissive regulatory scheme. For example, while new bars and full service restaurants were previously not permitted in the 24th Street – Noe Valley NCD, an exception to that rule was established to allow up to three new full service restaurants and associated bar uses under certain circumstances. This relaxation was subsequently expanded to the Inner Clement and Haight Street NCD’s. Similarly, controls for drive-up facilities were relaxed to allow fast food restaurants on Ocean Avenue, certain large fast food restaurants were allowed in the Castro NCD, and residential conversions were permitted on the 3rd story and above in the NC-3 district.

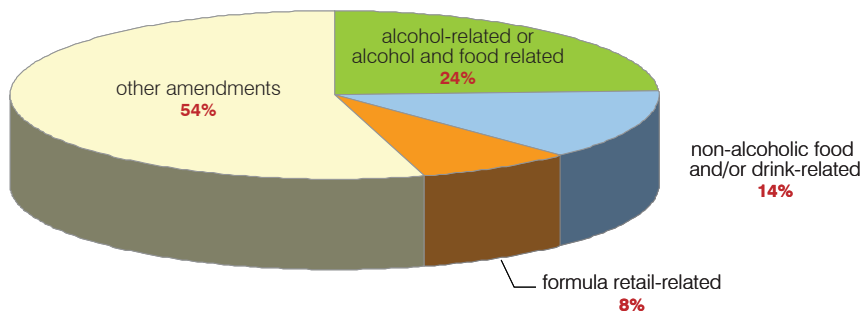


Figure II-22
Amendments to the NC
districts by type (1987-
2008)

- **“Tailor-made districts.”** Specific districts have been created to allow uses where they were previously not permitted under base NC zoning. These districts include the Chestnut Street Financial Services RUSD which permitted banking services on the second story, the 3rd Street Fast Food RUSD which allowed a drive-up facility at a fast food restaurant; the Bayshore-Hester SUD which permitted a motel; the California-Presidio community center SUD which accommodated the new Jewish Community Center, and the 17th and Rhode Island Grocery Store SUD which permitted certain alcoholic beverage sales.
- **Use size limit changes.** Controls governing the size of non-residential uses in NC districts changed when both the North Beach and Castro NCD controls were amended to establish 4,000 square feet as an absolute maximum use size. The amended controls permit non-residential uses up to 1,999 square feet on an as-of-right basis and require CU authorization up to 3,999 square feet. New use size controls have also been applied to the Polk Street NCD.
- **Off-site alcohol restrictions.** Numerous alcohol restricted use subdistricts (RUSD’s) have been established since the inception of the NC controls in order to address the proliferation of facilities selling alcoholic beverages, especially for off-site consumption. These districts include RUSD’s in the Mission, Haight, Third Street, Divisadero Street NC-2 Districts, Excelsior NC’s, and Lower Haight Street NC-2’s.
- **Trends in volume over time.** Four distinct periods are seen in changes to the NC Controls. The first period (1987-1989) might be viewed as a ‘shakedown’ of the new controls. The second period (1992-1996) could be considered a resumption of ‘base-line’ activity. The third period began in 1997 and featured a marked upward swing culminating in 2000. The fourth period featured a subsequent upward trend beginning in 2002 and peaking in 2006 with 8 NC-related Code changes before entering into a gentle decline. This final period roughly coincides with the return of District-based elections for the Board of Supervisors.

- **Trends in type over time.** Before 1996, changes to the NC controls were varied, excepting a somewhat notable number of amendments which involved non-alcoholic food and drink uses. In 1996, changes to more strictly regulate alcohol prominently emerged. In 2004, Formula Retail controls were added as a third key ingredient. More than half of the changes made in calendar year 2007 and calendar year 2008 to date have addressed alcohol, either in relation to a restaurant use or independent of it.
- **General prevalence of certain types.** It is notable that 24% of all changes made involve the regulation of alcohol. An additional 14% relate to non-alcoholic food or drink. Formula retail controls, while only a recent phenomenon, comprise an impressive 10 percent of all changes over the past two decades.

Figure II-23
Amendments to the NC districts, affected districts (1987-2008)

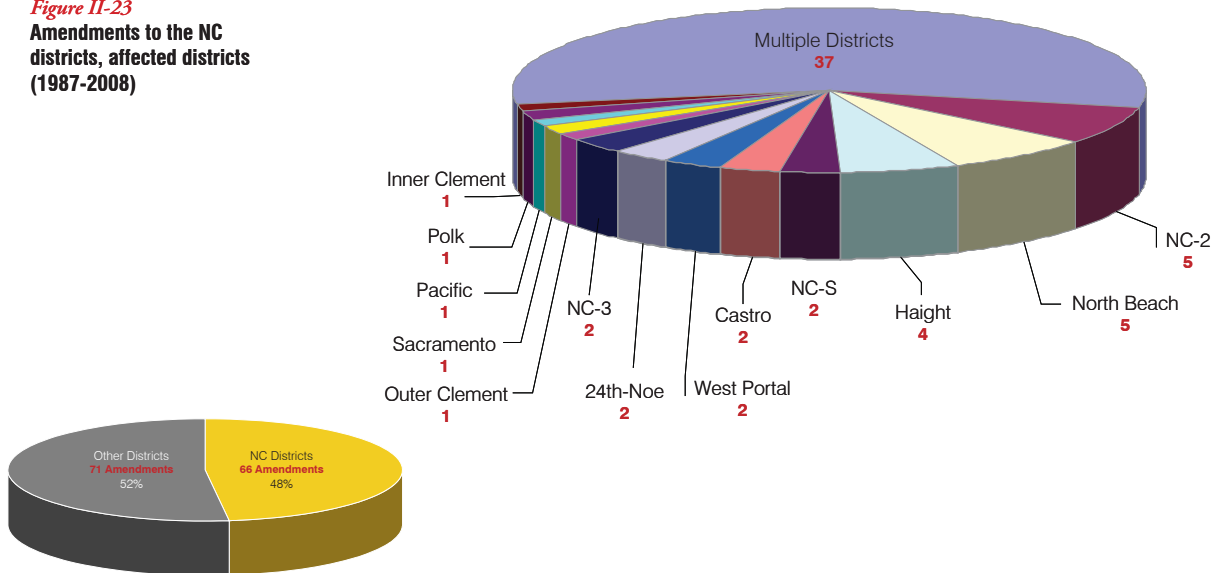


Figure II-24
Amendments to the NC districts compared to amendments to non-NC districts (1987-2008)

- **Relative portion of citywide changes.** Perhaps most remarkable about changes to zoning controls in NC districts is that roughly one-half of *all* changes to the Planning Code were changes that predominantly impacted NC Districts.
- **Neighborhood Notification.** As discussed previously, neighborhood notification in NC Districts was required beginning in 2000 with the onset of Planning Code Section 312. Unlike the residentially-oriented Section 311 on which it was based, Section 312 had a significant and perhaps unanticipated effect on businesses. Originally, in NC Districts, all commercial changes of use between NC use categories were subject to neighborhood notice. For example, a small self-service restaurant seeking to convert

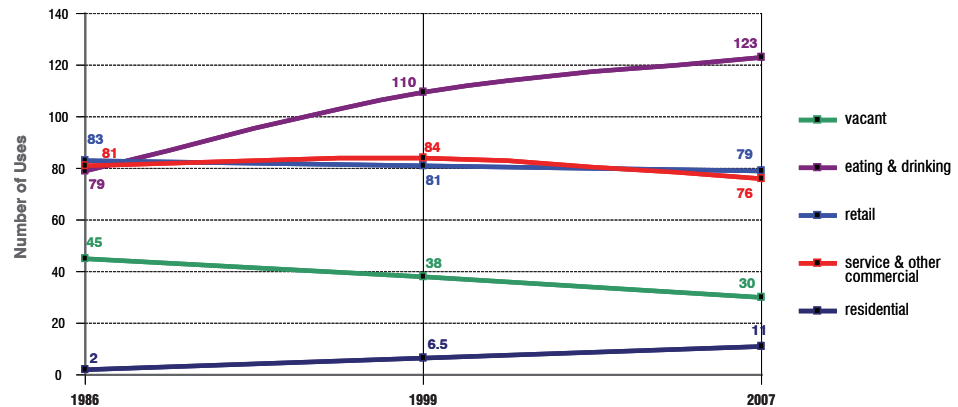
to a retail flower shop was subject to notice. Acknowledging in part the burden that this requirement placed on small businesses and the comparatively small utility to the City, in 2004 the Board adopted Ordinance 258-04 in order to eliminate notification requirements for use changes to certain NC use categories. In particular, notice was no longer required for use changes to the following uses: retail sales and services, movie theaters, financial services, medical services, personal services, business and professional services, and trade shops. However, should a proposal for one of the aforementioned uses involve a new building or an expansion to an existing building, Section 312 Notice remained applicable. Moreover, the notification requirement remained independent of any District-specific requirement for Conditional Use authorization.

- **Formula Retail.** Even during the preparation of the original NC controls in the 1980's, chain stores and the desire to limit them was a central issue. At that time, however, the regulatory tools available to the City were not yet adequate to address this issue completely. Specifically, distinctions between 'fast-food restaurants' and 'small self-service restaurants' – which were among the chief mechanisms designed to identify and regulate chain businesses – were defeated by corporate innovations such as 'micro' fast-food restaurants. The issue again rose to prominence and in March 2004 the first components of the city's Formula Retail controls were enacted. Formula Retail was defined as a business activity for which there were eleven or more similar establishments in the United States and which met certain criteria relating to the nature of the operations of that particular business. The regulatory scheme began with a limited geographic applicability and a prohibition, CU requirement, or notification requirement based on a facility's location. Since then, through the Board's activities along with Proposition G which was passed by the electorate in the fall of 2006, formula retail controls have grown dramatically in geographic and regulatory scope. They now encompass all NC districts, certain mixed use districts, and portions of the Residential-Commercial Combined (RC) Districts along Van Ness Avenue; at the least they require a CU for any such uses.

NORTH BEACH CASE STUDY: ACTUAL LAND USES VS. NC CONTROLS

As part of the NCRS effort in the mid 1980's, a comprehensive land use survey of all areas proposed for NC zoning was performed. Since that time, no similar effort has been pursued in the NC Districts, and as such actual, on-the-ground impacts of NC zoning are not entirely evident.

Figure II-25
North Beach NCD,
generalized ground floor
land use trends



The North Beach NCD, however – thanks to the work of the Telegraph Hill Dwellers neighborhood association (THD), is an exception to this rule. THD volunteers surveyed the North Beach NCD in 1999 and again in 2007 in order to better understand the land use changes of most relevance to them. It provides a unique window – one which is not available in other NC districts – to the actual impacts of the NCD controls.

The survey data in this subsection was researched and provided by THD. While the Planning Department expresses its sincere thanks for this data and believes it to be the best data available, it neither affirms nor disputes its complete accuracy.

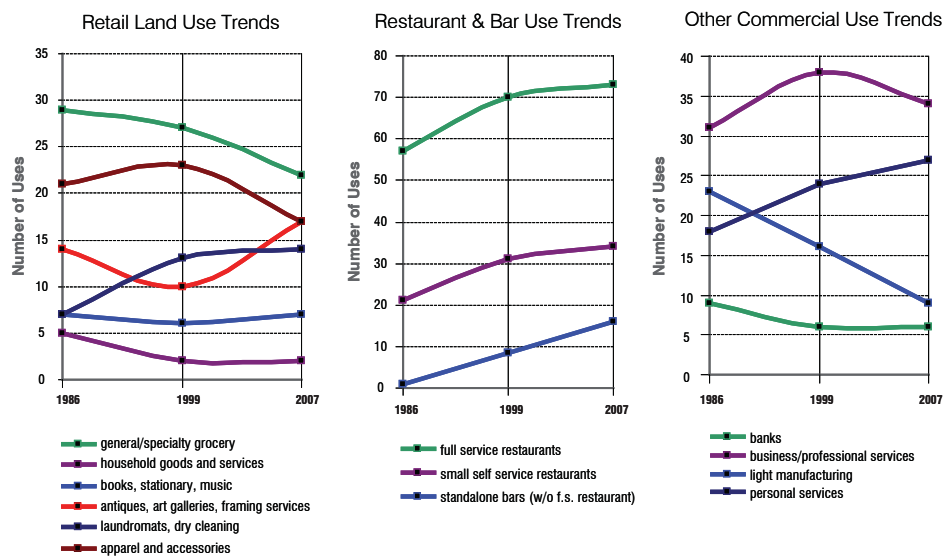
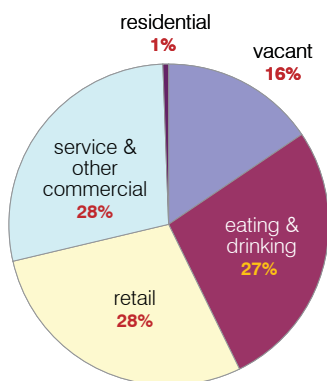


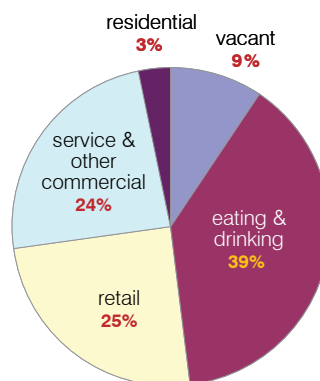
Figure II-26
North Beach NCD, ground floor land use trends within use categories

Land Use Survey Data

- General trends.** Bearing in mind the 20 year span of the survey, along with the significant economic and cultural changes that accompanied that time span, the generalized land use characteristics of the North Beach NCD have remained relatively static. Two linked deviations from this generalization are the increasing trend in eating and drinking establishments (30 new such establishments) and the decreasing trend in vacancies (15 fewer vacancies). This equates to a 12 percent increase and 7 percent decrease, respectively. While the data is not conclusive, it is likely that a large number of new eating and drinking establishments opened in formerly vacant spaces.



Land Use Mix 1986
[ground floor]



Land Use Mix 2007
[ground floor]

Figure II-27
North Beach NCD, generalized ground floor land use mix - 1986 and 2007

- **Eating and Drinking Uses.** Bars, small self service restaurants, and full service restaurants have all increased in prevalence steadily over the study period. Most notably, stand-alone bars (those that are not integrated with a full-service restaurant) have increased in number from 1 in 1986 to 16 in 2007.
- **General retail uses.** On balance, general retail land uses demonstrate a subtle downturn over the study period. The chief exception to this trend are ‘art retail’ uses (antique stores, art galleries, and framing stores) which after having 4 such establishments close between 1986 and 1999 were then supplemented by 7 new establishments between 1999 and 2007.
- **Other commercial uses.** Most significant in this group is the precipitous decline in the number of light manufacturing establishments. Including uses such as garment shops and commercial kitchens, this grouping dropped from 23 establishments in 1986 to 9 in 2007. Also of note are personal services (beauty shops, salons, barbers, etc.) which increased from 18 to 27 establishments over that same time period.

Conditional Use Data

- **Outcomes.** 82 percent of all CU’s in North Beach were approved – 5 percentage points higher than the citywide average. Disapprovals were parallel to the citywide figure at 8 percent, while abandoned applications were 10 percent vs. the citywide 15 percent. In the period since the 1999 land use survey, more applications have been abandoned and fewer disapproved than in the previous period.

Figure II-28
North Beach NCD,
Conditional Use
applications,
outcomes over time

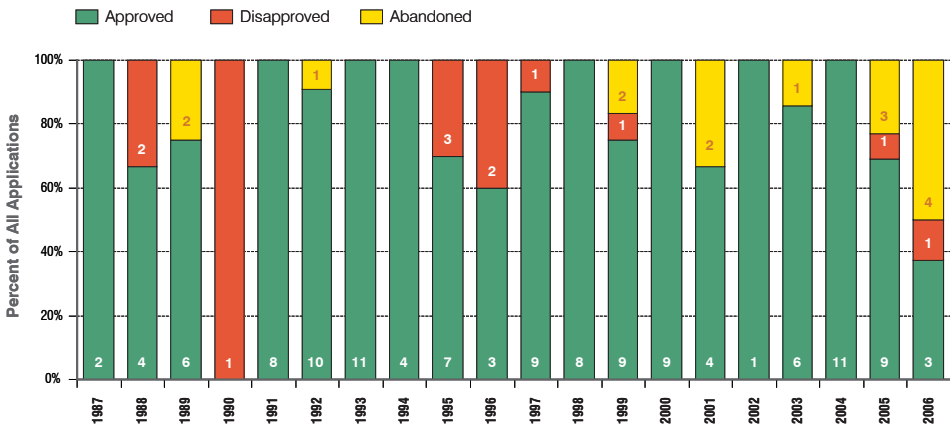
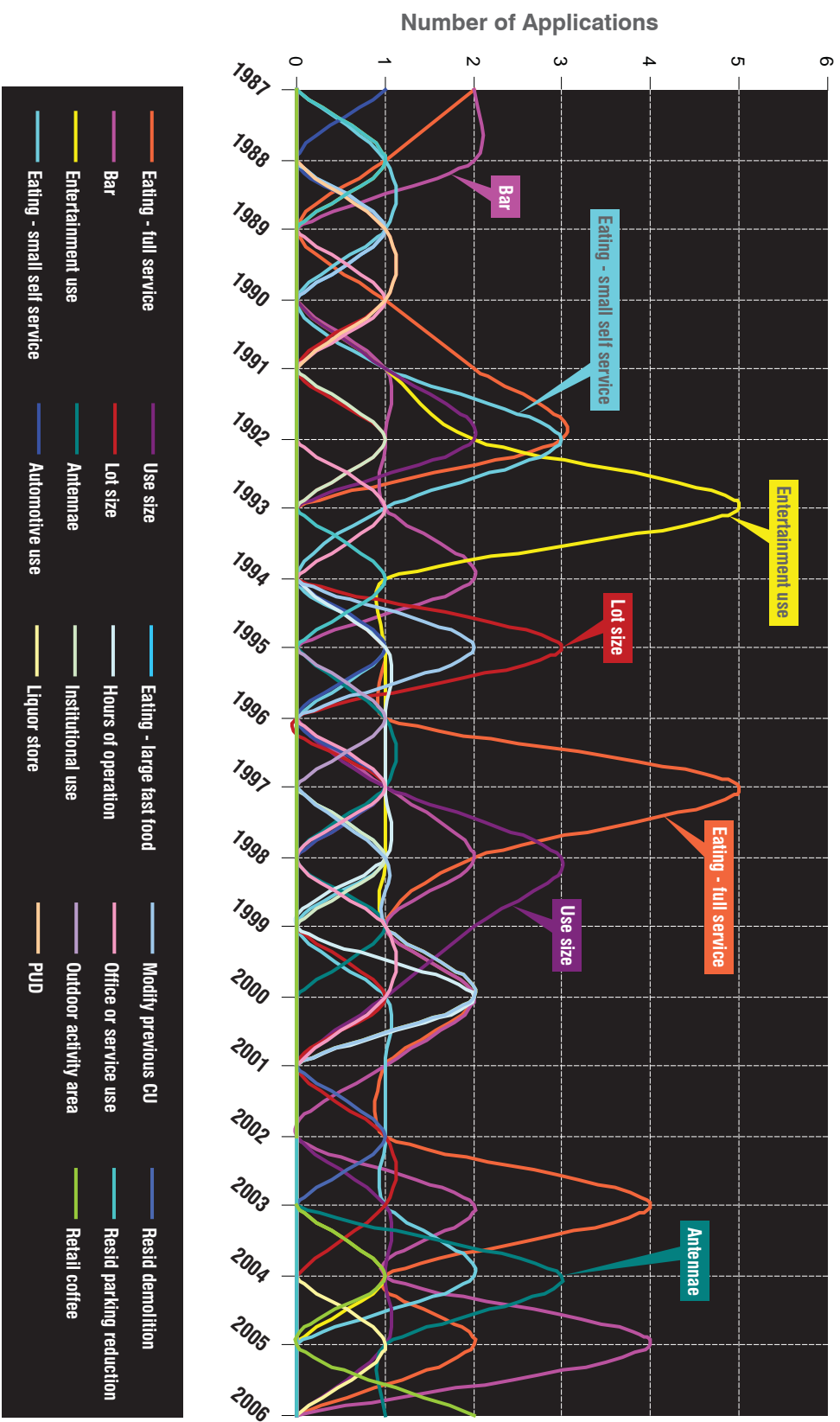
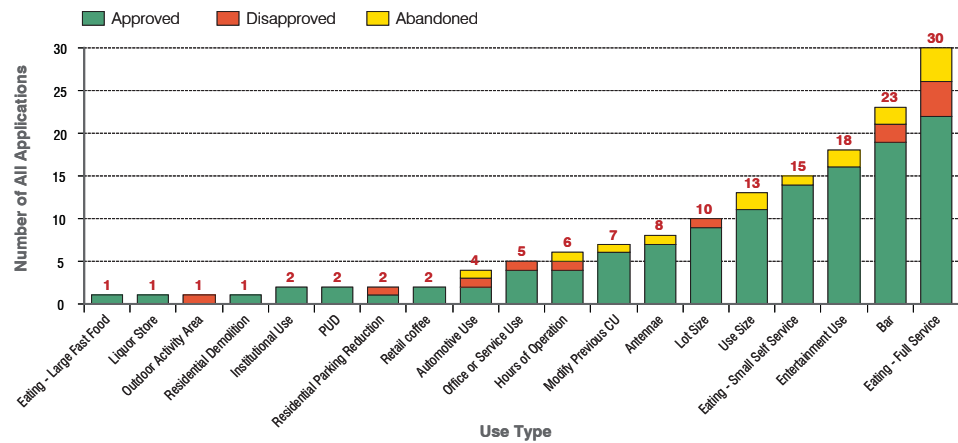


Figure II-29
North Beach NCD, Conditional Use applications,
land uses over time



- **Entertainment, Food, and Drink.** Most numerous among applications were those for full service restaurants, followed by bars, entertainment uses and small self-service restaurants. The majority of these cases were approved, with 73 percent, 83 percent, 89 percent, and 93 percent rates, respectively. This is not inconsistent with data from the land use survey.
- **Temporal Trends.** During the study period, Conditional Use applications were generally well distributed. Moderate exceptions were noted in the mid/late 1990's when the number of CU applications was somewhat higher than average before dipping in the early 2000's and enjoying a mild resurgence in the 2003-2005 period. Entertainment uses were generally more sought in the 1990's than in the current decade.

Figure II-30
North Beach NCD,
Conditional Use
applications,
outcomes by land use



Building Permit Data

- Discretionary Review.** Very few DR's were filed on building permit applications in the North Beach NCD. Of 204 building permits in the North Beach NCD which were reviewed by the Planning Department since the onset of neighborhood notification requirements, only 4 were the subject of a DR. Making this figure more significant is the complementary increase in building permit filings, beginning with 19 filings in 2001 and reaching a high of 46 in 2005. This lack of DR's could be related to the number of potentially controversial uses, such as restaurants and entertainment venues, which already require Conditional Use authorization. By extension, this could further be an indicator that as-of-right uses have been appropriately regulated.
- Residential Uses.** Beginning in 2000 with only a single filing, a significant increase in residential permits was noted – reaching a high in 2006 of 18 permits. This corresponds with the increase in ground level residential uses noted in the more recent years of land use survey data.

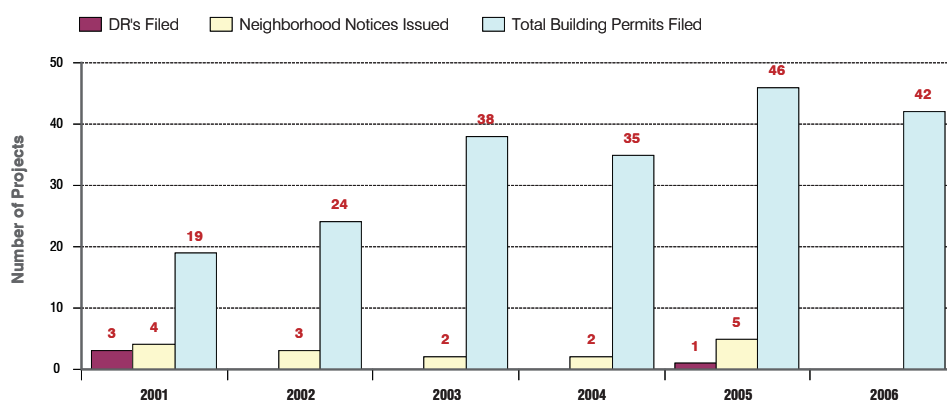
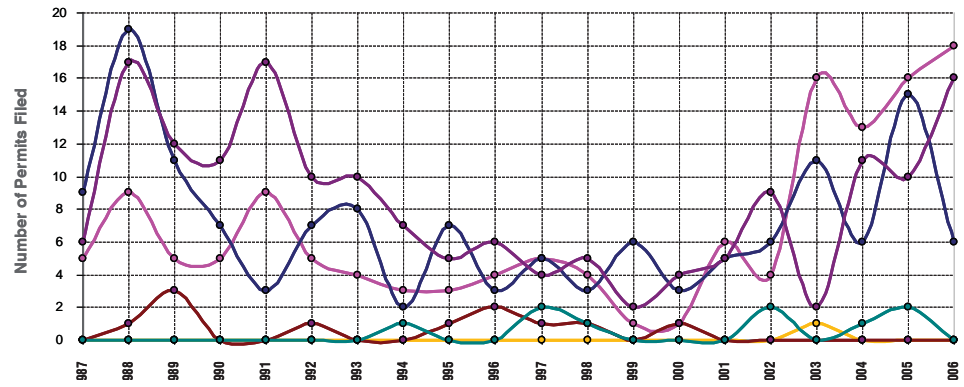


Figure II-31
North Beach NCD, building permit applications filed, notices issued, and DR's filed over time (all DR's in the NB-NCD were initiated by a 3rd party)

- Eating and Drinking Uses.** While permit filings fluctuated somewhat, in general terms a greater number of filings for eating and drinking land uses was noted between 1987 and 1994 and again between 2001 and 2005. This overall trend is not inconsistent with land use data.

Figure II-32
North Beach NCD, building
permit applications by land
use over time



SECTION 3

NC@20

Recommendations and Emerging Issues

Over the course of more than twenty years, the NC controls have proven to be remarkably resilient, adaptable, and generally successful in achieving their purpose. While any land use regulatory strategy will require periodic adjustments over time, the durability of the NC framework and the relatively low number of problems, especially in light of its broad scope and tenure during a period of dramatic change, suggest that the NC controls have done their job.

However, the general success of the NC controls should not lead to complacency. The data examined in the previous section along with twenty years of ‘on-the-ground’ experience in implementing the NC controls has enabled the identification of a handful of relevant issues that merit further exploration. This section discusses major issue-areas and presents direction for recommended study and change. Concerns identified here are designed to serve as a starting point for dialogue with stakeholder groups and policy-makers.

San Francisco's neighborhood commercial areas have continued to mature with time and with the effect of land use regulation. The Department's accumulated data sheds light on some of the pressures exerted on the NC Districts and on the City's reactions to those pressures. While significant, this data is not all-inclusive. The following shortfalls are noted:

1. Conditional Use application data suffers from the pre-emptive power inherent in any land use control. The greater burdens of increased scrutiny, increased process, and decreased certainty has led to fewer eventual submittals. As such, CU applicants are somewhat of a self-selecting pool.
2. Many uses which were identified as undesirable during the Neighborhood Commercial Rezoning Study in the early 1980's are prohibited outright and have no avenue to seek entitlement and thus no associated data.
3. Projects are often modified from that which was originally conceived by a project sponsor. These modifications, generally arranged for by neighbors, staff, or the Commission, and made in order to render a project compliant with the Planning Code, applicable policies, or neighborhood character. These changes often facilitate an approval even though the original submittal would have been disapproved. These often substantial changes are not captured in the Department's data.
4. A Conditional Use approval does not necessarily mean that such application was without controversy or that it was not subjected to significant conditions of approval. This can be of critical significance yet not revealed by a pure statistical analysis.

As such, an isolated quantitative analysis does not enable the crafting of informed recommendations. The highly public, commodified, and political process that is associated with any land use activity in San Francisco simply cannot be wholly captured numerically.

Accordingly, the collective experience of Planning Department Staff is an equally rich source of information: the observations of, lessons from, Planning Department Staff in working with the NC controls alongside neighbors, merchants, and builders is a significant data source.

Intimately related to these Staff experiences are the day-to-day technical intricacies of the NC Controls and how those controls function as a successful integrated whole. As the controls have evolved over time, and as the urban fabric of the NC districts has also matured, the mechanical workings of portions of Article 7 have begun to deteriorate. A portion of this section offers recommendations which would lead to a more streamlined Article 7, simplifying it and making it more comprehensible, while not actually modifying any land use regulations.

Four subsections are set forth below, each providing recommendations for unique issue-areas: "cornerstone recommendations" which relate to major policy work, district-specific recommendations, use-specific changes, and process-specific changes.



CORNERSTONE RECOMMENDATIONS

This subsection relates to three broad policy issues which transcend individual land uses and districts and which consequently suggest further study and priority in pursuing resolution. They draw on a number of observations from across data typologies, but in particular they look to one of the City's best indicator of significant change in the neighborhood commercial areas: legislative change to the NC controls over time. Among other issues, the significant volume of changes to the controls reveals the tremendous importance of the NC districts to the City as a whole. While only 6 percent of all parcels are governed by NC controls, fully one half of all Planning Code changes during the study period focused on them. This discrepancy may indicate the evolutionary nature of our Neighborhood Commercial districts, specifically that these are sensitive areas which require ongoing tuning as new land uses, new concerns, and new priorities appear over time. Similarly, it may reflect the high levels of interest (and therefore scrutiny) which many communities typically place on their neighborhood centers. In any event, generalized trends suggest that the importance of the NC Districts and the related number of amendments to their controls will only continue to grow.

1. Comprehensive Community-Driven NC Update

The increasing number of amendments, along with the gradual aging of the original controls, suggests that a comprehensive review of the land categories, definitions, and related controls in the NC Districts may be appropriate. While continued fine tuning of NC controls will no doubt occur regardless, it would seem that recent trends in amendments to the NC controls suggest that the City shift from a piecemeal approach toward a single comprehensive review and update. After more than 66 individual legislative changes to the NC controls, a deliberate and inclusive planning process should examine neighbor, merchant, and citywide goals for all districts. As discussed elsewhere in this document, the structure of the NC use tables and the general NC framework remain fundamentally sound and need not be altered.

While any review and update effort should examine all aspects of NC regulations, of particular note are the advent of high numbers of Code amendments which relate to eating and drinking uses, alcohol-related uses, and more recently to Formula Retail uses. Moving forward, particular emphasis should be placed on a reexamination of controls for these three emerging regulatory fields. Eating and drinking uses along with alcohol related uses are discussed in later subsections while Formula Retail controls – and specifically the operational distinctions that they require (rather than land use distinctions) – are discussed below.

Formula Retail controls fundamentally go beyond a land use distinction and instead address the operational characteristics of a given business. In broad terms, and especially prior to the onset of Formula Retail controls, this is an area in which the Planning Code was not particularly effective. Formula Retail and other similar controls identify and apply special regulations to businesses which are distinguished largely by ownership or ongoing, variable business decisions rather than a fundamental land use characteristic related to the main activity they conduct. Because the Planning Code traditionally has been focused on the physical differentiations between uses, the identification and tracking of Formula Retail and related uses has proven

to be challenging. Aside from recent Formula Retail controls, a change of ownership does not typically trigger a Planning Department application or review process. For example, John Doe selling his corner store to Jane Smith and changing the business's name from "John's Corner Store" to "Jane's Corner Store" is an act which occurs outside of the Department's purview. If, rather than selling the store to Jane it was sold to a franchisee of the national chain "7-11," under Formula Retail controls the responsibility would rest on the franchisee to come forward to the Planning Department, make itself known, and subject itself to a rigorous review process. Similarly, should an entirely new business choose to open in a brand new building, the burden rests on that business to present itself as a Formula Retail use to the Planning Department. With the help of vigilant neighborhoods, and thanks to strong community support, Formula Retail controls have performed adequately, although on multiple occasions the Department is made aware of new Formula Retail uses only after they open for business. This was identified as a concern when Formula Retail controls were first under consideration and it has been borne out in practice.

While Formula Retail controls have proven popular, the underlying regulatory approach is one of concern for the Planning Department. In calendar years 2007 and 2008, citywide interest in (and associated legislation regarding) numerous business types which are indistinguishable excepting their operational characteristics has skyrocketed. Examples include regulations on (1) check cashing outlets - which are difficult to distinguish from conventional financial services, (2) grocery stores which sell fortified alcoholic beverages - which are difficult to distinguish from grocery stores without such beverages, (3) 99-cent-stores - which are indistinguishable from any other general retail facility save their pricing scheme, and (4) "head shops" selling smoking paraphernalia which have only minor stock differences from other types of retail outlets.



The Planning Department has traditionally been tasked with parsing land uses from one another. In general terms, it is not equipped to monitor the business practices of individual facilities for compliance with operational requirements. Just as Jane's Corner Store, in the example above, enjoys nearly identical land use characteristics to John's Corner Store or a 7-11, so too is a check casher or a 99-Cent store physically indistinguishable from their up-market counterparts. This is of particular concern when reviewing a proposal at the architectural level, as the Planning Department typically does, but also at the more detailed construction-drawing level. For example, a retail store need not seek a building permit begin stocking water pipes or Grateful Dead memorabilia, yet as soon as this stock change is executed it requires special authorization from the Planning Commission. Building permits, planning entitlements, and the associated physical characteristics of an activity are the tools and measures typically used by the Department to monitor change. Particular stock choices, interest rates, or store ownership are largely beyond the means of conventional planning methods.



One variable which is uncertain and yet fundamental to the success of any such ‘operational’ control is the level of community support for the particular regulation. Despite the relative difficulty of administering the Formula Retail controls, their implementation has been largely successful as a result of a supportive and diligent citizenry. This is helped by the fact that, by their nature, Formula Retail uses tend to be larger ‘corporate citizens’ with a broad market presence and an associated disincentive to violate local laws. This disincentive may not apply to other operational controls, and public commitment to help enforce regulations on other business typologies is unknown.

As part of the recommendation for a community-driven planning process, the levels of interest in, and appropriate regulatory avenues for, adequately addressing the operational nature of businesses should be explored. Should these operational characteristics continue to be of importance, it is advisable that such regulation either be (1) implemented

by a City Agency with a scope broader than just land use and one which has potent licensing powers that the Planning Department does not enjoy, or (2) implemented by a Planning Department that is provided with greatly expanded powers, resources, and staffing to properly perform the task at hand.

The desire to better regulate the ongoing operational characteristics of a business is but one component of a broader study effort. A comprehensive examination of the NC Districts would require the deployment of substantial resources, and would preliminarily involve the following: (1) the collection of land use data for all NC districts [the City currently has no accurate inventory to this effect], (2) the hosting of multiple neighborhood meetings for each NC district, (3) detailed collection, analyses, and feedback phases with respect to public comment and proposed changed controls, (4) an appropriate level of environmental review and associated studies and hearings, and (5) the finalization and adoption of revised controls through the Planning Commission and Board of Supervisors processes.

The comprehensive planning process suggested in this section would comprise a significant effort. The anticipated levels of community involvement, interest, and scrutiny are likely to cause even mild proposals for change to be polarizing and require thorough public vetting. This, along with resources consumed by a detailed land use survey and the ultimate drafting and management of proposed changes are not insignificant and should be programmed well in advance of the commencement of the processes. Bearing in mind the unprecedented shortfalls in the current City budget, it may be advisable to push this process out to a date in the future when adequate funding will be available. *Entering into a comprehensive analysis only to arrive at an incomplete product as a result of an insufficient budget would not only be of no service to the neighborhoods but would compromise the public’s trust in the Department and its activities.*

2. Bolstering Small Businesses

Neighborhood Commercial Districts, by definition, include a healthy mix of neighborhood serving businesses. Throughout the Planning Code and other City policy documents, small, locally-owned businesses are acknowledged as key to successful, thriving neighborhoods. Not only do they offer goods and services tailored for a particular neighborhood's needs, but they provide important economic development opportunities for local residents and for the City as a whole. The City's commitment to small business is evident in numerous ways, but is perhaps most to the Planning Department through recent fervor for Formula Retail controls. As discussed above, these controls, which are designed to keep out chain store operators in favor of character-defining, locally owned, small businesses, have enjoyed a high level of support.

"Inverse Formula Retail"

As a flip side to current Formula Retail measures, incentives should be created in order to level the field - if not tip it in favor of - small businesses. Incentives would need to be considered carefully, bearing in mind neighborhood sensitivities, but could include certain reductions in notification, reduced CU requirements and Discretionary Review opportunities, and/or fee reductions. Avenues to decrease processing time or increase certainty are particularly beneficial for small business owners. Also worthy of further examination is the notion of crafting measures to streamline the process for changes of use within related use categories (e.g. one food-related use to another food-related use, or one office-type use to another office-type use). Any of these measures should be carried out along with an earnest investment in outreach both to (1) neighborhood groups to ensure the compatibility of any regulatory adjustments with existing and envisioned neighborhood character and (2) the small business community so that prospective and current business-people are involved in and aware of land use regulations.

Entitlement process.

In addition to an affirmative small business promotion strategy, change should be made to the overall permitting process so that it is more intelligible, predictable, and rational. Current land use controls and required permit processes in our NC districts, while making the entitlement process extremely comprehensive, have also led to redundancy and excessive process without clear need. Specifically, the entitlement process is complex, time consuming, expensive, and ultimately uncertain. The cumbersome nature of the process inherently favors larger businesses which have financial backing such that they can endure a lengthy and uncertain permitting process. As a rough barometer of the level of permit complexity, in 1987 at the onset of the NC controls, 97 percent of all permits in NC Districts were processed over-the-counter. In



2007 that figure had declined to just 30 percent. Few independently operated small businesses can afford to pay rent for substantial periods of time while waiting for lengthy neighborhood notices, public hearings, and approvals keyed to multiple agencies before opening their doors for business. As a result, the City has actually discouraged small businesses from locating in our neighborhood commercial districts. In doing so, we have come to the aid of chain stores by precluding local competition. It should also be noted that small businesses are already faced with a higher burden in San Francisco compared to our regional neighbors as a result of civic-minded, generally socially-driven measures including payroll taxes, higher minimum wages, required sick leave, and mandatory health care. Land use controls, particularly requirements such as neighborhood notice and Conditional Use hearings, must be applied with great care. Should the benefit derived from those controls be negligible, they should be relaxed in order to enhance the local small business climate and opportunities for neighborhood-serving commercial uses. Anecdotal evidence suggests that the proverbial nail-in-the-coffin for many prospective small business-people is the level of awareness of the Planning Department's role in the approval process. In many cases it is treated as an afterthought, leading to disastrous results. With troubling frequency, staff at the Planning Information Counter is visited by small business operators who have signed leases for, and made substantial investments in, spaces which either require lengthy review processes prior to use or alternately cannot be used as intended at all. These visits are often the first time that many such business-people learn of these critical issues.

Neighborhood notice.



A final factor relevant to small businesses in the NC Districts is Section 312, which was added to the Planning Code in late 2000 and required neighborhood notice for all projects in NC districts which involved either a physical expansion or a change of use. The required notice comprises a 30-day mailed notice, including floor plans, sent to owners and occupants of buildings within 150' of the subject property along with a posting on the project site. Processing the notice can take up to an additional month, while any Discretionary Review filed as a result of the notice can delay a project by two or more months, should it ultimately be approved.

While Section 312 was added to the Code in order to afford NC Districts similar notice to that provided in residential districts under Code Section 311, the commercial nature of NC Districts has resulted in many 312 notices being issued only in relation to a commercial land use change, rather than the expansion of a building or a change in residential unit count. One result of this is that many existing commercial establishments, once notified under Section 312 of a potential competitor seeking to locate nearby, contest the building permit required to allow a new entrant to their market. While some such cases are settled through private agreements

outside the scope of the Planning Department and before they arrive at a Planning Commission DR hearing, the delay to projects and the threat of multiple appeals is often enough to force applicants to modify business plans or to abandon proposals entirely. Moreover, the costs (including rent for a vacant storefront, architects, lawyers, etc) associated with additional delay are tremendously burdensome for small, locally-owned business and are in fact much more easily absorbed by larger, formula retail-type, establishments.

As discussed previously, in the fall of 2004 Ordinance Number 258-04 was adopted to modify Code Section 312 by eliminating notification requirements for a number of NC use categories. That ordinance helped to clamp down on the burgeoning practice described above and also recognized the relative lack of benefit associated with neighborhood notice for certain commercial changes of use. Building on this, thought should be given to further reducing and/or streamlining notification requirements for a larger set of uses. For example, limiting the eligible pool of DR filers to residential tenants has been discussed as a means to address this issue, however this fails to address the campaigning that many merchants in competitive fields have been seen to engage in. Nonetheless, DR filing criteria that address standing, the nature of a complaint, or other related issues should be further investigated. The Department's 'DR Reform' efforts which are currently underway may identify best practices on this issue.

On a related theme, the relevance of neighborhood notice to NC districts as a whole should be examined further. Clearly, residential projects – those that typically involve new residential construction or a physical addition to a residential building – are projects for which notification is appropriate. 18 individual 3rd Party DR's were filed on residential projects in NC Districts during the study period. This equates to 8 percent of all residential projects which were the subject of a neighborhood notice. The nature of these projects is suggestive of the ongoing utility of the notification process (much like the neighborhood notice required in residential districts). Additionally, with one significant exception, no single land use (or meaningful land use grouping) has had more than one 3rd party DR filed since the onset of the notification requirement. The exception to this generalization is for applications for restaurant and bar uses. 9 percent of the 158 projects in this category that received notice were the subject of 3rd Party DR's. While this statistic could be viewed as a rationale for neighborhood notice, an examination of the root cause of those DR's is more useful. As is discussed later in this section, the Article 7 definitions for restaurants and bars are overly general when they should be specific, overly-specific when they should be general, and on balance no longer reflective of the variety of establishments which are locating in the NC districts. The elevated DR levels on these uses should be addressed not through continued bureaucratic process for uses which no longer fit within Code definitions, but rather by revisiting those definitions themselves and reducing the need for notice and DR.



In broader terms, and putting aside residential projects or others which involve a physical expansion, there seems to be a less distinct correlation between the issuance of neighborhood notice and the filing of DR's than may be widely perceived. During the 7 years immediately before the implementation of neighborhood notice, an average of 1.9 DR's were filed annually, while the 6 years after averaged 7.3 DR's annually.

Any discussion of notification and process issues however, would not be complete without acknowledging the many trade-offs that are inherent in land use regulation. Reduced process might benefit business owners, especially those with fewer resources, and those seeking to alter or improve properties. Simultaneously, this process exists to ensure that development adheres to community-driven standards and is subject to adequate public review. Reducing process (e.g. reducing notification requirements) raises questions about community involvement, a key issue in the governance of San Francisco.

3. Overhaul Regulations for Eating And Drinking Uses



Food and drink-related uses face relatively tight regulation throughout the NC Districts. Restaurants and bars are prohibited in many districts while CU requirements were established for others. These policies were crafted keeping in mind the need to prevent an over-concentration of restaurants and bars and to preserve favorable retail mixes. While these underlying principles remain sound, the characterization of restaurants in Article 7 is based on the economic and cultural norms of the early to mid 1980's. Since that time, dining out has become a more central part of residents' regular routines. While risking an overgeneralization, anecdotal evidence suggests that people eat out more today

than at any point in the recent past, and as such, a groundswell of neighborhood-based support for more eateries throughout many NC Districts has begun to emerge. Residents, merchants, and elected representatives for the 24th Street-Noe NCD, Union Street NCD, Haight Street NCD, Inner Clement NCD and others have expressed strong sentiment concerning this issue. In order to properly grapple with this phenomenon, though, it is necessary to examine the broader regulatory framework for all eating and drinking uses in our NC districts.

With respect to bar uses, while the potential to display certain negative externalities is evident, it has not been the experience of the Department that these externalities are any different now than in the past or that there have been shifts in that industry or land use suggestive of further study. However, the location of bar uses may merit a more detailed analysis. In particular, 23 of the 62 total applications for bar uses were lodged in North Beach. While 83 percent of these were approved, the trend has particular relevance in light of the noted increase in food / drink

/ entertainment uses in North Beach over the past twenty years. While that District is intended to be a regional hub for such uses, growth of that land use sector should not be allowed to adversely affect all other sectors – if in fact that is the case.

Despite the high degree of scrutiny faced by food-related uses, small self-service restaurants consistently displayed high Conditional Use application approval ratings, at 87 percent. Full-service restaurants were not far behind, with 81 percent of all CU applications being approved. In light of these statistics, the degree of regulation to which these applications are subjected should be investigated in more detail, although care should be exercised in districts such as North Beach, where 30 of the 136 total full service restaurant applications were lodged, and where CU approval rates drop in a corresponding fashion to 73 percent. Recent legislation in that District which drastically limits the number of new such establishments should also serve as a caution. Broadly speaking, building permit data suggests a somewhat higher level of interest on the part of the public than does CU data. 14 3rd party DR's were filed on eating and drinking uses since the advent of neighborhood notice in the NC districts. This accounts for 9 percent of all eating/drinking projects that received notice, or 1.8 percent of all eating/drinking building permits. This latter figure is substantially higher than the next highest land use, residential uses, with a figure of 1.1 percent.

On balance, regulations governing eating and drinking related uses should be reexamined. Not only has the significance of such uses to nearby residents increased over the course of the past 20 years, but the citywide significance of eating and drinking facilities, particularly to the tourism and hospitality industries – and even to our civic identity as a 'food city' – is apparent.

In broad terms, two chief issues arise relative to eating and drinking land uses: (1) how they are defined and (2) the land use controls which regulate them. Each are discussed below. It should also be noted that in late 2008, new zoning controls were crafted to address these general issues within the North Beach NCD. These new controls established a high degree of regulation dependent on specific characteristics of such establishments. While these changes were 'band-aid' piecemeal modifications and were applicable only to a specific district, the Department nevertheless intends to monitor them closely and use applicable findings to inform broader efforts throughout the NC Districts.

Land use definitions.

The number and specificity of food-related land use categories has led to a degree of regulation which exceeds that which is typically found in the Planning Code. Unlike bar uses, with their 'one-size-fits-all' definition, restaurant uses are subject to a higher level of specificity, scrutiny and regulation. In part resulting from a desire to craft controls that were as comprehensive as possible, five distinct major food-related land use categories (apart from recent changes applicable to the North Beach NCD) were established in Article 7 alone: (1) large fast food restaurants, (2) small self-service restaurants, (3) full-service restaurants, (4) retail coffee stores, and (5) accessory take-out food service in delicatessens, markets, or full-service restaurants. Large fast food and small self service restaurants are generally distinguished from one another by square footage, while both feature ready-to-eat food served and paid for at customer service

counters in disposable wrappers. Full-service restaurants offer food served by wait-staff which is primarily consumed on the premises and paid for following the completion of the meal. Retail coffee stores offer ready-to-drink non-alcoholic beverages characterized by a maximum number of seats, lack of on-site food preparation and limited sales of prepackaged food. Accessory take-out food in grocery or specialty stores or in full-service restaurants is limited to 100 square feet.

This definitional specificity has led to a relatively high degree of noncompliance (along with an enforcement challenge) within these use categories. For example, plugging in a microwave or a toaster would trigger a shift between retail coffee shop and small self-service restaurant land use categories. This prompts questions relating to the actual land use impacts of a small household appliance. Moreover, existing definitions and nomenclature aren't necessarily accurate or relevant for today's restaurants. Many small, neighborhood serving food uses are trending toward take-out coffee shops with a grocery function along with a small quantity of food items available for eating both on and off the premises. Indeed, this is the time-tested model for San Francisco's many corner stores. Additional issues merit investigation, as well. Some food-related uses that once functioned as neighborhood bakeries or other similar establishments have transitioned into food and drink venues which cater to a broader audience, particularly through the offering of premium beer and especially wines. While both uses fall within the 'small self-service restaurant' land use category which applies throughout the NC districts, they each have a different character which could be addressed with more appropriate controls. In a related manner, full-service restaurants were at one time relatively distinct from restaurants which provided a lesser level of service. This distinction is no longer as clear as it once was, with restaurants providing all permutations of ordering, service, and payment at counters, tables, and elsewhere. These hybrid restaurants are not sufficiently addressed in the current Article 7 land use framework, resulting in a substantial level of ambiguity for a relatively high number of establishments.



Accordingly, the definitions related to food-uses should be rethought and simplified. Enforcing the use of household appliances, the number of chairs, or whether a customer pays for food at a counter or at a table is exceedingly difficult and largely irrelevant. Collapsing retail coffee stores, along with small self service and large fast food restaurants into a single category should be explored. Similarly, the definition of full-service restaurants should be rethought to encompass an appropriate range of full-service-style uses which may not necessarily meet the existing full-service criteria. Uses which are premised

on alcohol, including wine-bars, sake lounges, and similar boutique-style facilities should be considered for inclusion under the bar category or some other appropriate grouping.

It should also be noted that the use size distinctions between small self service restaurants and large fast food restaurants were introduced originally – at least in large part - to deal with chain stores. The onset of Formula Retail controls, along with the earlier advent of micro-sized chain stores, preclude this distinction. Non-residential use size controls, which are independent of controls for food and drink uses, along with neighborhood notification processes and Conditional Use requirements adequately address this issue.



Land use controls.

As mentioned previously, zoning controls which limit new restaurants and other eateries in NC Districts are the subject of increasing community focus. Neighborhood groups, elected officials, and business leaders have come together in many instances to seek avenues to permit additional eateries in neighborhood commercial districts where they are not currently permitted. The establishment of the retail coffee store land use in 1993 was the first such relaxation of controls. Along with a number of other more modest amendments over the years, most recently demonstrated by amendments to the 24th Street-Noe Valley NCD, Union NCD, Haight Street NCD, and Inner Clement NCD which resulted in a limited number of new restaurants being permitted, there is a growing groundswell of support to facilitate additional eateries in certain NC districts. Note, however, that this sentiments is not universal, nor does it necessarily relate to eateries of all types.

As a component of the rethinking restaurant categories, and as a result of the high potential patron volumes, litter, noise, and other related externalities of current self-service and fast-food typologies, these uses should be thought of as the most intense food-related use type. Full-service restaurants, in broad terms, are generally of reduced impact on a neighborhood,

although their hours of operation tend to coincide with times of the day when neighbors living in close proximity may be at home. The issue should be investigated more fully through the comprehensive process identified above.

It is also relevant that existing prohibitions and limitations are based on perceived saturation levels in 1987. Those controls do not account for restaurant attrition. Moreover the Department does not have accurate data which would indicate conclusively if, and to what extent, the number of restaurants has changed. Regardless of the actual change in restaurant numbers, over the course of the last twenty years our neighborhoods and lifestyles have changed enough so that these controls should, at the very least, be reexamined. This relates to the earlier recommendation for a comprehensive NC land use survey and community driven process to re-examine components of the NC controls.



Lastly, it is advised that the City continue to be mindful of the guiding principles set forth in the original NCRS. In particular, General Plan provisions adopted as part of that process sought to avoid the displacement of neighborhood serving businesses and furthermore to limit the “functional frontage” of properties devoted to eating and drinking establishments to 20 percent of the total commercial frontage in the District in order to maintain a variety of neighborhood services and avoid the creation of traffic, parking, or other nuisances for the area. While it may well be appropriate to revisit the particular numeric thresholds for eateries, especially in districts where there is strong support for new restaurants and/or which are characterized by such establishments, the balance of neighborhood serving uses should not be forsaken. Should a ‘balancing’ principal such as this prove to be of continued use, it should be housing within the Article 7 of the Planning Code rather than in the General Plan. In order to be effective, such a standard should not be ‘general’ and should reside along with other specific land use regulations.

DISTRICT-SPECIFIC RECOMMENDATIONS

The majority of the specific named NC districts each comprise a relatively small number of parcels. As such, and with the exception of the issues noted in this Section which are based on exceptional trends or observations, these small data pools do not allow for the meaningful identification of many salient issues. As a result, while the issues and recommendations identified below are of significance, they are not intended to be binding advice based on undisputed data. These recommendations should be viewed in light of the foregoing discussions of both neighborhood notification requirements as well as Formula Retail controls, which subject all applications – regardless of Conditional Use requirements - to increased levels of public review. More specifically, no use in the NC districts, even if listed as principally permitted, will be

‘under-the-radar.’

- **NC-3:** Statistics in this District are particularly significant in light of the 371 CU applications received— more than any other district. Applications in the NC-3 demonstrated a consistent increase in filings during the study period. Because NC-3 parcels account for nearly one-quarter of all NC zoned parcels in the City, particularly detailed study should be performed to ensure that existing controls are adequate to handle the increasing number and variety of applications.
- **24th-Mission NCD:** Empirical data collected during the study period suggests that the City consider allowing small self-service restaurants on an as-of-right or other more permissive basis in this district. All 13 of these applications filed during the study period were approved. It should be acknowledged that this recommendation may be controversial and would, should it be acted on, involve further study.
- **24th-Noe NCD:** Monitor the outcome of the relatively recent legislation allowing a limited number of new restaurants and associated bar uses. Previously, all 8 applications to intensify existing restaurants were approved, and community sentiment in anticipation of the trial legislation was generally positive. Should the legislation be considered successful, a subsequent permanent control enabling additional eateries should be considered.
- **Hayes-Gough NCD:** Applications demonstrated a consistent increase in filings during the study period, with 44 percent of filings occurring in the most recent five year period. This district’s growth is in part due to the removal of the Central Freeway and establishment of Octavia Boulevard; applicable land use controls here will be tested further in the coming years. While the Department’s Market and Octavia Planning effort has been recently completed and put in place, further study and monitoring should be performed to ensure that applicable zoning is appropriate to handle the increasing number and variety of applications.
- **Polk NCD:** Empirical data collected during the study period suggests that the City consider allowing small self-service restaurants and entertainment uses on an as-of-right or other more permissive basis. All 14 applications for small self service restaurants were approved. All 15 applications for entertainment applications were approved excepting one abandonment.
- **Upper Market NCD:** The prevalence of financial services in this District should be further studied. With 6 applications under this category – all of which were approved – there were more such uses proposed or approved here than in any other district. This is of particular note given the relative scrutiny that financial service uses have historically faced and their prominence in the goals and background of the original NCRS.



- **Valencia NCD:** Empirical data collected during the study period suggests that the City consider allowing bar uses on an as-of-right or other more permissive basis. All 10 applications under this category during the study period were approved. As with other such changes, it should be acknowledged that this recommendation may be controversial and would, should it be acted on, involve further study.
- **North Beach NCD:** Unlike any other zoning district, and as a result of reliable land use data, a much more complete picture of land use changes exists for this particular district than for other NC districts.

- Like other parts of San Francisco, the number of light manufacturing uses in North Beach has declined substantially over time. However, the more prominent land use shift over the 20 year survey period is the increase in restaurant and bar uses. Space-for-space, the increase in these uses is twice the loss of manufacturing spaces. However, this should be kept in perspective as the 30 new such uses are mitigated by (1) the 20-year span of time over which they came to be, (2) the 15 storefronts that were vacant in 1987 but are now occupied - at least in part by restaurants and bars, (3) the broader overall changes in the culture and economics of San Francisco and other urban centers, and (4) the intent of the North Beach NCD, which according to the Planning Code is to function in part as a “citywide specialty shopping and dining district, and a tourist attraction... North Beach’s eating, drinking, and entertainment establishments remain open into the evening to serve a much wider trade area and attract many tourists.” The increase in North Beach’s role as a destination for food, entertainment, and culture for the City and the region is evident during the study period, and is further reinforced by marked increases in the number of art galleries and antique, book, and music stores. On balance, and consistent with other NC districts, while moderate shifts in the character of North Beach have clearly occurred over the past 20 years, the North Beach NCD controls have generally buffered the district from radical transformations and maintained the core character of the neighborhood.



- Application statistics, including both DR and CU filings, generally suggest similar findings. Despite a relatively large (and increasing) number of building permits filed in North Beach since the onset of neighborhood notification requirements in 2001 (a total of 204), only 4 were the subject of a 3rd party DR. This extremely low number could be indicative of the general appropriateness of the underlying zoning controls. Had

a higher number of DR's been filed, one could assume that Code provisions were no longer appropriate and that the public review process was serving to 'fill the gap,' however this is not borne out by the available data. Moreover, out of 152 CU applications (more than any other named NCD), 18 entertainment applications and 15 small self-service restaurant applications were received during the study period. With the exception of 2 abandoned entertainment applications and 1 abandoned restaurant application, all were approved and no application for either use was disapproved. In addition to these outcomes, it should be noted that of the 3 CU appeals in this District to the Board of Supervisors which were lodged during the study period, all 3 were upheld. As such, and along with other data points, entertainment and small self-service restaurant uses can arguably be seen as characteristic of North Beach as a regional cultural hub. Moreover, recent legislation has effectively capped the number of eating and drinking establishments and will consequently preserve the status quo.



USE-SPECIFIC RECOMMENDATIONS

Identified below are a series of themes which have emerged through both quantitative analysis and qualitative examinations as the Neighborhood Commercial Districts have been tested over time. These issues require further study and/or changes to zoning.

- **Antennas.** Antennas, with 182 total CU applications, diverge from all other land uses in that they demonstrate an extremely high abandonment rate of 28 percent. Regulations should be investigated with an aim toward further restrictions to discourage antenna applications in districts where they are not appropriate. This should be done in part with an aim to raise the 'entrance cost' such that applications which are not likely to be diligently pursued to completion would not be submitted in the first place.
- **Automotive Uses.** As industrial uses, automotive facilities are somewhat unique in that, while they present a full range of typical industrial externalities and none of the more desirable neighborhood commercial traits, anecdotal evidence suggests that automotive uses remain useful components of NCD's. However, of all land uses, automotive uses along with fast-food restaurants are the only uses to demonstrate a consistent downward trend in applications filed during the study period with roughly 10 percent of the total number of applications for each use being filed in the most recent five year period. While fast food uses are often culturally charged by their corporate or chain-store nature, automotive establishments, especially those in NC districts, are almost entirely locally owned small businesses. Their decline in numbers, along with the general incompatibility with the principles of NC zoning, suggests that the prevailing trend be allowed to play itself out. No action to prohibit new such facilities is recommended at this time.

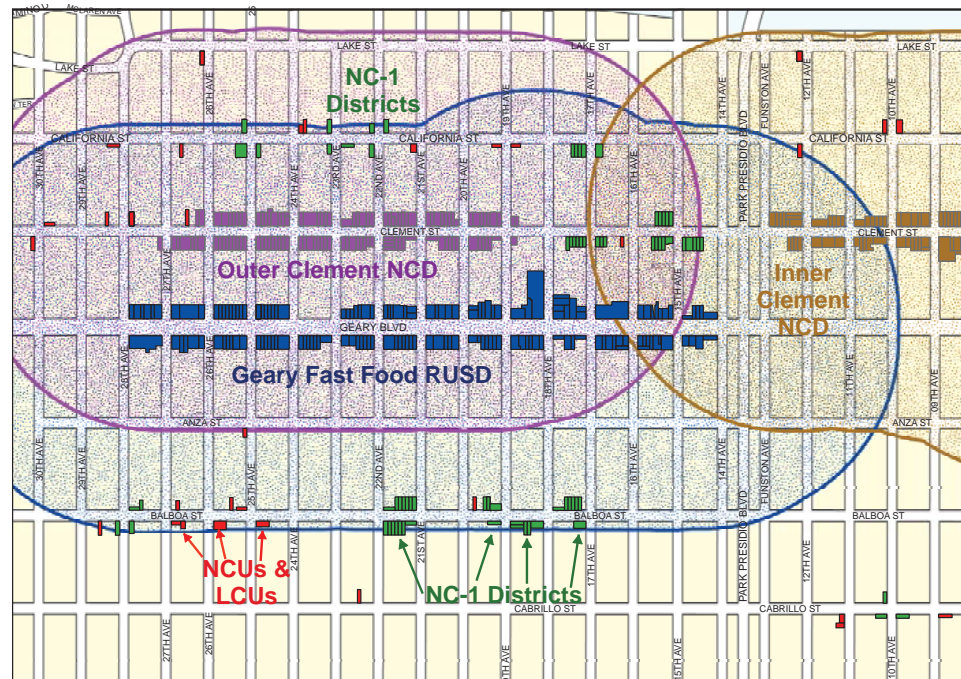
- **Automatic teller machines.** ATM's, when not inside a place of business, are considered to be "walk-up facilities" which are generally permitted if recessed from a front property line by three feet or, if not recessed, are permitted only with a Conditional Use authorization. While a sizeable portion of ATM's in the City are associated with and attached to a building housing a financial or limited financial service, "mini-ATM's," which are small, sometimes mobile automatic teller machines, are generally not associated with a particular financial institution and rather are leased to a businesses and placed inside or outside that business. Mini-ATM's typically charge high user fees and provide only withdrawal (not deposit) services. The prevalence of mini-ATM's throughout the City suggests that they are quite lucrative for their lessors. Mini-ATM's are a phenomenon which did not exist in the 1980's when the NC controls were first crafted.
 - *Design.* Unlike conventional ATM's, which are typically integrated with the façade design of the financial institution to which they are associated and attached, mini-ATM's, because of their nature as a mass-produced product, are generally aesthetically incongruent with the building to which they are affixed, in violation of the General Plan's urban design goals. Moreover, given the nature of conventional ATM's both as (1) de-facto advertising and (2) customer amenity for the associated financial institution, experience indicates that conventional ATM's and their surrounding environments are maintained in a superior fashion than are mini-ATM's, which frequently become magnets for vandalism and can fall into disrepair.
 - *Compliance.* Often times, mini-ATM's are placed inside a commercial use, precluding these concerns, but in cases where they are placed outside an establishment or are street facing, a clear problem with compliance has been noted. In particular, regardless of the Planning Code's requirement for Conditional Use authorization for ATM's not set back by 3 feet, building permits or CU authorizations are seldom sought. Admittedly, the Department has prioritized enforcement of life-safety and other related issues above unpermitted mini-ATM's, but the widespread nature of ATM violations calls the role of regulation into question. More specifically, a CU



requirement (or any other control) is irrelevant if no permits or entitlements are ever sought. Furthermore, the fundamental appropriateness of the 3 foot setback requirement is not clear. It would appear that the user of an ATM which is not recessed by 3 feet would not significantly block the sidewalk during his or her use of the machine, while the setback itself may - especially in less-traveled locations - be the locus of vandalism, encampments, and criminal activity.

- **Policy options.** While it is possible that Mini-ATM's could be designed, installed, and maintained in a fashion appropriate for the NC districts, this would represent a significant shift from the current norm. Given this, a general policy designed to discourage, or at the least further scrutinize mini-ATM's should be considered. A typical control for this purpose would be a CU requirement, but as discussed above, while this may theoretically reduce the quantity and increase the quality of mini-ATM's, it may just as likely discourage applicants from filing applications in the first place. Raising the proverbial bar could result in project sponsors not even attempting to reach it. As such, further study on this issue is needed. At the present, the trade-offs involved are such that no solution is apparent.
- **Entertainment permitting.** In NC Districts, entertainment-type land uses generally fall within the category of 'other entertainment.' As defined in Code Section 790.38, other entertainment includes a broad spectrum of uses which provides "live entertainment, including dramatic and musical performances, and/or operates as a dance hall which provides amplified taped music for dancing on the premises."
 - In broad terms, any use which requires a 'Place of Entertainment' permit from the Entertainment Commission falls within the 'other entertainment' category. The reality of this definition – in today's hospitality environment – is that it comprises uses which range from regional destination nightclubs, to acoustic folk-music performances at coffee houses, to pre-recorded background music played over a PA system at a full-service restaurant. These uses are allowed as a Conditional Use on the first floor in all of the named NCDs with the exception of the West Portal NCD, where such uses are not allowed. With respect to general NC Districts, other entertainment is not allowed in the NC-1 District, but it is a permitted use in the NC-2, NC-3, and NC-S districts.
 - The existing one-size-fits-all approach to entertainment uses in NC districts should be revisited. It would appear that markedly different land use characteristics are found in (1) a live guitarist playing background music at a neighborhood restaurant and (2) a cavernous warehouse hosting a professional DJ playing dance music to a crowd of hundreds. Accordingly, a different regulatory approach should be used. It is recommended that further distinctions be drawn between classes of entertainment uses in order to more widely permit those uses with limited externalities (incidental performances with no quality-of-life impacts to the neighborhood) and to additionally restrict entertainment uses which would have more apparent neighborhood impacts.

Figure III-1
Quarter mile radii of
Outer Clement NCD, Inner
Clement NCD, Geary Fast
Food RUSD, nearby NC-1
Districts, and LCU's



GENERAL POLICY AND PROCESSES RECOMMENDATIONS

Derived chiefly from the experiences of Department Staff, the business community, neighborhood advocates, and other members of the public, a number of significant recommendations have emerged that do not necessarily have bearing on a particular land use or zoning district. These issues are discussed below.

- Quarter-mile radius provisions.** Land use controls which apply in most NC districts areas are generally a function of a base zoning district (e.g. NC -3, Valencia-NCD) along with an SUD or RUSD, if applicable, which functions as an overlay. However, the reach of the zoning controls for named NC districts and RUSD's does not necessarily end at the districts' boundaries. Parcels which are zoned NC-1 or those which contain nonconforming uses (NCU's) or limited commercial uses (LCU's) are not only subject to the base zoning requirements, but are also subject to the more restrictive of any requirement of any named NCD or RUSD within $\frac{1}{4}$ mile of the parcel. Overlapping quarter-mile radius areas can result in a set of land use controls which are arguably more restrictive than intended. Consider the NC-1 cluster at Clement and 15th Avenue, in the example above. This district is within the zoning control sphere of three separate districts that have quarter-mile buffers: Outer Clement NCD (magenta, in the example above), Inner Clement NCD (light brown, in the example above),

and the Geary Fast Food RUSD (blue, in the example above). Because the NC-1 Districts, NCU's, and LCU's which are outside of the named NCD's are often 'off-the-beaten-track' and therefore may be less expensive to lease, these locations are often superior incubator sites for small businesses. Under current Code provisions, they are subject to a much greater level of scrutiny than perhaps is appropriate. Accordingly, it is recommended that a suitable relaxation of the ¼ mile radius provisions be examined. While the premise of extending specially tailored land use regulations to close-by areas is sound, the on-the-ground effect of extending multiple, distinct groups of restrictions to a single parcel is questionable.

- **NC Design Guidelines.** When the Neighborhood Commercial Rezoning Study (NCRS) team was preparing zoning controls and General Plan amendments during the mid-1980s, considerable effort went into the development of various sets of guidelines. Among these were the core components of design guidelines. The NCRS team's intent was for the guidelines to be consulted frequently and utilized when a question arose about urban design or particular architectural features.
 - While this remains a worthwhile goal, the framework for the NC Design Guidelines remains largely undeveloped and relatively hidden within the General Plan. It has not been crafted into a mature set of design guidelines as is the case with the Department's Residential Design Guidelines. Indeed, there are references within existing provisions of the Planning Code which call out 'Neighborhood Commercial Design Guidelines' by name, yet no document exists.
 - In general terms, Staff currently adapts the Residential Design Guidelines for neighborhood commercial design review. However, a new separate Neighborhood Commercial Design Guidelines publication, if clearly written and well illustrated, could be helpful to staff, project sponsors, decision makers, and the public in the review of projects located in NC districts. It would also serve as a tool for designers and their clients in making preliminary design decisions and would increase public awareness of design issues and options. Design guidelines tailored to Neighborhood Commercial Districts would help to reinforce the established character of NC districts, protect their visual qualities, and improve the caliber of future development. It is anticipated that a Neighborhood Commercial Design Guidelines document would address issues including siting, height, massing, proportion, rhythm, materials, details, roofs, windows, projections, elevations, landscape features, and parking. Following the drafting and public vetting of any proposed Neighborhood Commercial Guidelines, the Planning Commission would review and ultimately adopt them along with any associated text changes to the Planning Code, which would subsequently be reviewed by the Board of Supervisors.



- **Ground level commercial space in new mixed-use buildings.** Over the years, as development pressures have continued to mount in the City and as builders attempt to maximize financial return on mixed-use projects within finite buildable envelopes in sought-after neighborhood commercial districts, there has been a corresponding increase in concern over the quality of associated ground level commercial spaces.
 - The majority of NC districts are zoned for 40 or 50 foot height limits, leading to development which typically features a ground level commercial space below three or four residential levels, respectively. The resulting 10 foot floor-to-floor geometry, along with market and financial pressure to maximize residential ceiling heights, leads to ground level commercial spaces with finished ceiling heights of between 8 and 9 feet.
 - This commercial space looks and feels crowded and cramped, and does not afford an experience which is enjoyable for the patron or attractive to businesses. While a mixed-use project with such a space may have addressed the underlying land use ideals of the NC controls (a mix of uses and a nod to the public realm), the commercial space in question leads to ground floor retail environments of poor quality, has spill-over economic effects, and robs the streetscape environment of active, vital uses which should help to define the City's various NC Districts.
 - In order to encourage more appropriate ground floor ceiling heights in projects which must contend with the economic realities of development in dense urban environments, further study of policies which would establish a modest height bonus – perhaps no greater than 5 additional feet to be used only to increase the ceiling height of ground level commercial spaces – should be performed. Encouraging higher ceilings on the ground floor enables ample light and air to penetrate the ground floor, and in combination with adequate fenestration, adds transparency



to the façade. Borrowing from concepts crafted as part of the Department's Market and Octavia and Eastern Neighborhoods Plans, a potential legislative change should be contemplated. Any such change would be vetted through all appropriate channels, including CEQA, neighborhood groups, the Planning Commission, and ultimately the Board of Supervisors.

- **Reporting to the Board of Supervisors.** As part of the original NC controls, the Planning Department was required to prepare a biennial report on the NC controls for review and comment by the public, the Planning Commission, and the Board of Supervisors. To date, two status report have been prepared. The first, dated October 1994, was reviewed only by the Planning Commission. The second, dated January 1999, was never advanced beyond the internal draft stage. While the Department supports a strong reporting requirement as it provides an opportunity to make needed improvements and to solicit feedback from stakeholder groups, the existing reporting requirement has yet to be completely satisfied in the twenty years it has been in place. It is felt that in the current development environment, where (1) development projects might require multiple years of CEQA review, aside from other entitlements and actual construction time, and (2) long range planning programs span as long as 10 years, a longer evaluation window is appropriate. Such window would allow for an adequate and informative assessment of the performance of zoning controls. A five-yearly review, if not longer, would allow for this.
- **Good neighbor policies.** Article 8 of the Planning Code, which governs the Mixed Use Districts, identifies required 'good neighbor' conditions for certain land uses (bar, restaurant and nighttime entertainment uses among others). NC Districts, while of a very similar character have no such provisions. In many instances, conditions of approval are attached to CU approvals in NC districts to a similar effect, but such conditions are somewhat inconsistent and are a matter of discretionary policy rather than a Code requirement. It is recommended that the City incorporate a similar set of good neighbor policies into Article 7.
- **Massage Establishments.** Of particular scrutiny in recent years, massage establishments are one of a handful of often-problematic land uses in NC districts and elsewhere. While the majority of massage establishments provide a legitimate therapeutic service, it has been suggested (and in many cases documented) that some are illegal fronts for prostitution and human trafficking. As a result, the regulatory apparatus for massage establishments has mushroomed and now spans multiple agencies. During the research, drafting, and public review stages of this document, a number of technical and policy issues regarding massage establishments were identified for improvement. Particularly, difficult-to-enforce saturation requirements and accessory massage provisions were targeted. In the summer of 2009, the City adopted new controls under Ordinance Number 139-09 which amended the Planning Code in order to address these two issues along with other problematic provisions. Accordingly, while the pressing need for a legislative remedy has diminished, the Department should continue to closely monitor the implementation of these changes and be prepared to propose further amendments, if necessary.

Moving Forward

NC CONTROLS FOR THE NEXT 20 YEARS

This document has presented the foundations for, experiences with, and lessons from, the City's Neighborhood Commercial Zoning Controls. With foundations in the 1970's and enabling legislation in the 80's, the NC Controls are a mature and fundamental component of San Francisco's zoning framework that continue to shape our neighborhoods today. The durability of the Article 7 framework and the logical growth of the provisions it contains have served the neighborhoods well and have further been the basis for subsequent rezonings in the early 1990's in the South of Market and Chinatown and more recently in the Market and Octavia, Balboa Park, and Eastern Neighborhoods Plan Areas.

Accordingly, the future of the NC Controls – including potential changes to those controls - must be carefully considered. While this document presents three interlinked 'corner-stone' recommendations, one in particular should guide the implementation of all other recommendations. Future changes to the NC Controls must be informed by a comprehensive inter-use and inter-district view of the controls in light of concerns and interests from all involved groups. Because the controls and their underlying principles are woven throughout all NC districts and even extend beyond neighborhood commercial areas, measured changes – while necessary – should not be entered into lightly. A thoughtful process involving key stakeholders will ensure that amendments are not haphazard and approach shared problems with balanced solutions.

The imperative for a comprehensive process rather than a piecemeal approach should of course be informed by the City's experiences with the NC Controls to date. Small businesses, as vital building blocks in the local economy and neighborhood character, must be preserved and enhanced. While well-intentioned, current zoning controls are largely inadequate in this respect. Similarly, controls for restaurants and related uses are largely incongruous with their contemporary nature and with the evolving desires of many neighborhoods. Other recommendations provided in this report, including district and use-specific suggestions along with those that address broader policy and process goals should be moved forward for consideration through a larger planning process.

Using the framework set forth in this document, the Department would strongly support the comprehensive planning process that is essential to rethinking NC Controls for the next twenty years and beyond. Along with appropriate budgetary support from the Board of Supervisors and Mayor, an inclusive participatory process will lead to an even more robust set of controls for the City's Neighborhood Commercial Districts.

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