



# SAN FRANCISCO PLANNING DEPARTMENT

## Executive Summary Conditional Use

HEARING DATE: DECEMBER 12, 2013

*Date:* December 5, 2013  
*Case No.:* **2013.0894C**  
*Project Address:* **2016 Market Street**  
*Zoning:* Upper Market Neighborhood Commercial Transit District  
40/85-X Height and Bulk District  
*Block/Lot:* 3536/001  
*Project Sponsor:* Ahmad Mohazab  
c/o See's Candies Inc.  
210 El Camino Real  
South San Francisco, CA 94080  
*Staff Contact:* Casey Noel – (415) 575-9125  
[casey.noel@sfgov.org](mailto:casey.noel@sfgov.org)  
*Recommendation:* **Disapproval**

1650 Mission St.  
Suite 400  
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Planning  
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**415.558.6377**

### PROJECT DESCRIPTION

The project sponsor proposes a change of use from a formula retail store (d.b.a. Mike's Cameras) to a formula retail specialty grocery (d.b.a. See's Candies) at 2016 Market Street, pursuant to Planning Code Sections 303 and 703.4. The proposed formula retail specialty grocery would offer chocolates and candy products. The proposed hours of operation would be from 9:00 a.m. to 7:00 p.m. Monday-Friday, 11:00 a.m. to 5:00 p.m. Saturday, and 12:00 p.m. to 5:00 p.m. Sunday.

The proposed Project would occupy approximately 1,931 sq. ft. of floor area. The Project would not result in any expansion of the existing building, although improvements would be made to the interior and exterior including the installation of new signage.

See's is headquartered in South San Francisco and has had a presence in the Bay Area since 1936. There are over 200 See's Candies locations nationwide.

### SITE DESCRIPTION AND PRESENT USE

The project is located at the northwest corner of Market and Duboce Streets within the Upper Market Street NCT (Neighborhood Commercial Transit District) and a 40/85-X Height and Bulk District. The Property is part of the Safeway Shopping Center at 2020 Market Street, which sits on a 69,452 sq. ft. triangular lot. The retail space is located in one of the external storefronts with an area of 1,931 sq. ft. and fronts the shopping center's parking lot facing Market Street. The subject location is currently occupied by a formula retail store (d.b.a. Mike's Cameras) that sells photography supplies.

## **SURROUNDING PROPERTIES AND NEIGHBORHOOD**

The Upper Market Street NCT is a multi-purpose commercial district that provides limited convenience goods to adjacent neighborhoods, but also serves as a shopping street for a broader trade area. A large number of offices are located on Market Street within easy transit access to downtown. The width of Market Street and its use as a major arterial diminish the perception of the Upper Market Street NCT as a single commercial district. The street appears as a collection of dispersed centers of commercial activity, concentrated at the intersections of Market Street with secondary streets.

The district is well served by transit and is anchored by the Market Street subway (with stations Church Street and Castro Street) and the F-Market historic streetcar line. All light-rail lines in the City traverse the district, including the F, J, K, L, M, N and T, and additional key cross-town transit service crosses Market Street at Fillmore and Castro Streets. Additionally, Market Street is a primary bicycle corridor. Housing density is limited not by lot area, but by the regulations on the built envelope of buildings, including height, bulk, setbacks, and lot coverage, and standards for residential uses, including open space and exposure, and urban design guidelines. Residential parking is not required and generally limited. Commercial establishments are discouraged or prohibited from building accessory off-street parking in order to preserve the pedestrian-oriented character of the district and prevent attracting auto traffic. There are prohibitions on access (i.e. driveways, garage entries) to off-street parking and loading on Market and Church Streets to preserve and enhance the pedestrian-oriented character and transit function.

The Upper Market Street NCT controls are designed to promote moderate-scale development, which contributes to the definition of Market Street's design and character. They are also intended to preserve the existing mix of commercial uses and maintain the livability of the district and its surrounding residential areas. To promote mixed-use buildings, most commercial uses are permitted with some limitations above the second story. In order to maintain continuous retail frontage and preserve a balanced mix of commercial uses, ground-story neighborhood-serving uses are encouraged, and eating and drinking, entertainment, and financial service uses are limited. Ground floor-commercial space is required along Market and Church Streets, and most automobile and drive-up uses are prohibited or conditional.

Land uses located within the immediate vicinity of this subject include predominantly two- and three-story buildings that contain a range of commercial uses on the ground and upper floors including retail stores, eating and drinking establishments, and financial, medical, professional and personal services. The project site is located in the Safeway Shopping Center, which contains Safeway with its ancillary sub tenancies, Starbucks, Jamba Juice, GNC, and Mike's Cameras. Several buildings within the block also contain multi-family dwelling units above the ground floor. This area of the Upper Market Street NCT bounds the Upper Market Street Neighborhood Commercial District (NCD) to the southwest, which begins at Noe and 16th Streets.

## **ENVIRONMENTAL REVIEW**

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption.

## HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	November 22, 2013	November 20, 2013	22 days
Posted Notice	20 days	November 22, 2013	November 21, 2013	21 days
Mailed Notice	20 days	November 22, 2013	November 21, 2013	21 days

The proposal requires a Section 312-neighborhood notification, which was conducted in conjunction with the conditional use authorization process.

## PUBLIC COMMENT

- To date, the Department has received 3 letters in support of the Project from the public, the Castro/Upper Market Community Benefit District and Castro Merchants/Merchants of Upper Market & Castro. The Department has not received any communications in opposition to the proposal.

## ISSUES AND OTHER CONSIDERATIONS

- The Commission recently adopted a policy that established a standardized method for determining the existing and appropriate concentration of formula retail uses in the Upper Market Neighborhood that extends from Octavia Boulevard to Castro Street. The existing percentage of Formula Retail surrounding the project exceeds 20% and the proposed replacement of an existing formula retail storefront would not increase the current percentage of 33%. The policy requires the Planning Department to recommend disapproval of any project that brings the concentration of formula retail within 300 feet of the subject property to 20% or greater, however the Commission still retains its discretion to approve or disapprove the project.

## REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant conditional use authorization to allow the establishment of a formula retail store within the Upper Market NCT, pursuant to Planning Code Section 303 and 703.4.

## BASIS FOR RECOMMENDATION

- **Upper Market NCT Formula Retail Threshold:** Although the Department believes that this project would not threaten the neighborhood serving character of the Upper Market NCT, the required recommendation is for disapproval solely due to the Upper Market NCT Formula Retail Threshold. The proposed project does not intensify the percentage of formula retail since it replaces an existing formula retail establishment within the formula retail oriented Safeway Shopping Center.

<b>RECOMMENDATION:</b> <b>Disapproval</b>
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Attachments:

**Executive Summary**  
**Hearing Date: December 12, 2013**

**CASE NO. 2013.0894 C**  
**2016 Market Street**

Block Book Map

Sanborn Map

Zoning Map

Aerial Photographs

Site Photo

Public Correspondence

Project Sponsor Submittal, including:

- Site Photographs

- Reduced Plans

Attachment Checklist

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Executive Summary   | <input checked="" type="checkbox"/> Project sponsor submittal                              |
| <input checked="" type="checkbox"/> Draft Motion        | Drawings: <u>Existing Conditions</u>   |
| <input type="checkbox"/> Environmental Determination    | <input checked="" type="checkbox"/> Check for legibility                                   |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u>  |
| <input checked="" type="checkbox"/> Height & Bulk Map   | <input checked="" type="checkbox"/> Check for legibility                                   |
| <input checked="" type="checkbox"/> Parcel Map          | 3-D Renderings (new construction or significant addition)                                  |
| <input checked="" type="checkbox"/> Sanborn Map         | <input type="checkbox"/> Check for legibility  |
| <input checked="" type="checkbox"/> Aerial Photo        | <input type="checkbox"/> Wireless Telecommunications Materials                             |
| <input checked="" type="checkbox"/> Context Photos      | <input type="checkbox"/> Health Dept. review of RF levels                                  |
| <input checked="" type="checkbox"/> Site Photos         | <input type="checkbox"/> RF Report   |
|   | <input type="checkbox"/> Community Meeting Notice  |
|   | <input type="checkbox"/> Housing Documents   |
|   | <input type="checkbox"/> Inclusionary Affordable Housing Program: Affidavit for Compliance |
|   | <input type="checkbox"/> Residential Pipeline  |

Exhibits above marked with an "X" are included in this packet

CJN

Planner's Initials

KG: G:\Documents\CU\2016 Market Street\_2013.0894C\Reports\ExecutiveSummary\_2016 Market Street\_2013.0894C.doc



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
- Other

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## Planning Commission Draft Motion

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**ADOPTING FINDINGS RELATING TO THE DISAPPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303 AND 703.4 OF THE PLANNING CODE, TO ALLOW A FORMULA RETAIL SPECIALTY GROCERY (D.B.A. SEE'S CANDIES) WITHIN THE UPPER MARKET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT (NCT) AND A 40/85-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On July 5, 2013, Ahmad Mohazab on behalf of See's Candies Inc. (hereinafter "Project Sponsor") filed an application (hereinafter "Application") with the Planning Department (hereinafter "Department") for Conditional Use authorization pursuant to Planning Code Sections 303 and 703.4, on the property located at 2016 Market Specialty Grocery (d.b.a. See's Candies) within the Upper Market Street Neighborhood Commercial Transit District (hereinafter "Upper Market NCT") and a 40/85-X Height and Bulk District.

On December 12, 2013, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2013.0894C.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption under CEQA.

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

**MOVED**, that the Commission hereby disapproves the Conditional Use requested in Application No. 2013.0894C based on the following findings:

## FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project is located at the northwest corner of Market and Duboce Streets within the Upper Market Street NCT (Neighborhood Commercial Transit District) and a 40/85-X Height and Bulk District. The Property is part of the Safeway Shopping Center at 2020 Market Street, which sits on a 69,452 sq. ft. triangular lot. The retail space is located in one of the external storefronts with an area of 1,931 sq. ft. and fronts the shopping center's parking lot facing Market Street. The subject location is currently occupied by a formula retail store (d.b.a. Mike's Cameras) that sells photography supplies.
3. **Surrounding Properties and Neighborhood.** The Upper Market Street NCT is a multi-purpose commercial district that provides limited convenience goods to adjacent neighborhoods, but also serves as a shopping street for a broader trade area. A large number of offices are located on Market Street within easy transit access to downtown. The width of Market Street and its use as a major arterial diminish the perception of the Upper Market Street NCT as a single commercial district. The street appears as a collection of dispersed centers of commercial activity, concentrated at the intersections of Market Street with secondary streets.

The district is well served by transit and is anchored by the Market Street subway (with stations Church Street and Castro Street) and the F-Market historic streetcar line. All light-rail lines in the City traverse the district, including the F, J, K, L, M, N and T, and additional key cross-town transit service crosses Market Street at Fillmore and Castro Streets. Additionally, Market Street is a primary bicycle corridor. Housing density is limited not by lot area, but by the regulations on the built envelope of buildings, including height, bulk, setbacks, and lot coverage, and standards for residential uses, including open space and exposure, and urban design guidelines. Residential parking is not required and generally limited. Commercial establishments are discouraged or prohibited from building accessory off-street parking in order to preserve the pedestrian-oriented character of the district and prevent attracting auto traffic. There are prohibitions on access (i.e. driveways, garage entries) to off-street parking and loading on Market and Church Streets to preserve and enhance the pedestrian-oriented character and transit function.

The Upper Market Street NCT controls are designed to promote moderate-scale development which contributes to the definition of Market Street's design and character. They are also intended to preserve the existing mix of commercial uses and maintain the livability of the district and its surrounding residential areas. To promote mixed-use buildings, most commercial uses are permitted with some limitations above the second story. In order to maintain continuous retail frontage and preserve a balanced mix of commercial uses, ground-story neighborhood-serving uses are encouraged, and eating and drinking, entertainment, and financial service uses are limited. Ground floor-commercial space is required along Market and Church Streets, and most automobile and drive-up uses are prohibited or conditional.

Land uses located within the immediate vicinity of this subject include predominantly two- and three-story buildings that contain a range of commercial uses on the ground and upper floors including retail stores, eating and drinking establishments, and financial, medical, professional and personal services. The project site is located in the Safeway Shopping Center, which contains Safeway with its ancillary sub tenancies, Starbucks, Jamba Juice, GNC, and Mike's Cameras. Several buildings within the block also contain multi-family dwelling units above the ground floor. This area of the Upper Market Street NCT bounds the Upper Market Street Neighborhood Commercial District (NCD) to the southwest, which begins at Noe and 16<sup>th</sup> Streets.

4. **Project Description.** The Project Sponsor seeks a Conditional Use Authorization, pursuant to Planning Code Sections 303 and 703.4, for a change of use from a formula retail store (d.b.a. Mike's Cameras) to a formula retail specialty grocery (d.b.a. See's Candies). The proposed formula retail specialty grocery would offer chocolates and candy products. The proposed hours of operation would be from 9:00 a.m. to 7:00 p.m. Monday-Friday, 11:00 a.m. to 5:00 p.m. Saturday, and 12:00 p.m. to 5:00 p.m. Sunday.

The proposed Project would occupy approximately 1,931 sq. ft. of floor area. The Project would not result in any expansion of the existing building, although improvements would be made to the interior and exterior including the installation of new signage.

See's is headquartered in South San Francisco and has had a presence in the Bay Area since 1936. There are over 200 See's Candies locations nationwide.

5. **Public Comment.** The Department has received 2 letters in support of the Project from the public and the Castro/Upper Market Community Benefit District. The Department has not received any communications in opposition to the proposal.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
  - A. **Formula Retail.** Planning Code Section 703.3 defines a formula retail use as a type of retail sales activity or retail sales establishment which, along with eleven or more retail sales establishments located in the United States, maintains two or more of the following features: a standardized array of merchandise, a standardized façade, a standardized décor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark. Planning

Code Section 703.4 requires Conditional Use Authorization from the Planning Commission for all new Formula Retail Uses within all Neighborhood Commercial Districts.

*The proposed specialty grocery has more than eleven locations in the United States, would offer a standardized array of goods and has a standardized décor, color scheme, signage and trademark. Therefore, it is considered a formula retail use. As such, the Sponsor has applied for Conditional Use Authorization to establish the proposed See's Candies in the Upper Market NCT.*

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does not comply with said criteria in that:

A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

*Formula retail businesses have a competitive advantage over independent retailers because they are typically better capitalized and can absorb larger startup costs, pay more for lease space, and commit to longer lease contracts. This can put pressure on existing businesses and potentially price out new startup independent businesses.*

B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

*The height and bulk of the existing building will remain the same, but modifications to the façade and the interior will be made to provide service inside the building.*

ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

*Traffic conditions will remain substantially unaltered by this Project because the proposed use is a neighborhood-serving business that will be frequented by foot, bicycle or public transportation, and is well served by the K, L, M and T streetcar lines. The Planning Code does not require off-street parking for the proposed Project.*

iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

*The Project is not anticipated to produce noxious or offensive emissions related to noise, glare, dust and odor.*

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

*The Project would only include interior and exterior alterations to an existing building, and does not require off-street parking or loading areas. The Project Sponsor would submit any changes to signage and lighting to the Planning Department for review to ensure appropriate treatments are given.*

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

*The project does not comply with the applicable provisions of the Planning Code and is inconsistent with the Priority Policies and Commerce and Industry Element of the General Plan as detailed below.*

- D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

*The Project is a formula retail use that replaces an existing formula retail use that has vacated the storefront. The Project will prevent an additional vacant storefront in a growing neighborhood.*

- E. That the existing concentration of eating and drinking uses in the area should not exceed 25% of the total commercial frontage as measured in linear feet within the immediate area of the subject site. For the purposes of Section 303(p) of the Code, the immediate area shall be defined as all properties located within 300' of the subject property and also located within the same zoning district.

*The proposed use is not an eating and drinking use.*

- 8. **Planning Code Sections 303(i) and 703.4** require Conditional Use authorization for the establishment of a Formula Retail Use in Neighborhood Commercial Districts. The Planning Commission shall consider the following criteria set forth in Section 303(i) in addition to the criteria set forth in Section 303(c):

- A. The existing concentrations of Formula Retail Uses within the Neighborhood Commercial District.

*Within 300 feet of the Subject Property in the Upper Market Street NCT, there are multiple Formula Retail Uses that include Whole Foods, Safeway, Starbucks, Jamba Juice, GNC, and Mike's Cameras that occupy commercial frontage and have a concentration of 33%. The proposed Project replaces an existing formula retail use and would maintain the concentration of Formula Retail Uses at 33% within 300 feet of the Subject Property.*

- B. The availability of other similar retail uses within the Neighborhood Commercial District.

*There are no other specialty groceries within the Upper Market NCT that serve primarily chocolates and candy products.*

- C. The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the Neighborhood Commercial District.

*The Project replaces an existing formula retail use within the formula retail oriented Safeway Shopping Center.*

- D. The existing retail vacancy rates within the Neighborhood Commercial District.

*There are currently nine vacant commercial storefronts in the Upper Market NCT, including two that have pending Conditional Use Authorization Applications.*

- E. The existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the Neighborhood Commercial District.

*The Upper Market NCT contains primarily independently owned eating and drinking establishments, retail sales and services, personal services, laundry services, professional services and financial institutions that serve not only the immediate neighborhood but also the City as whole. Since there are no other specialty groceries within the Upper Market NCT that serve primarily chocolates and candy products, the Project does not detract from the existing mix of Citywide and neighborhood-serving uses within the District.*

9. **General Plan Compliance.** The Project is, on balance, inconsistent with the following Objectives and Policies of the General Plan:

## **NEIGHBORHOOD COMMERCE**

### **Objectives and Policies**

#### **OBJECTIVE 6:**

**MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.**

#### **Policy 6.1:**

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the City's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

*The proposed formula retail use will replace a pre-existing formula retail store and continue to add to the neighborhood character and diversity. Formula retail businesses offering similar products have a competitive advantage over non-formula retail businesses because they are often better capitalized and therefore can commit to longer and more expensive leases. This could potentially put pressure on existing*

*businesses for higher rents. Higher rents may prohibit a new independent business from locating in the subject neighborhood where many have started and sustained.*

**Policy 6.2:**

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

*The Project is a formula retail use and is not considered a small business enterprise. Formula retail businesses have a competitive advantage over independent retailers because they are typically better capitalized and can absorb larger startup costs, pay more for lease space, and commit to longer lease contracts. This can put pressure on existing businesses and potentially price out new startup independent businesses, which will negatively impact the economic vitality of the Upper Market NCT.*

10. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does not comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

*The Project would not displace an existing retail use but could potentially adversely affect future opportunities for independent and local ownership of a business at this location.*

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

*Although no changes are proposed to the existing building envelope and no existing housing will be removed, the Project would be detrimental to the neighborhood by using standardized architecture, color schemes, decor and signage that will detract from the distinctive character of the Upper Market Neighborhood which includes primarily local, independent retail businesses.*

- C. That the City's supply of affordable housing be preserved and enhanced,

*No housing would be removed for this Project.*

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

*The Project would have a low demand on neighborhood parking. The area is well served by public transit, with MUNI underground stations at Church and Castro Streets, with access to the K, L, M and T metro lines and the F streetcar line. The Project will not impede MUNI transit nor will it overburden the City's streets or neighborhood parking.*

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

*The Project would not displace any industrial and service sector uses.*

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

*The Project would be designed and constructed to comply with all required seismic and life safety codes in order to achieve the possible preparedness to protect against injury and loss of life in the event of an earthquake.*

- G. That landmarks and historic buildings be preserved.

*The existing structure is not a landmark or historic building, but is located within the potential Upper Market Street Commercial Historic District that extends from 14<sup>th</sup> Street to Noe Street. The proposed alterations will not expand the envelope of the building will not have a negative impact on the character and integrity of this potential historic district.*

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

*The Project would not include any changes to the existing building envelope and will have no negative impact on existing parks and open spaces.*

11. The Project is inconsistent with and would not promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would not contribute to the character and stability of the neighborhood and would not constitute a beneficial development.
12. The Commission hereby finds that approval of the Conditional Use authorization would not promote the health, safety and welfare of the City.

**DECISION**

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **DISAPPROVES Conditional Use Application No. 2013.0894C** as submitted on July 5, 2013.

**APPEAL AND EFFECTIVE DATE OF MOTION:** Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. XXXXX. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on December 12, 2013.

Jonas P. Ionin  
Acting Commission Secretary

AYES:

NAYES:

ABSENT:

ADOPTED: December 12, 2013



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
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### PREAMBLE

On July 5, 2013, Ahmad Mohazab on behalf of See's Candies Inc. (hereinafter "Project Sponsor") filed an application (hereinafter "Application") with the Planning Department (hereinafter "Department") for Conditional Use authorization pursuant to Planning Code Sections 303 and 703.4, on the property located at 2016 Market Specialty Grocery (d.b.a. See's Candies) within the Upper Market Street Neighborhood Commercial Transit District (hereinafter "Upper Market NCT") and a 40/85-X Height and Bulk District.

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

**MOVED**, that the Commission hereby approves the Conditional Use requested in Application No. 2013.0894C based on the following findings:

## **FINDINGS**

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project is located at the northwest corner of Market and Duboce Streets within the Upper Market Street NCT (Neighborhood Commercial Transit District) and a 40/85-X Height and Bulk District. The Property is part of the Safeway Shopping Center at 2020 Market Street, which sits on a 69,452 sq. ft. triangular lot. The retail space is located in one of the external storefronts with an area of 1,931 sq. ft. and fronts the shopping center's parking lot facing Market Street. The subject location is currently occupied by a formula retail store (d.b.a. Mike's Cameras) that sells photography supplies.
3. **Surrounding Properties and Neighborhood.** The Upper Market Street NCT is a multi-purpose commercial district that provides limited convenience goods to adjacent neighborhoods, but also serves as a shopping street for a broader trade area. A large number of offices are located on Market Street within easy transit access to downtown. The width of Market Street and its use as a major arterial diminish the perception of the Upper Market Street NCT as a single commercial district. The street appears as a collection of dispersed centers of commercial activity, concentrated at the intersections of Market Street with secondary streets.

The district is well served by transit and is anchored by the Market Street subway (with stations Church Street and Castro Street) and the F-Market historic streetcar line. All light-rail lines in the City traverse the district, including the F, J, K, L, M, N and T, and additional key cross-town transit service crosses Market Street at Fillmore and Castro Streets. Additionally, Market Street is a primary bicycle corridor. Housing density is limited not by lot area, but by the regulations on the built envelope of buildings, including height, bulk, setbacks, and lot coverage, and standards for residential uses, including open space and exposure, and urban design guidelines. Residential parking is not required and generally limited. Commercial establishments are discouraged or prohibited from building accessory off-street parking in order to preserve the pedestrian-oriented character of the district and prevent attracting auto traffic. There are prohibitions on access (i.e. driveways, garage entries) to off-street parking and loading on Market and Church Streets to preserve and enhance the pedestrian-oriented character and transit function.

The Upper Market Street NCT controls are designed to promote moderate-scale development which contributes to the definition of Market Street's design and character. They are also intended to preserve the existing mix of commercial uses and maintain the livability of the district and its surrounding residential areas. To promote mixed-use buildings, most commercial uses are permitted with some limitations above the second story. In order to maintain continuous retail frontage and preserve a balanced mix of commercial uses, ground-story neighborhood-serving uses are encouraged, and eating and drinking, entertainment, and financial service uses are limited. Ground floor-commercial space is required along Market and Church Streets, and most automobile and drive-up uses are prohibited or conditional.

Land uses located within the immediate vicinity of this subject include predominantly two- and three-story buildings that contain a range of commercial uses on the ground and upper floors including retail stores, eating and drinking establishments, and financial, medical, professional and personal services. The project site is located in the Safeway Shopping Center, which contains Safeway with its ancillary sub tenancies, Starbucks, Jamba Juice, GNC, and Mike's Cameras. Several buildings within the block also contain multi-family dwelling units above the ground floor. This area of the Upper Market Street NCT bounds the Upper Market Street Neighborhood Commercial District (NCD) to the southwest, which begins at Noe and 16<sup>th</sup> Streets.

4. **Project Description.** The Project Sponsor seeks a Conditional Use Authorization, pursuant to Planning Code Sections 303 and 703.4, for a change of use from a formula retail store (d.b.a. Mike's Cameras) to a formula retail specialty grocery (d.b.a. See's Candies). The proposed formula retail specialty grocery would offer chocolates and candy products. The proposed hours of operation would be from 9:00 a.m. to 7:00 p.m. Monday-Friday, 11:00 a.m. to 5:00 p.m. Saturday, and 12:00 p.m. to 5:00 p.m. Sunday.

The proposed Project would occupy approximately 1,931 sq. ft. of floor area. The Project would not result in any expansion of the existing building, although improvements would be made to the interior and exterior including the installation of new signage.

See's is headquartered in South San Francisco and has had a presence in the Bay Area since 1936. There are over 200 See's Candies locations nationwide.

5. **Public Comment.** The Department has received 2 letters in support of the Project from the public and the Castro/Upper Market Community Benefit District. The Department has not received any communications in opposition to the proposal.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
  - A. **Formula Retail.** Planning Code Section 703.3 defines a formula retail use as a type of retail sales activity or retail sales establishment which, along with eleven or more retail sales establishments located in the United States, maintains two or more of the following features: a standardized array of merchandise, a standardized façade, a standardized décor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark. Planning

Code Section 703.4 requires Conditional Use Authorization from the Planning Commission for all new Formula Retail Uses within all Neighborhood Commercial Districts.

*The proposed specialty grocery has more than eleven locations in the United States, would offer a standardized array of goods and has a standardized décor, color scheme, signage and trademark. Therefore, it is considered a formula retail use. As such, the Sponsor has applied for Conditional Use Authorization to establish the proposed See's Candies in the Upper Market NCT.*

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does not comply with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

*Formula retail businesses have a competitive advantage over independent retailers because they are typically better capitalized and can absorb larger startup costs, pay more for lease space, and commit to longer lease contracts. This can make for fewer storefront vacancies and more neighborhood stability. Additionally, some locations can better accommodate a formula retail use with minimum impact on the greater neighborhood commercial district.*

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

*The height and bulk of the existing building will remain the same, but modifications to the façade and the interior will be made to provide service inside the building.*

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

*Traffic conditions will remain substantially unaltered by this Project because the proposed use is a neighborhood-serving business that will be frequented by foot, bicycle or public transportation, and is well served by the K, L, M and T streetcar lines. The Planning Code does not require off-street parking for the proposed Project.*

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

*The Project is not anticipated to produce noxious or offensive emissions related to noise, glare, dust and odor.*

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

*The Project would only include interior and exterior alterations to an existing building, and does not require off-street parking or loading areas. The Project Sponsor would submit any changes to signage and lighting to the Planning Department for review to ensure appropriate treatments are given.*

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

*The project complies with the applicable provisions of the Planning Code and is consistent with the Priority Policies and Commerce and Industry Element of the General Plan as detailed below.*

- D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

*The Project is a formula retail use that replaces an existing formula retail use that has vacated the storefront. The Project will reduce commercial blight in a growing neighborhood.*

- E. That the existing concentration of eating and drinking uses in the area should not exceed 25% of the total commercial frontage as measured in linear feet within the immediate area of the subject site. For the purposes of Section 303(p) of the Code, the immediate area shall be defined as all properties located within 300' of the subject property and also located within the same zoning district.

*The proposed use is not an eating and drinking use. The chocolate and candy goods are typically consumed off site.*

- 8. **Planning Code Sections 303(i) and 703.4** require Conditional Use authorization for the establishment of a Formula Retail Use in Neighborhood Commercial Districts. The Planning Commission shall consider the following criteria set forth in Section 303(i) in addition to the criteria set forth in Section 303(c):

- A. The existing concentrations of Formula Retail Uses within the Neighborhood Commercial District.

*Within 300 feet of the Subject Property in the Upper Market Street NCT, there are multiple Formula Retail Uses that include Whole Foods, Safeway, Starbucks, Jamba Juice, GNC, and Mike's Cameras that occupy commercial frontage and have a concentration of 33%. The proposed Project replaces an existing formula retail use and would maintain the concentration of Formula Retail Uses at 33% within 300 feet of the Subject Property.*

- B. The availability of other similar retail uses within the Neighborhood Commercial District.

*There are no other specialty groceries within the Upper Market NCT that serve primarily chocolates and candy products.*

- C. The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the Neighborhood Commercial District.

*The Project replaces an existing formula retail use within the formula retail oriented Safeway Shopping Center.*

- D. The existing retail vacancy rates within the Neighborhood Commercial District.

*There are currently nine vacant commercial storefronts in the Upper Market NCT, including two that have pending Conditional Use Authorization Applications. The Project will prevent an additional storefront vacancy.*

- E. The existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the Neighborhood Commercial District.

*The Upper Market NCT contains primarily independently owned eating and drinking establishments, retail sales and services, personal services, laundry services, professional services and financial institutions that serve not only the immediate neighborhood but also the City as whole. Since there are no other specialty groceries within the Upper Market NCT that serve primarily chocolates and candy products, the Project does not detract from the existing mix of Citywide and neighborhood-serving uses within the District.*

9. **General Plan Compliance.** The Project is, on balance, inconsistent with the following Objectives and Policies of the General Plan:

## NEIGHBORHOOD COMMERCE

### Objectives and Policies

#### **OBJECTIVE 6:**

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

#### **Policy 6.1:**

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the City's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

*The proposed formula retail use will replace a pre-existing formula retail store and continue to add to the neighborhood character and diversity. Formula retail businesses offering similar products have a competitive advantage over non-formula retail businesses because they are often better capitalized and therefore can commit to longer and more expensive leases. This can make for fewer storefront vacancies and more neighborhood stability.*

**Policy 6.2:**

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

*The Project is a formula retail use and is not considered a small business enterprise. Formula retail businesses have a competitive advantage over independent retailers because they are typically better capitalized and can absorb larger startup costs, pay more for lease space, and commit to longer lease contracts. This can make for fewer storefront vacancies and more neighborhood stability, which will positively impact the economic vitality of the Upper Market NCT.*

10. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does not comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

*The Project would not displace an existing retail use but could potentially adversely affect future opportunities for independent and local ownership of a business at this location.*

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

*There are no changes proposed to the existing building envelope and no existing housing will be removed.*

- C. That the City's supply of affordable housing be preserved and enhanced,

*No housing would be removed for this Project.*

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

*The Project would have a low demand on neighborhood parking. The area is well served by public transit, with MUNI underground stations at Church and Castro Streets, with access to the K, L, M and T metro lines and the F streetcar line. The Project will not impede MUNI transit nor will it overburden the City's streets or neighborhood parking.*

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

*The Project would not displace any industrial and service sector uses.*

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

*The Project would be designed and constructed to comply with all required seismic and life safety codes in order to achieve the possible preparedness to protect against injury and loss of life in the event of an earthquake.*

- G. That landmarks and historic buildings be preserved.

*The existing structure is not a landmark or historic building, but is located within the potential Upper Market Street Commercial Historic District that extends from 14<sup>th</sup> Street to Noe Street. The proposed alterations will not expand the envelope of the building will not have a negative impact on the character and integrity of this potential historic district.*

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

*The Project would not include any changes to the existing building envelope and will have no negative impact on existing parks and open spaces.*

11. The Project is inconsistent with and would not promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would not contribute to the character and stability of the neighborhood and would not constitute a beneficial development.
12. The Commission hereby finds that approval of the Conditional Use authorization would not promote the health, safety and welfare of the City.

**DECISION**

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **DISAPPROVES Conditional Use Application No. 2013.0894C** as submitted on July 5, 2013.

**APPEAL AND EFFECTIVE DATE OF MOTION:** Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. XXXXX. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on December 12, 2013.

Jonas P. Ionin  
Acting Commission Secretary

AYES:

NAYES:

ABSENT:

ADOPTED: December 12, 2013

## **EXHIBIT A**

### **AUTHORIZATION**

This authorization is for a conditional use to allow a formula retail use (d.b.a. **See's Candies**) providing chocolate and candy goods at 2016 Market Street, Block 3536, and Lot 001 pursuant to Planning Code Sections **303 and 703.4** within an NCT (Neighborhood Commercial Transit) District and a **40/85-X** Height and Bulk District; in general conformance with plans, dated **July 5, 2013**, and stamped "EXHIBIT B" included in the docket for Case No. **2013.0804C** and subject to conditions of approval reviewed and approved by the Commission on **December 12, 2013** under Motion No. **XXXXX**. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

### **RECORDATION OF CONDITIONS OF APPROVAL**

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on **December 12, 2013** under Motion No. **XXXXX**.

### **PRINTING OF CONDITIONS OF APPROVAL ON PLANS**

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **XXXXX** shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

### **SEVERABILITY**

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

### **CHANGES AND MODIFICATIONS**

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

## Conditions of Approval, Compliance, Monitoring, and Reporting

### PERFORMANCE

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Conditional Use authorization is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org).*

2. **Extension** This authorization may be extended at the discretion of the Zoning Administrator only where failure to issue a permit by the Department of Building Inspection to perform said tenant improvements is caused by a delay by a local, State or Federal agency or by any appeal of the issuance of such permit(s).

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org).*

### MONITORING

2. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org).*

3. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org).*

## OPERATION

4. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the architectural addenda. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

5. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org/>*



584 Castro Street #336  
San Francisco, CA 94114  
PH 415.500.1181  
FX 415.522.0395  
www.castrocbd.org  
www.facebook/  
castrocbd  
@visiftheastro

November 18, 2013

Rodney Fong, President  
San Francisco Planning Commission  
1650 Mission Street, Suite 400  
San Francisco, CA 94103-2414  
Re: 2018 Market St., See's Candy Conditional Use Authorization  
Request

Dear Commission President Fong and Fellow Commissioners,

This letter is written to express the Castro/Upper Market Community Benefit District (Castro CBD) support for See's Candy's Conditional Use application to locate at 2018 Market Street. Though approval of this conditional use application increases the formula retail concentration, it is being proposed for an area that already has over the allowed 20% concentration within a 300 foot area, 2018 Market Street is in a shopping center that is all formula retail with a Safeway store as the anchor tenant and a Whole Foods across the street. Additionally, the address is set back significantly, away from Market Street and the sidewalk. This site will not add to the existing formula retail branding for Safeway already in place on this block.

The Castro CBD found that a See's Candy at this location would not have any negative impacts related to parking, deliveries fall within the guidelines at the Safeway Center, as does the external façade of the store. The Castro CBD further found that it brings a new business type to the neighborhood, and See's has committed charitable giving to the neighborhood, specifically to the Gay Men's Chorus and the San Francisco AIDS Foundation, predating the Conditional Use request by several years.

The Castro CBD is happy to work with See's as it moves into the neighborhood.

If you have any questions about this position, please do not hesitate to contact the Castro CBD at 415-500-1181.

Sincerely,

A handwritten signature in blue ink, appearing to read "Andrea Aiello". The signature is fluid and cursive, with the first name "Andrea" and last name "Aiello" clearly distinguishable.

Andrea Aiello  
Executive Director

cc: Supervisor Scott Wiener  
Casey Noel, Planner, S.F. Planning Department



584 Castro Street, # 333  
San Francisco CA 94114-2512  
415/431-2359  
Email [MUMC-SF@earthlink.net](mailto:MUMC-SF@earthlink.net)  
[www.CastroMerchants.com](http://www.CastroMerchants.com)

Terry Asten Bennett, President  
415/431-5365 Ext. 4  
[TerryAsten@cs.com](mailto:TerryAsten@cs.com)

December 4, 2013

By Email and USPS hardcopy

Casey Noel, Staff Planner  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco CA 94103-2479

Re: Planning Case No. 2013.0894C, Request for Conditional Use Authorization for Formula Retail  
See's Candy at 2016 Market Street

Dear Mr. Noel,

This confirms that the Members of **Castro Merchants/Merchants of Upper Market & Castro (MUMC)** have voted to **SUPPORT** the Request for Conditional Use Authorization for a Formula Retail Use (and any related approvals) by See's Candy at 2016 Market Street. We understand that Planning Commission's Hearing for this item currently is scheduled for December 12, 2013.

**Castro Merchants/MUMC** is the merchants' organization serving San Francisco's Castro-Upper Market area, generally along Upper Market Street from Octavia Blvd. to Castro Street; Castro from Market to 19<sup>th</sup> Street; and cross streets throughout that area. **Castro Merchants/MUMC** has over 250 paid Members for 2013-2014. The property covered by this matter is within our organization's primary service area.

Please let us know if you have any questions regarding **Castro Merchants/MUMC's** **SUPPORT** for this Request. Please include this letter in the matter's permanent file, and assure that it is provided to all Planning Staff and Commissioners and to any other hearing panels at the time that this matter is considered by them. Thank you for considering our comments.

Respectfully,

Terry Asten Bennett, President

cc: Ahmad Mohazab for See's Candy  
email cc: Supervisor Scott Wiener and staff  
Capt. Bob Moser, SFPD Mission Station

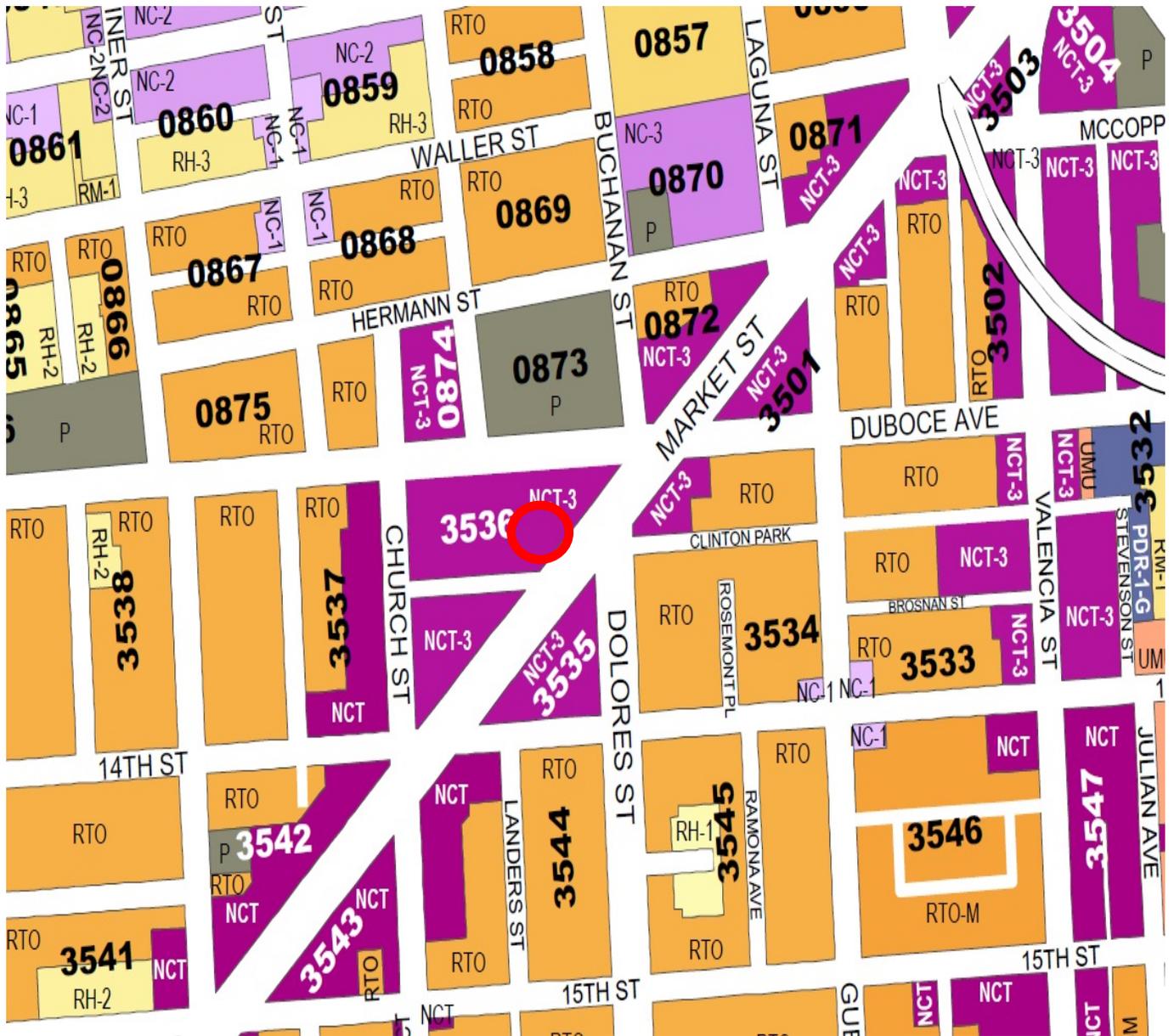
**From:** [John Koelsch](#)  
**To:** [Noel, Casey](#)  
**Cc:** [ahmad@tectac.com](mailto:ahmad@tectac.com)  
**Subject:** See's 12-12-13  
**Date:** Monday, November 25, 2013 5:11:32 PM

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I support See's at the 2016 Market Street. Think it's good location for it, even though it's formula retail. Thank you. Leslie Koelsch



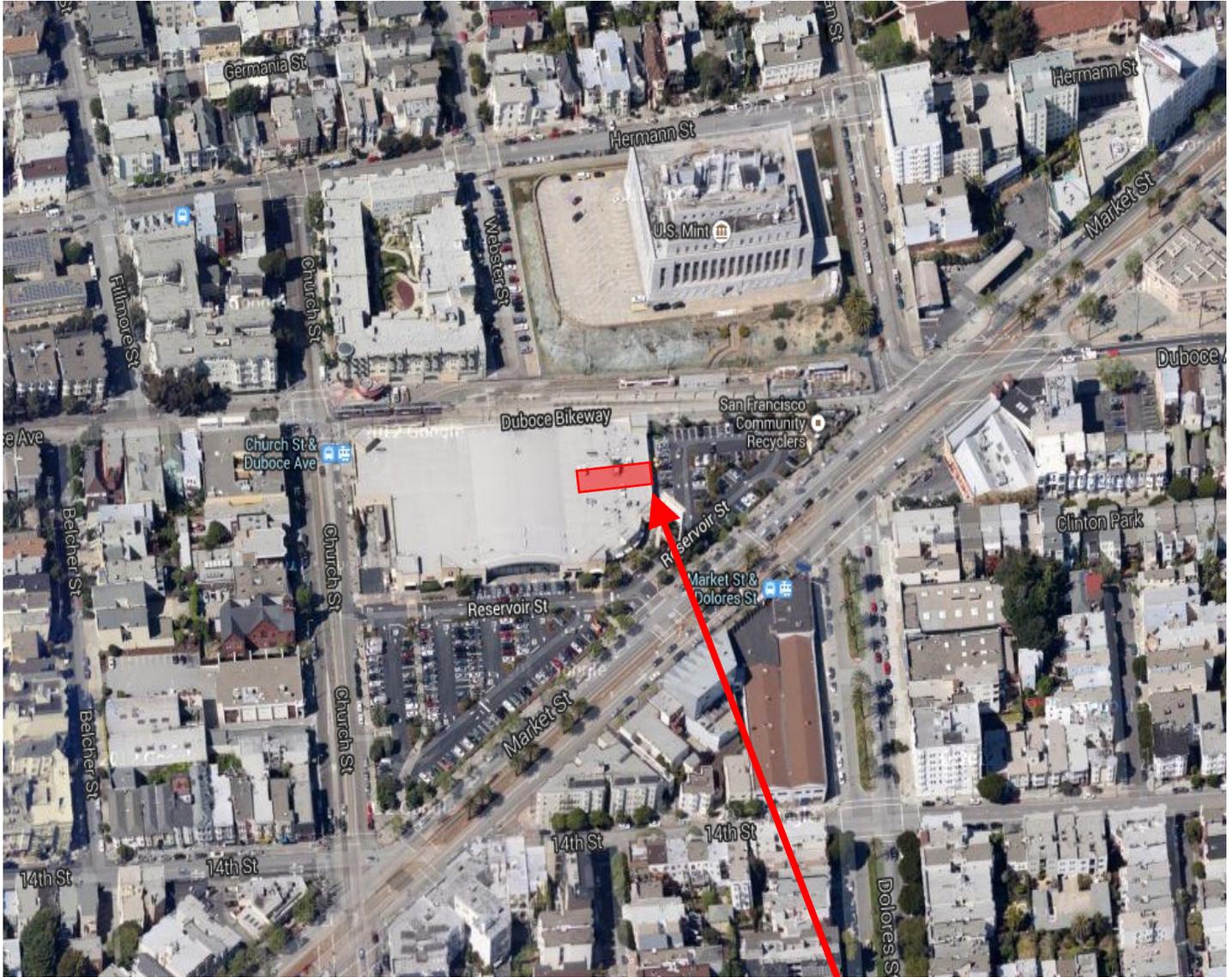
# Zoning Map



Conditional Use Authorization Hearing  
Formula Retail –See’s Candies  
Case Number 2013.0894C  
2016 Market Street

# Aerial Photo

## View Looking North

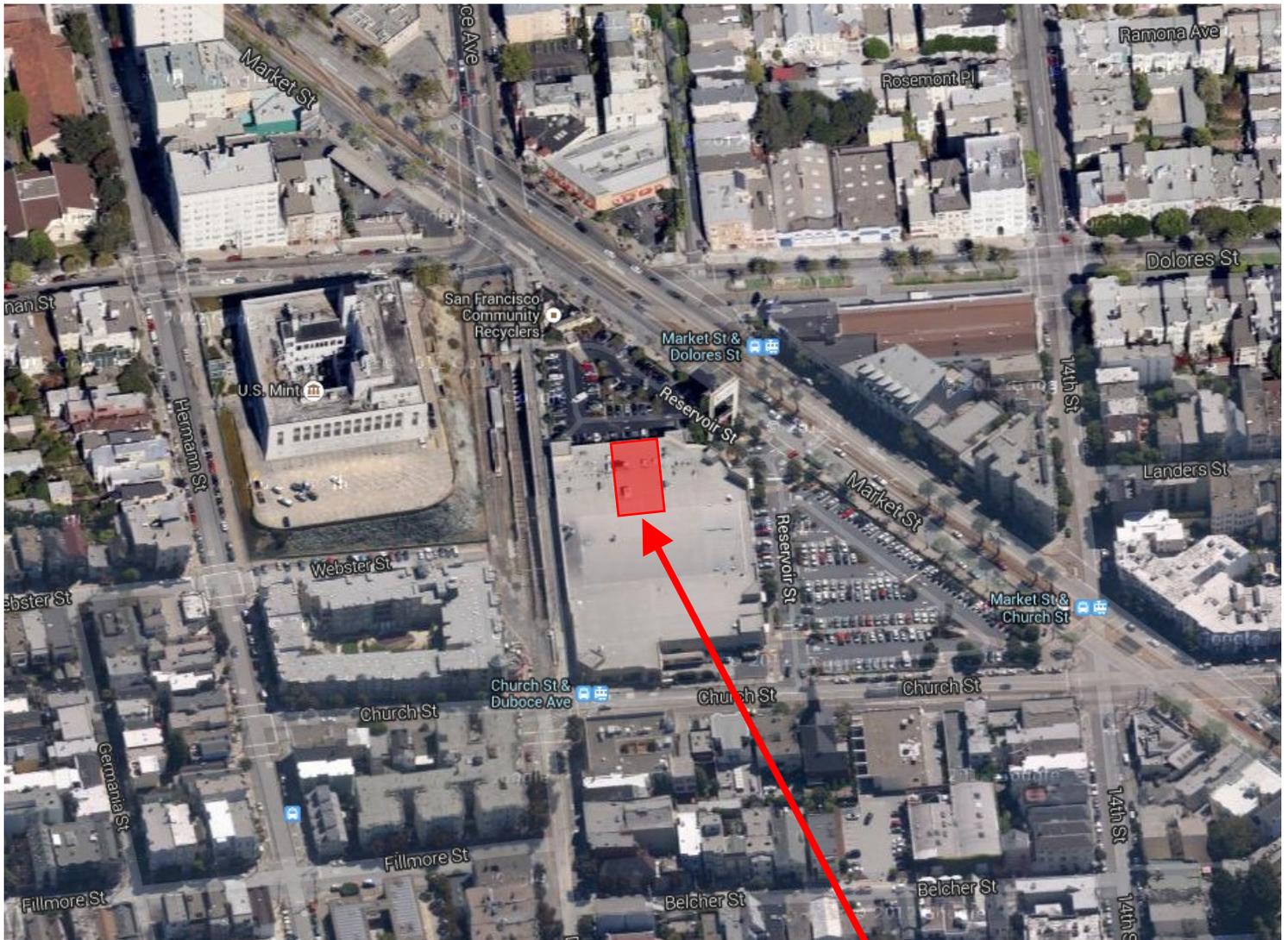


**PROJECT SITE**

Conditional Use Authorization Hearing  
Formula Retail –See’s Candies  
Case Number 2013.0894C  
2016 Market Street

# Aerial Photo

## View Looking East



**PROJECT SITE**

Conditional Use Authorization Hearing  
Formula Retail –See’s Candies  
Case Number 2013.0894C  
2016 Market Street

# Aerial Photo

## View Looking West

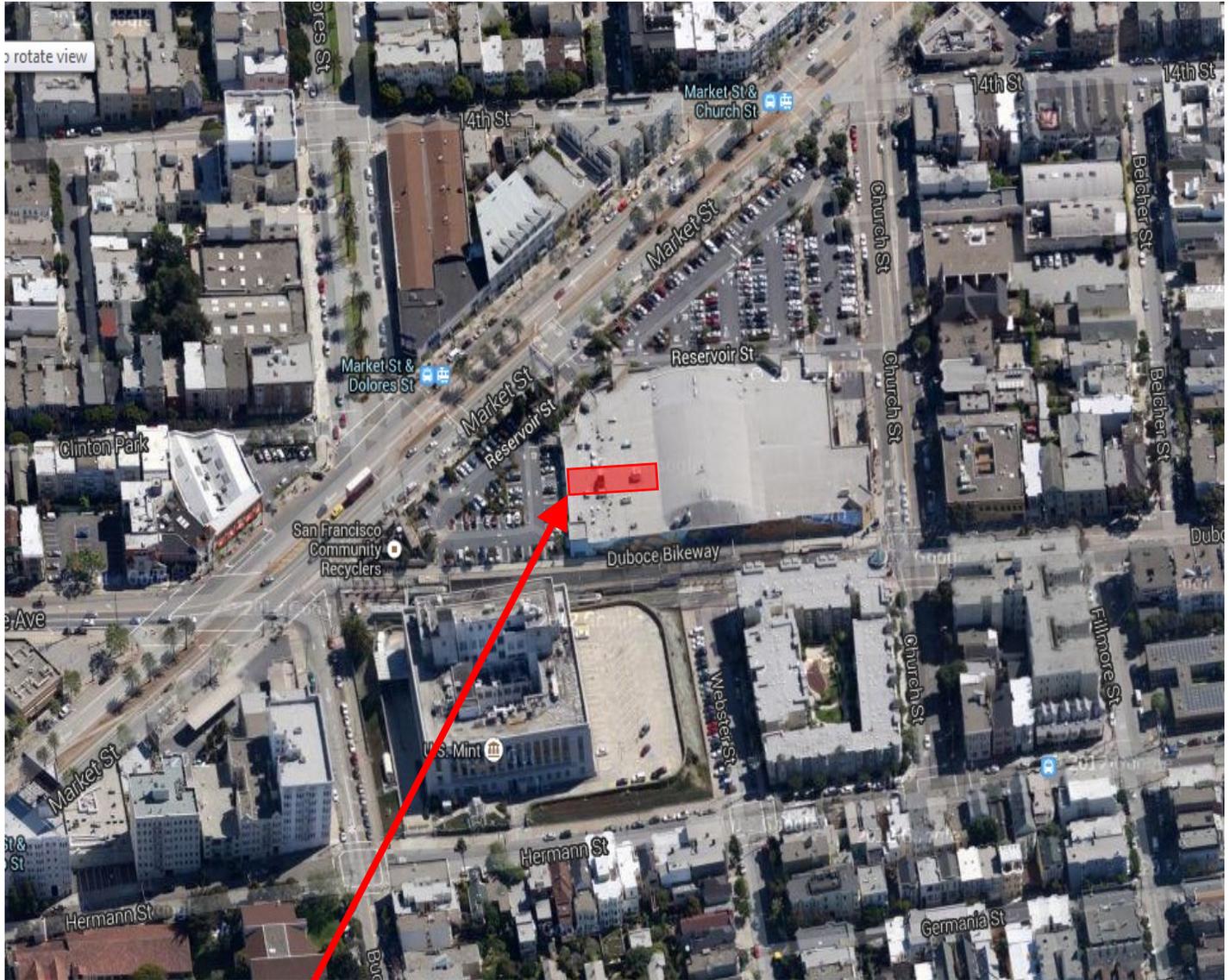


**PROJECT SITE**

Conditional Use Authorization Hearing  
Formula Retail –See’s Candies  
Case Number 2013.0894C  
2016 Market Street

# Aerial Photo

## View Looking South



**SUBJECT PROPERTY**

Conditional Use Authorization Hearing  
Formula Retail –See’s Candies  
Case Number 2013.0894C  
2016 Market Street

# Site Photo – Subject Front



Conditional Use Authorization Hearing  
Formula Retail –See’s Candies  
Case Number 2013.0894C  
2016 Market Street



December 3, 2013

The San Francisco Planning Commission  
1650 Mission Street Suite 400  
San Francisco, CA 94103

Re; See's Candies  
2016 Market Street

Progress report

Dear Commissioners;

I am writing this letter to you to report our neighborhood interaction for this project.

To prepare for our hearing and your approval\*, we have done extensive neighborhood outreach. Our outreach encompassed three areas;

*\*We understand that because of the concentration of formula retail spaces in this area the Planning Department must recommend disapproval. But this recommendation in no way binds you, the Planning Commissioners, from voting for approval of a benign use in a spot which might not support another type of tenancy.*

#### **Neighbor outreach**

We scheduled a neighborhood meeting on November 7 at the site of the proposed store. For this, we invited not only the adjacent neighbors, but the owners and occupants of the entire 300 foot radius area.

We received no objections and heard no concerns at this meeting.

#### **Neighborhood association outreach**

At the onset of our community outreach, we contacted;  
Duboce Triangle Neighborhood Association (DTNA)  
Eureka Valley Neighborhood Association (EVNA)  
The Merchants of Upper Market and Castro (MUMC)  
The Castro/ Upper Market Community Benefit District

We had uniformly pleasant meetings with everyone. DTNA has chosen to not have a position on the case, which we very much appreciate. EVNA has deferred to DTNA as the most affected organization. MUMC and the CBD have both forwarded you a letter of approval, for which we are again grateful.

### **Community organization outreach**

See's Candies, which is in fact a local business headquartered in South San Francisco, participates in community organizations routinely. See's participates in giving to local charitable causes in the form of merchandise giveaways and cash contributions. Many of the neighborhood groups already were familiar with See's and had partnered with them in their events. This was however an opportunity to further reach out.

Current neighborhood partnerships include;

The Castro Country Club  
The San Francisco Gay Men's Chorus  
The LGBT Historical Society  
The San Francisco AIDS Foundation  
The Harvey Milk Academy  
The San Francisco Free Wheelers

These partnerships include past and continuing participation in fund raising, donations for charity events and their support for the reconstruction of the Castro Country Club.

The notion of a formula retailer in an NCD, and especially in the Upper Market retail concentration area is a difficult one. We recognize that expressing support and even no position in an area where such a battle has been fought for small and local businesses shows both the character of the neighborhood, the thoughtfulness of its leaders and the benign nature of the applicant.

See's Candies is a business with its roots in the Bay Area. It cares about the community it is in. San Francisco employees are unionized. And everyone loves chocolate.

The Safeway shopping center is a formula retail center surrounded by parking. By character and by location, it is not a pedestrian destination, but a destination for grocery shoppers. Its ancillary tenants are all also formula retailers. Our location is the former home of a formula retail camera store, which departure was not related to our tenancy.

We feel, and we think the neighborhood does too, that this use, in this particular location should be approved despite the fact that it is in the retail concentration area, because it does not result in an increase in formula retail uses, because it does not displace anyone

and indeed replaces an existing formula retailer, and because the nature and location of the space does not lend itself particularly to a typical small business.

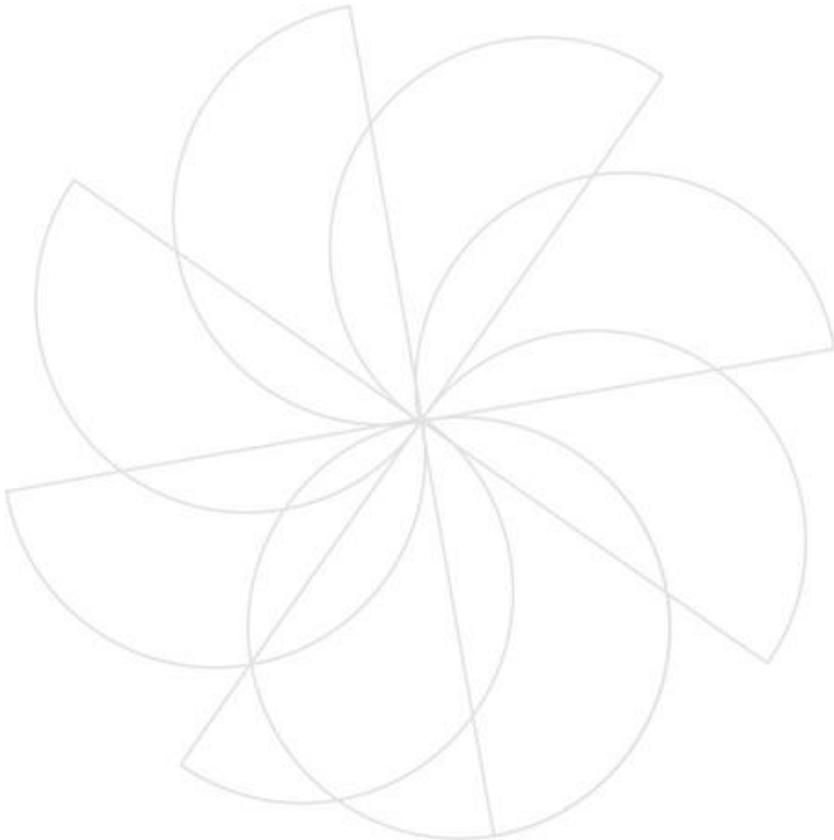
I am enclosing a great matrix the Duboce Triangle Neighborhood Association has put together to identify desirable vs. undesirable formula retailers. It is a matrix that should be taken as a role model in the argument over what is appropriate for our neighborhoods. I would very much appreciate you reading their questions and criteria of judgment, and our responses.

Thank you so much for your time. We look forward to our hearing with you.

Best;

A handwritten signature in black ink, appearing to be 'Ahmad Mohazab', written in a cursive style.

Ahmad Mohazab, RA, NCARB  
Project Architect



Planning Code Section	Desirable Formula Retail	Undesirable Formula Retail	Comments/Examples	See's Candies
<p><b>703.3(h) Guidelines1</b>  <b>Existing concentration of formula retail uses within the N.C.D.</b></p>			<p>'Concentration' should also consider the physical proximity of both similar uses and other formula retail.</p>	<p><b><u>See's Candies will not increase the concentration of formula retail. It will be replacing the formula retail Mike's Cameras, which replaced Wolfs Cameras.</u></b></p>
<p><b>Availability of other similar retail uses in the N.C.D.</b></p>	<p>"Necessary or Desirable" Use in neighborhood not already adequately provided by local or other formula retail establishments</p>	<p>Competing with other necessary or desirable local businesses to the degree that it drives them out of business</p>	<p>Ex.: A national coffee retailer that drives other local coffee houses out of business.</p>	<p><b><u>See's Candies will offer merchandise unique to the area. There are no similar retail uses in the NCD.</u></b></p>
<p><b>Compatibility of proposed formula retail use with existing architectural/aesthetic character of N.C.D.</b></p>	<p>Is of a size comparable to or compatible with the scale of the district and compatible with architecture</p>	<p>Is of a significantly larger scale than other businesses and out of character with the neighborhood</p>		<p><b><u>See's Candies will occupy an existing space and make no alterations to the existing storefront, which cannot be altered because of its consistency with the larger building. It's size is in character with other tenant spaces and in fact the existing space will maintain its footprint for the new use.</u></b></p> <p><b><u>The interior of the space harks back to the historical roots of See's and the first store that See's opened in San Francisco in 1936 and as such is in character with the aesthetic character of the smaller stores in the neighborhood, even though it is in a prescribed storefront.</u></b></p>
<p><b>Existing vacancy rates within the N.C.D.</b></p>	<p>Moves into space that has been difficult to fill at a reasonable rent.</p>	<p>Displaces existing viable local businesses by offering higher rents to landlords  "Undesirable" could</p>	<p>The vacancy rate alone is not a valid rationale for bringing a formula retail use to the neighborhood. A large space that local businesses have been unable to fill, such as a</p>	<p><b><u>See's Candies will be occupying a space vacated by another formula retailer. It will be filling a space that has been home to several camera shops. Brick and mortar camera stores have difficulty competing with online reproduction and electronics outlets. See's Candies is a locally based formula retailer whose merchandise complements Safeway, and</u></b></p>

<p><b>Existing mix of citywideserving And neighborhoodserving retail uses within the N.C.D.</b></p>	<p>Transit and pedestrian oriented.</p>	<p>include expansion of existing retail space size.</p> <p>Auto dependent uses. Oversupply of parking to the extent it becomes significant factor in transportation mode choice, and on local street conditions.</p>	<p>vacated supermarket space, might be a good location for a formula retail business. Displacement of a needed and viable laundromat by the expansion of an existing formula retail store would not be desirable.</p> <p>The mix of uses in adjacent neighborhoods should be considered, as well as how "automobile dependent" a use is. Proposed parking provision should determine trip generation (not reverse).</p>	<p><b><u>with the strength to offer its candies and employment to the neighborhood for a long time to come.</u></b></p>
<p><b>Proliferation</b></p>	<p>Has only one location in neighborhood. Has few or no other locations in the city. Few or no other formula retail businesses offer the same or similar merchandise/ services in the neighborhood.</p>	<p>Has multiple locations in same neighborhood. Has many locations throughout the city in replicated format. Other formula retail businesses offer the same or similar merchandise or services in the neighborhood.</p>	<p>Proliferation impact can be dependent on scale of use. E.g., ubiquitous coffee and clothing chain retailers. In some cases, reinvention of a formula retail use to offset negatives of other locations in city could be beneficial (eg, walk-up grocery/ retailer to contrast to citywide driving-attractor stores)</p>	<p><b><u>See's Candies has four locations in the city. None are within close proximity to the NCD. No one offers the same merchandise. The nature of this business is not to seek additional outlets within proximity of this location, once approved.</u></b></p>
<p><b>Rent and Lease Terms</b></p>	<p>Pays/offers rents and lease terms similar to other merchants. Creative lease terms</p>	<p>Pays/offers significantly higher rents per square foot</p>	<p>This includes looking at the background causes of vacancies. Are commercial landlords</p>	<p><b><u>See's Candies will be filling a tenancy which is more suited to formula retailers, being in a parking lot and part of the Safeway shopping center. See's is not paying premium to occupy this space, nor is</u></b></p>

might allow formula retail to subsidize other small spaces in a building scaled to the neighborhood that encourage foot traffic, break scale down and create new small business opportunities.

than other neighborhood businesses.

holding rents overly high in favor of "credit tenants" to exclusion of small independents? High rents paid by formula retailer result in other landlords raising rents to comparable levels paid by high-end or high-volume formula retailers. Eg, designer-name clothing, cell phone retailers, high-end restaurants. This often happens when the leases of local merchants come up for renewal, the local merchant moves because it can't afford the rent, and the space sits empty waiting on a formula retail tenant, or local bar or high-end restaurant that can justify such high rents.

**there key money involved.**

**Quality of Life Impacts**

Receives store deliveries during regular daytime business hours from small or medium size delivery vehicles. Provides home deliveries to nondriver customers. Scales and manages parking supply to avoid traffic generation. Mitigates the effects of traffic, parking and

Receives store deliveries at very late or very early hours using large noisy delivery vehicles. No mitigation of traffic and parking impacts.

This includes parking and traffic impacts, consideration of the time of day or night impacts would occur, and impact on immediate neighbors within 3 blocks. Consider potential issues associated with garbage generation, disposal and management of site cleanliness. Consider potential odor and noise issues, both traffic-related if applicable

**See's Candies receives limited deliveries. Being in proximity to the production facility in South San Francisco, it will be possible to control deliveries to workable hours.**

**Community  
Engagement  
and Respect**

pedestrian safety in the neighborhood.

"Come early, and come prepared." Gains neighborhood support and has substantiated case.

"Undesirable" is simply politicking a proposal into the neighborhood

and from operations.

Chain store applicants should "Come early, and come prepared." This includes engaging with the neighborhood early (before signing a lease and before submitting a CU application), detailing why the use is "necessary or desirable" (per CU standard), explaining the proposed use in consideration of the CU evaluation criteria, and proposing how impacts will be mitigated.

Ex: When a Levi's wanted to open in the Castro, they worked with other local independent retailers to ensure the new Levi's store did not compete with the same lines of jeans the local businesses were selling. Consider store's charitable programs/ community support and involvement philosophy.

**See's Candies reached out to the neighborhood associations and community leaders prior to submitting for CU. Chocolate may be considered by some as a necessity, but a case for desirability would seem more valid. See's Candies offers a superior product, locally produced, by a company that employs many local residents earning living wages and compensated with benefits, and has had long standing strict zero tolerance towards discrimination. See's has been a San Francisco institution since 1936. All of these, and its ability to maintain offering its product and employment make it a desirable and arguably a necessary use for the neighborhood.**

**See's Candies has a long history of community involvement. Currently, some of the organizations that have benefitted from See's donations include;**

- [SF Aids Foundation](#)
- [SF Gay Mens Chorus](#)
- [Castro Country Club](#)
- [Boys and Girl's Club of SF](#)
- [CA State Park Foundation, Coastal Cleanup](#)
- [City Youth Now SF](#)
- [Glide Memorial Church](#)
- [Grace Cathedral](#)
- [Junior League of SF](#)
- [Larkin Street Youth](#)
- [SF Conservatory of Music](#)
- [SF Chamber of Commerce](#)
- [SF Symphony](#)
- [SF Giants](#)
- [SF 49ers](#)

**Neighborhood Economics**

Provides economic investment and/or necessary or desirable merchandise complimentary to merchandise offered by other local merchants. Works with neighborhood merchants to limit loss of viable desirable local businesses.

Comes into successful, vibrant neighborhood to siphon off customer base from local businesses. Ex: A Starbuck's that comes into a vibrant neighborhood and runs popular local coffee houses out of business by siphoning off a small percentage of their business. Forces other local businesses out through anticompetitive business practices and advantages achieved through economies of scale unattainable by small, locally owned businesses.

This includes consideration of short and long term benefits, impact on existing neighborhood businesses, provision of housing (where applicable) in conjunction with the use, and the cost of the products or services provided. Are there attendant affects on cost of living from price points of products? Also consider the potential benefits of a chain store as an "anchor" for surrounding smaller stores (if it is complementary to those uses rather than directly competitive)—need to think about the long term health of the neighborhood commercial district. Consider benefits or impacts on local employment opportunities

**See's Candies offers a superior product, locally produced, by a company that employs many local residents earing living wages and compensated with benefits, and has had long standing strict zero tolerance towards discrimination. See's has been a San Francisco institution since 1936. All of these, and its ability to maintain offering its product and employment make it a desirable and arguably a necessary use for the neighborhood.**

**An ancillary consequence of See's presence in the neighborhood is they are an active participant in the neighborhood dynamic. As the partial list of donors above indicates, See's participates in the needs of the community – the Aids Foundation and the Gay Mens Chorus have been beneficiaries of this local effort in the past and will continue to do so, and TECTA has connected the Castro Country Club with See's with every intention to help fund their new renovation.**

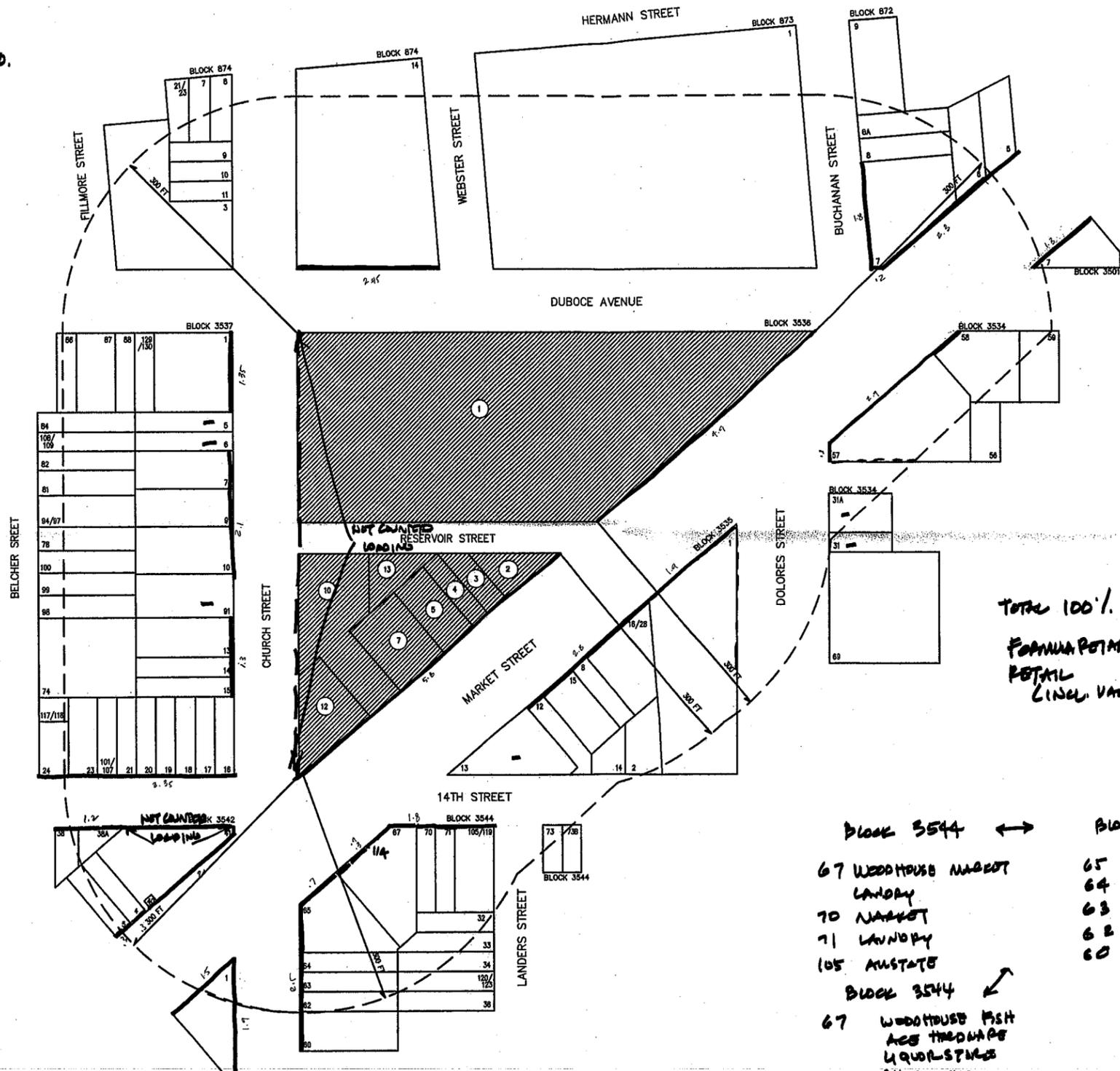
Block 874  
14 COFFEE SHOP

- Block 3537 ↓
- 1 OUT OF ZONING
  - 7 1/2 GOLDEN NAT. FOODS
  - 9 1/2 TAQUERIA EL CASTILLO
  - 10 BURGER MESSIAH
  - 13 VACANT
  - 14 GOLDEN PRODUCE
  - 15 CASA MEDICINA

- Block 3537 ↔
- 16 Church Hill Bar
  - 17 Market
  - 18 JASMINE GARDEN
  - 19 THE RESIDENCE BAR
  - 20 CATHY EXPRESS
  - 21 NAIL SALON
  - 22 LANDONAT. AUGUSTE
  - 23 Dodo CLEANERS NAIL SALON

- Block 3542 ↗
- 41 HOME REST / VACANT
  - 4 STERLING BANK
  - 5 CARP

- Block 3542 ↔
- 38A Cybelles
  - 38 LANDONAT



- Block 872
- 7 UNDEVELOPED PRESUMED RETAIL
  - 6 SUETH
  - 5 AMP SERVICE CENTER (NOT COUNTED)

- Block 3501
- 7 VACANT

- Block 3534
- 58 FOOD OFFICE
  - 57 PETFOOD EXPRESS

- Block 3535
- 1 WHOLE FOODS
  - 16 VACANT
  - 8 SALON BTD BTD
  - 15 BROS
  - 12 DIVA NAIL LOUNGE

TOTAL 100%  
FORMULA RETAIL 33%  
RETAIL (INCL. VACANCY) 67%

- Block 3544 ↔
- 67 WOODHOUSE MARKET LANDRY
  - 70 MARKET
  - 71 LAUNDRY
  - 105 AUGUSTE

- Block 3544 ↓
- 65 KARIZMATIC RETAIL
  - 64 CHOW
  - 63 PILSNER INN
  - 62 KAROONK BODIES
  - 60 ATLANTIC REST.

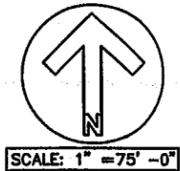
- Block 3544 ↙
- 67 WOODHOUSE FISH ACE THROUGH LIQUOR STORE RESTAURANT
  - 65 CANNABIS STORE SKYLINE PARTY

- Block 3543
- LOT 1 ↗ 6000 FEET
  - LOT 1 ↘ VEG GARDENS CHURCH FRONT CREPEVINE



1221 Harrison Street Suite 18  
San Francisco CA 94103-4449  
(415) 391-4775

BLOCK 3536  
LOT VARIOUS  
San Francisco, CA



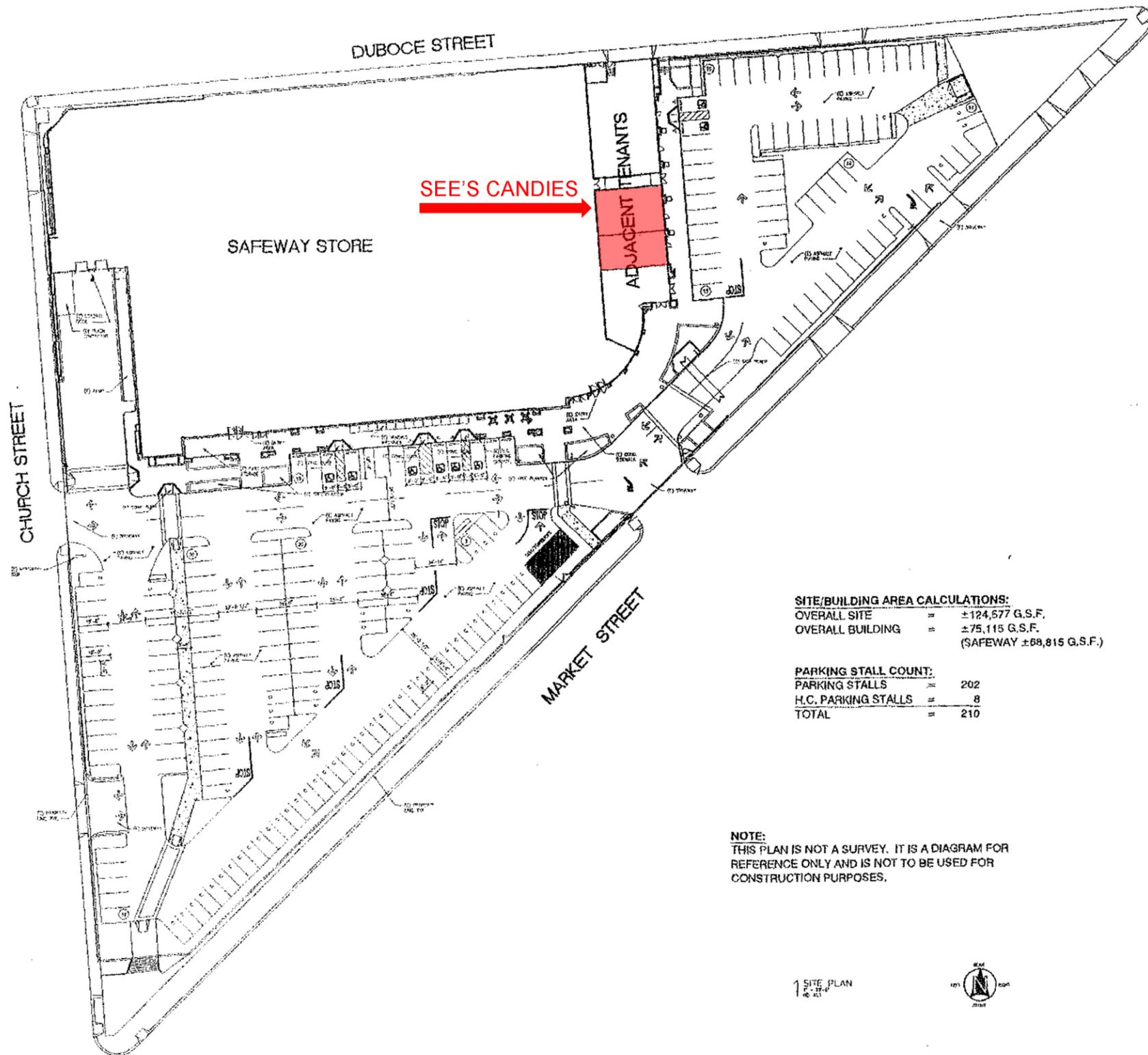
SCALE: 1" = 75' - 0"

JOB NO: 3536001	DATE: 130619
DRAWN: DC	CHECKED: DC

300 FOOT  
RADIUS MAP

The information contained herein has been obtained from sources that we deemed reliable and current at the time of preparation. We have no reason to doubt its accuracy but we do not guarantee it.

# FORMULA RETAIL CONCENTRATION MAP



SEE'S CANDIES



**SITE/BUILDING AREA CALCULATIONS:**

OVERALL SITE	=	±124,577 G.S.F.
OVERALL BUILDING	=	±75,115 G.S.F. (SAFeway ±68,815 G.S.F.)

**PARKING STALL COUNT:**

PARKING STALLS	=	202
H.C. PARKING STALLS	=	8
TOTAL	=	210

**NOTE:**  
THIS PLAN IS NOT A SURVEY. IT IS A DIAGRAM FOR REFERENCE ONLY AND IS NOT TO BE USED FOR CONSTRUCTION PURPOSES.

1 SITE PLAN  
2-11-07  
16-111





# See's CANDIES

See's CANDIES

2016

♿  
PARKING ONLY FOR  
ACCESSIBLE  
VEHICLES  
VIOLATION  
FINE \$200

NO  
PARKING

