

LEGISLATIVE DIGEST

[Planning Code - Expanding Formula Retail Controls]

Ordinance amending the Planning Code to expand the definition of formula retail to include businesses that have eleven or more outlets worldwide, and to include businesses 50% or more owned by formula retail businesses; expand the applicability of formula retail controls to other types of retail uses; expand the notification procedures for formula retail applications; require an economic impact report as part of the formula retail conditional use application; and making environmental findings and findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.

Existing Law

Formula retail uses are defined in the Planning Code as “a type of retail sales activity or retail sales establishment which, along with eleven or more other retail sales establishments located in the United States, maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark.” (Planning Code Sections 303(i) and 703.3.) The City currently regulates formula retail by either prohibiting it altogether in certain areas, such as the Hayes-Gough Neighborhood Commercial Transit District, the North Beach Neighborhood Commercial District, and the Chinatown Visitor Retail District, or by requiring a conditional use permit, in other neighborhood commercial areas (Planning Code Section 303(i)(4) and (5).)

The conditional use requirement directs the Planning Commission, when reviewing an application for a formula retail establishment, to consider the existing concentrations of formula retail uses within the district; the availability of other similar retail uses within the district; the compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the district; the existing retail vacancy rates within the district; and the existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the district. (Planning Code Section 303(i)(3).)

Amendments to Current Law

This ordinance expands the City’s formula retail controls in several ways. First, it expands the definition of formula retail to apply to businesses with eleven or more outlets worldwide, as opposed to only within the U.S. It also expands the definition to apply to businesses that are 50% or more owned by other formula retail businesses, and to include a series of retail uses that have not been included until now, such as “Adult Entertainment,” “Automobile Service Station,” “Hotel, Tourist,” “Tobacco Paraphernalia Establishment,” and others.

The ordinance requires that, when considering a Conditional Use Application for a formula retail use, the Planning Commission consider, in addition to all the factors currently listed under Section 303(i)(3), the economic impact of the proposed use on other businesses in the area. To this effect, it requires the applicant to have a consultant prepare an economic impact report and submit it with its application.

Finally, the ordinance expands the notice procedures for formula retail applications, requiring more extensive mail notice, posted notice, internet notice, and the availability of the Staff Report and Recommendation two weeks prior to the Planning Commission hearing at which the application would be considered.

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