



# SAN FRANCISCO PLANNING DEPARTMENT

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April 18, 2012

Supervisor Mar and  
Ms. Angela Calvillo, Clerk  
Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

**Re: Transmittal of Planning Case Number 2012.0174T  
BF No. 12-0047: Financial Services as Formula Retail**

**Recommendation: Approval**

Dear Supervisor Mar and Ms. Calvillo,

On April 12, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearings at a regularly scheduled meeting to consider the proposed Ordinance under Board of Supervisors File Number 12-0047.

At the April 12<sup>th</sup> Hearing, the Commission voted 5-1 to recommend approval of the proposed Ordinance, which would add Financial Services to the definition of Formula Retail.

The attached resolution and exhibit provides more detail about the Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "AnMarie Rodgers", with a long horizontal flourish extending to the right.

AnMarie Rodgers  
Manager of Legislative Affairs

Cc: City Attorney Andrea Ruiz-Esquide

Attachments (one copy of the following):

Planning Commission Resolution No. 18580  
Department Executive Summary

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Resolution No. 18580

HEARING DATE: APRIL 12, 2012

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*Project Name:* **Amendments to the San Francisco Planning Code to include Financial Services in the Definition of Formula Retail**

*Case Number:* 2012.0174T [Board File No. 12-0047]

*Initiated by:* Supervisor Mar/ Introduced January 24, 2012

*Staff Contact:* Aaron Starr, Legislative Affairs  
Aaron.starr@sfgov.org, 415-558-6362

*Reviewed by:* AnMarie Rodgers, Manager Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395

**RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE SAN FRANCISCO PLANNING CODE BY: 1) AMENDING SECTION 703.3(C) TO INCLUDE FINANCIAL SERVICES WITHIN THE USES SUBJECT TO FORMULA RETAIL CONTROLS IN NEIGHBORHOOD COMMERCIAL DISTRICTS; 2) AMENDING SECTION 806.3(C) INCLUDING FINANCIAL SERVICES WITHIN THE USES SUBJECT TO FORMULA RETAIL CONTROLS IN MIXED USE DISTRICTS; 3) AMENDING SECTION 303.3(I) MAKING CONFORMING AMENDMENTS; AND 4) MAKING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND WITH THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.1.**

### **PREAMBLE**

Whereas, on January 24, 2012, Supervisor Mar introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 12-0047 which would amend the San Francisco Planning Code by: 1) amending Section 703.3(c) to include financial services within the uses subject to formula retail controls in Neighborhood Commercial Districts; 2) amending Section 806.3(c) including financial services within the uses subject to formula retail controls in Mixed Use Districts; 3) amending Section 303.3(i) making conforming amendments; and 4) making findings, including environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and with the Priority Policies of Planning Code Section 101.1.; and

Whereas, on April 12, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed zoning changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2) and 15378; and

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

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

Whereas, the Commission has reviewed the proposed Ordinance; and

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

## **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. Formula Retail controls were primarily adopted to maintain the unique visual character of the City's neighborhood commercial districts. Formula Retail establishments typically have a standardized look and signage, which can erode the unique visual identity of a neighborhood if there is an over concentration. In addition to having a standardized look and signage, Financial Services typically lack active or visually interesting storefronts. Therefore, having an over concentration of Financial Services in an NCD not only erode the visual uniqueness of that neighborhood, they can also negatively impact street life and vitality.
2. The Commission does not find that requiring a CU to establish a Financial Service is not overly burdensome, and that ensuring our Neighborhood Commercial Districts continue to be unique and vibrant places justifies such a hurdle.
3. Limited Financial Service uses would allow smaller size financial services with less of an impact on the aesthetic character and vibrancy of a NCD to be established in any neighborhood commercial district without being subject to Formula Retail Controls.
4. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

### **I. COMMERCE & INDUSTRY ELEMENT**

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

**GOALS**

THE THREE GOALS OF THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN RELATE TO CONTINUED ECONOMIC VITALITY, SOCIAL EQUITY, AND ENVIRONMENTAL QUALITY.

**OBJECTIVE 6**

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

**POLICY 6.2**

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

**POLICY 6.10**

Promote neighborhood commercial revitalization, including community-based and other economic development efforts where feasible.

*The proposed Ordinance would help protect the strength and viability of the City's neighborhood Commercial Districts by limiting the expansion and establishment of Financial Services, which can have negative aesthetic impacts as well as impacts to the vitality to the public realm.*

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

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

*The proposed Ordinance will require each Financial Service use to be looked at on a case by case basis to help ensure that there is not an overconcentration of Financial Services in any one neighborhood commercial district and that neighborhood serving retail uses are protected.*

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

*Financial Services can have negative aesthetic impacts on neighborhood commercial districts. The proposed legislation will help preserve neighborhood character by ensuring that Financial Services are not overly concentrated in any one neighborhood commercial district.*

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

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

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

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

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

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

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

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

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

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

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

*The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed amendments.*

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on April 12, 2012.

Linda Avery  
Commission Secretary

AYES: Commissioners Moore, Sugaya, Borden, Wu, Miguel

NAYS: Commissioner Antonini

ABSENT: Commissioner Fong

ADOPTED: April 12, 2012



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text Change

HEARING DATE: APRIL 12, 2012

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*Case Number:* 2012.0174T [Board File No. 12-0047]

*Initiated by:* Supervisor Mar/ Introduced January 24, 2012

*Staff Contact:* Aaron Starr, Legislative Affairs  
Aaron.starr@sfgov.org, 415-558-6362

*Reviewed by:* AnMarie Rodgers, Manager Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395

*Recommendation:* **Recommend Approval with modifications**

### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the San Francisco Planning Code by: 1) amending Section 703.3(c) to include financial services within the uses subject to formula retail controls in Neighborhood Commercial Districts; 2) amending Section 806.3(c) including financial services within the uses subject to formula retail controls in Mixed Use Districts; 3) amending Section 303.3(i) making conforming amendments; and 4) making findings, including environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and with the Priority Policies of Planning Code Section 101.1.

#### The Way It Is Now:

The Planning Code currently defines "formula retail" in both Article 7 Neighborhood Commercial Districts and Article 8 Mixed Use Districts. These two definitions are similar but slightly different.

Article 7 currently includes the following uses as Formal Retail: "bar," "drive-up facility," "eating and drinking use," "liquor store," "restaurant, large fast-food," "restaurant, small self-service," "restaurant, full-service," "sales and service, other retail," "sales and service, retail," "movie theatre," "video store," "amusement and game arcade," "take-out food," and "specialty food, self-service."

Article 8 currently includes the following uses as Formula Retail: "bar," "drive-up facility," "eating and drinking use," "restaurant, large fast-food," "restaurant, small fast-food," "restaurant, full-service," "sales and services, other retail," "sales and services, nonretail," "movie theater," "amusement game arcade," and "take-out food."

Financial Services are defined in Planning Code Sections 790.110 and 890.110 as "a retail use which provides banking services and products to the public, such as banks, savings and loans, and credit unions, when occupying more than 15 feet of linear frontage or 200 square feet of gross floor area." This use is not included in the list of uses that are subject to Formal Retail controls in either Articles 7 or 8.

### The Way It Would Be:

The proposed ordinance would include Financial Services in the list of uses that are subject to Formula Retail Controls in Articles 7 and 8.

### REQUIRED COMMISSION ACTION

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

### RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance *with modifications* to include:

- Remove “sales and service, retail” from the list of Retail Sales Activity in Section 703.3

### ISSUES FOR CONSIDERATION

**Visual Impacts:** Formula Retail controls were primarily adopted to maintain the unique visual character of the City’s neighborhood commercial districts. Formula Retail establishments typically have a standardized look and signage, which can erode the unique visual identity of a neighborhood if there is an over concentration. In addition to having a standardized look and signage, Financial Services typically lack active or visually interesting store fronts. Therefore, having an over concentration of Financial Services in an NCD not only erode the visual uniqueness of that neighborhood, they can also negatively impact street life and vitality.

**Potential Effects on the Provision of Financial Services if the Ordinance is Adopted:** There is a concern that there are very few Financial Service establishments in San Francisco, which would not be categorized as Formula Retail. While some local Financial Service operations with fewer than 11 locations exist in San Francisco (Mission National Bank and SF Fireman’s Credit Union are two examples) most of the banks and even some Credit Unions are nationwide chains with more than 11 locations. While there will be additional limits on the provision of “financial services” under this proposed Ordinance, it should be noted that banking services provided through Limited Financial Services<sup>1</sup>, ATMs, and online banking would still be permitted.

Another concern is that the proposed legislation will effectively prohibit new Financial Service uses in the Hayes-Gough NCD and North Beach NCD. As stated above, most Financial Services that serve San Francisco have more than 11 locations. The Hayes-Gough NCD and the North Beach NCD prohibit Formula Retail establishments outright; therefore most banks would be prohibited from going into these neighborhoods. While North Beach currently has controls that require Conditional Use authorization for Financial Services in certain areas and prohibits them outright in others, Financial Services are principally permitted in The Hayes-Gough NCD. The Supervisor’s office has reached out to both of these neighborhoods and has taken their concerns into consideration in drafting this legislation.

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<sup>1</sup> A Limited Financial Service use is defined as retail uses that provides banking services, when not occupying more than 15 feet of linear frontage or 200 square feet of gross floor area. These tend to be ATMs, but there is nothing in the Code that prevents a small branch from opening under this use category so long as it complies with the size restrictions. This use category would not be included in the Formula Retail definition.

**Recent New York Legislation:** San Francisco is not unique in dealing with the aesthetic impacts that banks have on neighborhood commercial districts. New York City recently addressed this issue in the Upper West Side neighborhood by limiting the width of bank storefronts to no more than 25' wide. The concern there, however, was that the small fine grained nature of the existing neighborhood commercial district was being eroded by larger storefronts. San Francisco already addresses this issue with non-residential use size limits, and we also have the Limited Financial Services use category.

**Currently Regulation of Financial Services:** Of the 39<sup>2</sup> Zoning Districts where Formula Retail controls apply, 20 principally permit Financial Services as of right, 7 prohibit them outright and 13 require Conditional Use Authorization. Were this legislation to pass, 21 District would see their Financial Service controls changed. Two NCDs, Hayes-Gough NCD and North Beach NCD, currently prohibit Formula Retail outright but still allow Financial Services either as-of-right, or by CU. The Chinatown Visitors Retail District also prohibits Formula Retail outright, however, financial services are also prohibited; therefore nothing would change in that District with the proposed legislation. Please see the attached matrix for more information.

## **BASIS FOR RECOMMENDATION**

**Basis for Approving the Ordinance:** As discussed, having an over concentration of Financial Services in an NCD not only erodes the visual uniqueness of that neighborhood, they can also negatively impact street life and vitality. Part of the recommendation to approve this Ordinance is because, the Department believes that it is in the City's interest to include Financial Services in the definition of Formula Retail so that they can be looked at on a case by case basis and issues of over concentration can be adequately analyzed. The Department does not find that requiring a CU to establish a Financial Service is not overly burdensome, and that ensuring our Neighborhood Commercial Districts continue to be unique and vibrant places justifies such a hurdle. Lastly, because Limited Financial Service Uses would allow smaller size financial services with less of an impact on the aesthetic character and vibrancy of a NCD and which would be allowed in the Hayes-Gough NCD and the North Beach NCD, the Department finds that not including them in the definition of Formula Retail is appropriate.

### **Basis for the Recommended Modification:**

The Department is recommending that "sales and service, retail" be eliminated from the list of uses that are included in the formula retail definition because it creates too much ambiguity and confusion. "Sales and service, retail" is not an individual use, but a category of uses in the Planning Code. Several of the uses under this category are called out in the list of uses included in the formal retail controls. Since individual uses are called out under the broader category, the Department has interpreted that only the individual uses that are called out are subject to Formula Retail controls and not the entire use category. Removing the category would clarify how the Department has understood and implemented the Formula Retail controls since they were adopted.

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<sup>2</sup> North Beach NCD is counted twice in some of these figures because it has the "North Beach Financial Service, Limited Financial Service and Business or Professional Service Subdistrict," which applies to the portions of the North Beach NCD south of Greenwich Street and prohibits Financial Services and Limited Financial Services at all stories. The rest of North Beach NCD allows Financial Service, Limited Financial Service with CU authorization.



## **ENVIRONMENTAL REVIEW**

The proposal to amend Planning Code Section 703.3(c) to include financial services within the uses subject to formula retail controls in Neighborhood Commercial Districts; to amend Section 806.3(c) to including financial services within the uses subject to formula retail controls in Mixed Use Districts; and to amend Section 303.3(i) making conforming amendments was determined to not be a project and is exempt from environmental review under Section 15060(c)(2) and 15378 of the CEQA Guidelines.

## **PUBLIC COMMENT**

As of the date of this report, the Planning Department has received six emails in support of the proposed legislation. The Department also received a letter from Supervisor Weiner that proposes amendments to the proposed Ordinance. The letter is attached to this case report.

<b>RECOMMENDATION:</b> <b>Recommendation of Approval with Modification</b>
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### **Attachments:**

- Exhibit A:        Draft Planning Commission Resolution
- Exhibit B:        Board of Supervisors File No. 12-0047
- Exhibit C:        Chart Detailing Financial Services in NCDs and MUDs
- Exhibit D:        Letter from Supervisor Wiener