

File No. 130788

Committee Item No. 8

Board Item No. \_\_\_\_\_

# COMMITTEE/BOARD OF SUPERVISORS

## AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date October 6, 2014

Board of Supervisors Meeting

Date \_\_\_\_\_

### Cmte Board

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget and Legislative Analyst Report        |
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Completed by: Andrea Ausberry Date October 3, 2014

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

1 [Planning Code - Expanding Formula Retail Controls]

2  
3 **Ordinance amending the Planning Code to expand the definition of formula retail to**  
4 **include businesses that have eleven or more outlets worldwide, and to include**  
5 **businesses 50% or more owned by formula retail businesses; expand the applicability**  
6 **of formula retail controls to other types of retail uses; expand the notification**  
7 **procedures for formula retail applications; require an economic impact study as part of**  
8 **the formula retail conditional use application; charge administrative fees to pay for**  
9 **staff review time of such studies; and making environmental findings and findings of**  
10 **consistency with the General Plan, and the eight priority policies of Planning Code,**  
11 **Section 101.1.**

12 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.  
13 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
14 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.  
15 **Board amendment additions** are in double-underlined Arial font.  
16 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
17 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
18 subsections or parts of tables.

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

20 Section 1. Findings.

21 (a) The Planning Department has determined that the actions contemplated in this  
22 ordinance comply with the California Environmental Quality Act (California Public Resources  
23 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
24 Supervisors in File No. 130788 and is incorporated herein by reference.

25 (b) On July 17, 2014, the Planning Commission, in Resolution No. 19194, adopted  
findings that the actions contemplated in this ordinance are consistent, on balance, with the  
City's General Plan and eight priority policies of Planning Code Section 101.1. The Board

1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
2 Board of Supervisors in File No. 130788, and is incorporated herein by reference.

3  
4 Section 2. The Planning Code is hereby amended by revising Section 303(i), to read  
5 as follows:

6 \* \* \* \*

7 (i) Formula Retail Uses.

8 (1) Formula Retail Use. A formula retail use is hereby defined as a type of  
9 retail sales activity or retail sales establishment which has eleven or more other retail sales  
10 establishments located ~~in the United States~~ anywhere in the world. In addition to the eleven  
11 establishments, the business maintains two or more of the following features: a standardized  
12 array of merchandise, a standardized facade, a standardized decor and color scheme,  
13 uniform apparel, standardized signage, a trademark or a servicemark; or a type of retail sales  
14 activity or retail sales establishment where fifty percent (50%) or more of the stock, shares, or any  
15 similar ownership interest of such establishment is owned by a formula retail use, or a subsidiary,  
16 affiliate, or parent of a formula retail use, even if the establishment itself may have fewer than eleven  
17 other retail sales establishments permitted or located in the world.

18 (A) Standardized array of merchandise shall be defined as 50% or more of  
19 in-stock merchandise from a single distributor bearing uniform markings.

20 (B) Trademark shall be defined as a word, phrase, symbol or design, or a  
21 combination of words, phrases, symbols or designs that identifies and distinguishes the  
22 source of the goods from one party from those of others.

23 (C) Servicemark shall be defined as word, phrase, symbol or design, or a  
24 combination of words, phrases, symbols or designs that identifies and distinguishes the  
25 source of a service from one party from those of others.

1 (D) Decor shall be defined as the style of interior furnishings, which may  
2 include but is not limited to, style of furniture, wall coverings or permanent fixtures.

3 (E) Color Scheme shall be defined as selection of colors used throughout,  
4 such as on the furnishings, permanent fixtures, and wall coverings, or as used on the facade.

5 (F) Facade shall be defined as the face or front of a building, including  
6 awnings, looking onto a street or an open space.

7 (G) Uniform Apparel shall be defined as standardized items of clothing  
8 including but not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and  
9 pins (other than name tags) as well as standardized colors of clothing.

10 (H) Signage shall be defined as business sign pursuant to Section 602.3 of  
11 the Planning Code.

12 (2) "Retail Sales Activity or Retail Sales Establishment." For the purposes of  
13 subsection (i), a retail sales activity or retail sales establishment shall include the following  
14 uses, as defined in Articles 1, 7, and Article and 8 of this Code: "Bar," "Drive-up Facility,"  
15 "Eating and Drinking Use," "Liquor Store," "Sales and Service, Other Retail," "Restaurant,"  
16 "Limited-Restaurant," "Take-Out Food," "Sales and Service, Retail," "Service, Financial,"  
17 "Movie Theater," ~~and~~ "Amusement and Game Arcade," "Entertainment, Adult," "Entertainment,  
18 Other," "Service, Limited Financial," "Service, Medical," "Service, Personal," "Service, Business or  
19 Professional," "Massage Establishment," "Hotel, Tourist," "Automobile Parking," "Automotive Gas  
20 Station," "Automotive Service Station," "Automotive Repair," "Automotive Wash," "Automobile Sale  
21 or Rental," "Storage," "Service, Fringe Financial," "Tobacco Paraphernalia Establishments,"  
22 "Service, Administrative," and "Light Manufacturing, Wholesale Sales, Storage."

23 (3) Conditional Use Criteria. With regard to a conditional use authorization  
24 application for a formula retail use, the Planning Commission shall consider, in addition to the  
25 criteria set forth in Subsection (c) above:

1 (A) The existing concentrations of formula retail uses within the district. To  
2 determine the existing concentration, the Planning Commission shall consider the percentage of the  
3 total linear street frontage within a 300-foot radius of the subject property that is occupied by formula  
4 retail and non-formula retail businesses, including all parcels that are wholly or partially located  
5 within the 300-foot radius. If the subject property is a corner parcel, the 300-foot radius shall include  
6 all corner parcels at the subject intersection. For each property, the Planning Department shall divide  
7 the total linear frontage of the lot facing a public-right of way by the number of storefronts, and then  
8 calculate the percentage of the total linear frontage for formula retail and non-formula retail. Half  
9 percentage points shall be rounded up. For the Upper Market Street Neighborhood Commercial  
10 District only, if the application would bring the formula retail concentration within this 300-foot area  
11 to a concentration of 20% or above, Planning Department staff shall recommend disapproval of the  
12 application to the Planning Commission. If the application would not bring the formula retail  
13 concentration within the 300-foot area to a concentration of 20% or above, Planning Department staff  
14 shall assess the application according to all the other criteria listed in this Section 303(i), and  
15 recommend approval or disapproval to the Planning Commission, according to its discretion and  
16 professional judgment. In either case, the Planning Commission may approve or reject the application,  
17 considering all the criteria listed in this Section 303(i).

18 (B) The availability of other similar retail uses within the district.

19 (C) The compatibility of the proposed formula retail use with the existing  
20 architectural and aesthetic character of the district.

21 (D) The existing retail vacancy rates within the district.

22 (E) The existing mix of Citywide-serving retail uses and neighborhood-  
23 serving retail uses within the district.

24 (F) If applicable pursuant to this subsection, the economic impact of the proposed  
25 formula retail, as shown in an economic impact study.

1 (i) Size Categories. The following size categories shall be used to determine  
2 whether this economic impact study requirement applies.

3 a. Small-scale. Applicants with a project of 3,000 gross sq. ft. and  
4 below, and whose other stores in the City, if any, in combination occupy no more than 10,000 gross sq.  
5 ft., shall be considered small-scale formula retail applicants. Small-scale applicants are not required to  
6 prepare an economic impact study.

7 b. Medium-scale. Applicants with a project of 3,000-10,000 gross  
8 sq. ft., and whose other stores in the City, if any, in combination occupy no more than 20,000 gross sq.  
9 ft., or a project of 3,000 gross sq. ft. and below, and whose other stores in the City, if any, in  
10 combination occupy 20,000 gross sq. ft or more, shall be considered medium-scale formula retail  
11 applicants. Medium-scale formula retail applicants shall prepare an economic impact study covering  
12 an area of 2.5 mile radius from the application location.

13 c. Large-scale. Applicants with a project of 10,000 gross sq.ft. and  
14 above, or with a project of 3,000 gross sq. ft. and above and owning stores in the City that in  
15 combination occupy more than 20,000 gross sq. ft., shall be considered large-scale formula retail  
16 applicants. Large scale formula retail applicants shall prepare a City-wide economic impact study.

17 (ii) Contents of the Economic Impact Study. The applicant shall submit to the  
18 Planning Department an economic impact study, prepared with the assistance of an independent  
19 qualified consultant, which shall evaluate the potential economic impact of the applicant's business,  
20 including:

21 a. the extent to which the proposed retailer will capture a share of  
22 retail sales in the market area;

23 b. how the construction and operation of the proposed retailer will  
24 affect the supply and demand for retail space in the market area;

1                                    c.      how the construction and operation of the proposed retailer will  
2 affect employment in the market area, including an analysis of whether the proposed retailer will result  
3 in a net increase or decrease in employment in the market area;

4                                    d.      the effect on wages and benefits of employees of other retail  
5 businesses, and community income levels in the market area;

6                                    e.      the costs of public services and public facilities resulting from the  
7 construction and operation of the proposed retailer and the incidence of those costs;

8                                    f.      the effect that the construction and operation of the proposed  
9 retailer will have on retail operations, including grocery or retail shopping centers, in the same market  
10 area;

11                                   g.      the effect that the construction and operation of the proposed  
12 retailer will have on average total vehicle miles traveled by retail customers in the same market area;

13                                   h.      the potential for long-term vacancy of the property on which the  
14 retailer is proposed in the event that the business vacates the premises; and

15                                   i.      For purpose of the economic impact study, the "market area" is  
16 defined as an area around the store large enough to support its operation, but which may not extend  
17 further than 2.5 miles from the store for a medium-scale project, City-wide for a large-scale project.

18                                   (iii)   **Public Comment.** After the study is complete, the public shall have an  
19 opportunity to comment on the study as part of the Conditional Use hearing for the application.

20                                   (iv)   **Independent Analysis.** The Planning Department shall select from a pool  
21 of pre-qualified consultants to prepare the economic impact study required by this section. The  
22 consultant analysis, in the form of a study, shall be considered by the Planning Commission in its  
23 review of the application.

24                                   (v)   **Payment for Economic Impact Statement; Fee to Pay for Staff Review.**  
25 The applicant shall bear the cost of paying the consultant for his or her work preparing the economic

1 impact study, and any necessary documents prepared as part of that study. The applicant shall also  
2 pay an administrative fee to compensate Planning Department and City staff for its time reviewing the  
3 study, as set forth in Section 359 of this Code.

4 (4) Conditional Use Authorization Required. A Conditional Use Authorization  
5 shall be required for a formula retail use in the following zoning districts unless explicitly  
6 exempted:

- 7 (A) All Neighborhood Commercial Districts in Article 7;
- 8 (B) All Mixed Use-General Districts in Section 840;
- 9 (C) All Urban Mixed Use Districts in Section 843;
- 10 (D) All Residential-Commercial Districts as defined in Section 206.3;
- 11 (E) Japantown Special Use District as defined in Section 249.31;
- 12 (F) Chinatown Community Business District as defined in Section 810.1;
- 13 (G) Chinatown Residential/Neighborhood Commercial District as defined in  
14 812.1;
- 15 (H) Western SoMa Planning Area Special Use District as defined in 823;
- 16 (I) Residential Transit-Oriented Districts as defined in 206.4 and 206.5;
- 17 (J) Limited Conforming Use/Non-Conforming Use in RH-RM-RTO and RED  
18 Districts.

19 (5) Formula Retail Uses Not Permitted. Formula Retail Uses are not permitted  
20 in the following zoning districts:

- 21 (A) Hayes-Gough Neighborhood Commercial Transit District;
- 22 (B) North Beach Neighborhood Commercial District;
- 23 (C) Chinatown Visitor Retail District;
- 24 (D) Upper Fillmore District does not permit Formula Retail uses that are  
25 also Restaurant or Limited-Restaurant uses as defined in Section 790.90 and 790.91;



1 (E) Broadway Neighborhood Commercial District does not permit Formula  
2 Retail uses that are also Restaurant or Limited-Restaurant uses as defined in Section 790.90  
3 and 790.91;

4 (F) Mission Street Formula Retail Restaurant Subdistrict does not permit  
5 Formula Retail uses that are also Restaurant or Limited-Restaurant uses as defined in  
6 Section 790.90 and 790.91;

7 (G) Geary Boulevard Formula Retail Pet Supply Store and Formula Retail  
8 Eating and Drinking Subdistrict does not permit Formula Retail uses that are also either a  
9 Retail Pet Supply Store or an Eating and Drinking use as set forth in Section 781.4;

10 (H) Taraval Street Restaurant Subdistrict does not permit Formula Retail  
11 uses that are also Restaurant or Limited-Restaurant uses as defined in Section 790.90 and  
12 790.91;

13 (6) Neighborhood Commercial Notification and Design Review. Any building  
14 permit application for a "formula retail use" as defined in this section ~~and located within a~~  
15 ~~Neighborhood Commercial District in Article 7~~ shall be subject to the ~~Neighborhood Commercial~~  
16 ~~Notification and~~ Design Review Procedures of Section 312 of this Code. and to the following  
17 notice procedures. Upon determination that an application is in compliance with the standards set  
18 forth in this Section, the Planning Department shall give notice of the application as follows:

19 (A) Written notice:

20 (i) The Planning Department shall provide written notice of the proposed  
21 formula retail use. The notice shall include a description of the proposal compared to any existing  
22 improvements on the site with dimensions of the basic features, elevations and site plan of the proposed  
23 project including the position of any adjacent buildings, exterior dimensions and finishes, a graphic  
24 reference scale, existing and proposed uses and commercial or institutional business name, if known.  
25 The notice shall also include the name of the proposed formula retail business and its corporate parent

1 name(s), if any, and a map of the notification area, showing the location of proposed use and existing  
2 adjacent businesses/uses. The notice shall describe the project review process and shall set forth the  
3 mailing date of the notice and the expiration date of the notification period.

4 (ii) The written notice shall be mailed to the notification group, which  
5 shall include the applicant, tenants of the subject property, relevant neighborhood organizations as  
6 described in Subparagraph 312(d)(2)(C), all individuals having made a written request for notification,  
7 and all owners of property and tenants within the notification area.

8 (iii) The notification area shall be all properties within 300 feet of the  
9 subject lot in the same Assessor's Block and on the block face across from the subject lot. When the  
10 subject lot is a corner lot, the notification area shall further include all property on both block faces  
11 across from the subject lot, and the corner property diagonally across the street.

12 (iv) Notification period. All building permit applications shall be held  
13 for a period of 45 calendar days from the date of the mailed notice to allow review by residents,  
14 occupants, owners of neighboring properties and by neighborhood groups.

15 (B) Posted Notice. The notice shall also be posted at the project site with a 18"  
16 x 24" poster-size orange-colored paper.

17 (C) Internet Notice. The notice shall also be posted on the Planning  
18 Department's website.

19 (D) In addition, the Staff Report and Recommendation shall be available at the  
20 Planning Department and on the Planning Department's website two weeks prior to the Planning  
21 Commission hearing at which the Conditional Use permit would be considered.

22 (7) Change in Use. A change from one formula retail use to another requires a  
23 new Conditional Use Authorization, whether or not a Conditional Use Authorization would  
24 otherwise be required by the particular change in use in question. This Conditional Use  
25 Authorization requirement also applies in changes from one Formula Retail operator to

1 another within the same use category. A new Conditional Use Authorization shall not apply to  
2 a change in a formula use retailer that meets the following criteria:

3 (A) the formula use operation remains the same in terms of its size,  
4 function and general merchandise offering as determined by the Zoning Administrator, and

5 (B) the change in the formula retail use operator is the result of the  
6 business being purchased by another formula retail operator who will retain all components of  
7 the existing retailer and make minor alterations to the establishment(s) such as signage and  
8 branding.

9 The new operator shall comply with all conditions of approval previously  
10 imposed on the existing operator, including but not limited to signage programs and hours of  
11 operation; and shall conduct the operation generally in the same manner and offer essentially  
12 the same services and/or type of merchandise; or seek and be granted a new Conditional Use  
13 Authorization.

14 (8) Determination of Formula Retail Use. In those areas in which "formula  
15 retail uses" are prohibited, any building permit application determined by the City to be for a  
16 "formula retail use" that does not identify the use as a "formula retail use" is incomplete and  
17 cannot be processed until the omission is corrected. Any building permit approved that is  
18 determined by the City to have been, at the time of application, for a "formula retail use" that  
19 did not identify the use as a "formula retail use" is subject to revocation at any time. If the City  
20 determines that a building permit application or building permit subject to this Section of the  
21 Code is for a "formula retail use," the building permit application or holder bears the burden of  
22 proving to the City that the proposed or existing use is not a "formula retail use."

23 \* \* \* \*

1 Section 3. The Planning Code is hereby amended by revising Section 703.3,  
2 subsections (b) and (g), to read as follows:

3 \* \* \* \*

4 (b) Formula Retail Use. Formula retail use is hereby defined as a type of retail sales  
5 activity or retail sales establishment which, along with eleven or more other retail sales  
6 establishments located *in the United States anywhere in the world*, maintains two or more of the  
7 following features: a standardized array of merchandise, a standardized facade, a  
8 standardized decor and color scheme, a uniform apparel, standardized signage, a trademark  
9 or a servicemark; or a type of retail sales activity or retail sales establishment where fifty percent  
10 (50%) or more of the stock, shares, or any similar ownership interest of such establishment is owned by  
11 a formula retail use, or a subsidiary, affiliate, or parent of a formula retail use, even if the  
12 establishment itself may have fewer than eleven other retail sales establishments permitted or located  
13 in the world.

14 (1) Standardized array of merchandise shall be defined as 50% or more of in-  
15 stock merchandise from a single distributor bearing uniform markings.

16 (2) Trademark shall be defined as a word, phrase, symbol or design, or a  
17 combination of words, phrases, symbols or designs that identifies and distinguishes the  
18 source of the goods from one party from those of others.

19 (3) Servicemark shall be defined as word, phrase, symbol or design, or a  
20 combination of words, phrases, symbols or designs that identifies and distinguishes the  
21 source of a service from one party from those of others.

22 (4) Decor shall be defined as the style of interior finishings, which may include  
23 but is not limited to, style of furniture, wallcoverings or permanent fixtures.

24 (5) Color Scheme shall be defined as selection of colors used throughout,  
25 such as on the furnishings, permanent fixtures, and wallcoverings, or as used on the facade.

1 (6) Facade shall be defined as the face or front of a building, including  
2 awnings, looking onto a street or an open space.

3 (7) Uniform Apparel shall be defined as standardized items of clothing  
4 including but not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and  
5 pins (other than name tags) as well as standardized colors of clothing.

6 (8) Signage shall be defined as business sign pursuant to Section 602.3 of the  
7 Planning Code.

8 \* \* \* \*

9 (g) Neighborhood Commercial Notification and Design Review. After the  
10 effective date of this Ordinance, any building permit application for a use permitted in a  
11 Neighborhood Commercial District which is also a "formula retail use" as defined in this  
12 section shall be subject to the ~~Neighborhood Commercial Notification and~~ Design Review  
13 Procedures of Section 312 of this Code: and the notification procedures set forth in Section 303(i).  
14

15 Section 4. The Planning Code is hereby amended by revising Section 803.6,  
16 subsection (c) to read as follows:

17 . . .

18 (c) Formula Retail Use Defined. Formula retail use is hereby defined as a type of  
19 retail sales activity or retail sales establishment which, along with eleven or more other retail  
20 sales establishments located ~~in the United States~~ anywhere in the world, maintains two or more  
21 of the following features: a standardized array of merchandise, a standardized façade, a  
22 standardized décor and color scheme, a uniform apparel, standardized signage, a trademark  
23 or a servicemark; or a type of retail sales activity or retail sales establishment where fifty percent  
24 (50%) or more of the stock, shares, or any similar ownership interest of such establishment is owned by  
25 a formula retail use, or a subsidiary, affiliate, or parent of a formula retail use, even if the

1 establishment itself may have fewer than eleven other retail sales establishments permitted or located  
2 in the world.

3 (1) Standardized array of merchandise shall be defined as 50% or more of in-  
4 stock merchandise from a single distributor bearing uniform markings.

5 (2) Trademark shall be defined as a word, phrase, symbol or design, or a  
6 combination of words, phrases, symbols or designs that identifies and distinguishes the  
7 source of the goods from one party from those of others.

8 (3) Servicemark shall be defined as word, phrase, symbol or design, or a  
9 combination of words, phrases, symbols or designs that identifies and distinguishes the  
10 source of a service from one party from those of others.

11 (4) Decor shall be defined as the style of interior finishings, which may include  
12 but is not limited to, style of furniture, wallcoverings or permanent fixtures.

13 (5) Color Scheme shall be defined as selection of colors used throughout,  
14 such as on the furnishings, permanent fixtures, and wallcoverings, or as used on the facade.

15 (6) Facade shall be defined as the face or front of a building, including  
16 awnings, looking onto a street or an open space.

17 (7) Uniform Apparel shall be defined as standardized items of clothing  
18 including but not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and  
19 pins (other than name tags) as well as standardized colors of clothing.

20 (8) Signage shall be defined as business sign pursuant to Section 602.3 of the  
21 Planning Code.

22 (9) "Retail Sales Activity or Retail Sales Establishment" shall include the uses  
23 defined in Section 303(i)(2).

1 Section 5. The Planning Code is amended by adding subsection 803.6(f), to read as  
2 follows:

3 \* \* \* \*

4 (f) Neighborhood Commercial Notification. After the effective date of this subsection (f),  
5 any building permit application for a use permitted in a MUG District, UMU District, Chinatown  
6 Mixed Use District, and the Western Soma Special Use District which is also a "formula retail use" as  
7 defined in this section shall be subject to the notification procedures set forth in Section 303(i).

8  
9 Section 6. The Planning Code is amended by revising Section 350(g), to read as  
10 follows:

11 **SEC. 350. FEES, GENERAL.**

12 \* \* \* \*

13 **(g) Fee Adjustments.**

14 (1) The Controller will annually adjust the fee amounts specified in Sections 350-  
15 ~~358~~359 by the two-year average consumer price index (CPI) change for the San  
16 Francisco/San Jose Primary Metropolitan Statistical Area (PMSA). For a listing of the  
17 Department's current fees inclusive of annual indexing for inflation, reference the Schedule of  
18 Application Fees available on the Department website.

19  
20 Section 7. The Planning Code is amended by adding new Section 359, to read as  
21 follows:

22 **SEC. 359. ECONOMIC IMPACT STUDY REVIEW.**

23 The fee to review an economic impact study, as required by Section 303(i)(3)(F)(v), shall be  
24 \$3,500.00, plus any additional time and materials as set forth in Section 350(c).

1 Section 6. Effective Date. This ordinance shall become effective 30 days after  
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
4 of Supervisors overrides the Mayor's veto of the ordinance.

5  
6 Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
7 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
8 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
9 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
10 additions, and Board amendment deletions in accordance with the "Note" that appears under  
11 the official title of the ordinance.

12  
13 APPROVED AS TO FORM:  
14 DENNIS J. HERRERA, City Attorney

15 By:   
16 ANDREA RUIZ-ESQUIDE  
Deputy City Attorney

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**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," "Hotel, Tourist," "Tobacco Paraphernalia Establishment," and others.

**SUBSTITUTED**  
**5/13/2014**

**FILE NO. 130788**

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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# SAN FRANCISCO PLANNING DEPARTMENT

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July 18, 2014

Ms. Angela Calvillo, Clerk  
Supervisor Mar  
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 Department Case Number 2013.1166T  
Expanding Formula Retail Controls  
Planning Commission Recommendation: Approval**

Dear Ms. Calvillo,

On July 17, 2014, the Planning Commission conducted a duly noticed public hearing at regularly scheduled meeting to consider the proposed Ordinance, introduced by the Supervisor Mar, which would amend the definition of formula retail and expand controls. The Commission voted to recommend that Board of Supervisors **approve** the proposed Ordinance.

The proposed Ordinance was determined not to be a project per State CEQA Guidelines, Section 15060(c) and 15378.

Please find the attached documents relating to the actions of the Commission. 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 "Aaron Starr", with a large, sweeping flourish extending to the right.

Aaron Starr  
Acting Manager of Legislative Affairs

cc:  
Andrea Ruiz-Esquide, Deputy City Attorney  
Supervisor Mar  
Andrea Ausberry, Office of the Clerk of the Board

Attachments

Planning Commission Resolution 19194  
Planning Commission 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

## Planning Commission Resolution No. 19194 Planning Code Amendment

HEARING DATE: JULY 17, 2014

*Date:* July 17, 2014  
*Project Name:* Expanding Formula Retail Controls  
*Case Number:* 2013.1166T [Board File No. 130788-2]  
*Initiated by:* Supervisor Eric Mar/ Substituted May 13, 2014  
*Staff Contact:* AnMarie Rodgers, Senior Policy Advisor  
 anmarie.rodgers@sfgov.org, 415-558-6395  
*Reviewed by:* Kanishka Burns, Formula Retail Project Manager  
*Recommendation:* **Recommend Approval with Modifications**

1650 Mission St.  
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ADOPTING A RESOLUTION RECOMMENDING APPROVAL WITH MODIFICATIONS OF A PROPOSED ORDINANCE TO AMEND 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 STUDY AS PART OF THE FORMULA RETAIL CONDITIONAL USE APPLICATION; CHARGE ADMINISTRATIVE FEES TO PAY FOR STAFF REVIEW TIME OF SUCH STUDIES; AND MAKING ENVIRONMENTAL FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1.

### PREAMBLE

Whereas, in 2004 the Board of Supervisor adopted San Francisco’s first formula retail controls in three neighborhoods to provide a definition of formula retail and a regulatory framework that intended to protect a “diverse base with distinct neighborhood retailing personalities comprised of a mix of businesses;”<sup>1</sup> and

Whereas, a number of amendments in quick succession added other formula retail controls to other district and neighborhoods, demonstrating growing concern around the proliferation of chain stores in San Francisco; and

Whereas, in 2007 San Francisco voters adopted Proposition G, the “Small Business Protection Act” which required Conditional Use authorization in all Neighborhood Commercial Districts; and

<sup>1</sup> Ordinance Number 62-04, Board File 031501, available on-line at: <https://sfgov.legistar.com/LegislationDetail.aspx?ID=473759&GUID=A83D3A84-B457-4B93-BCF5-11058DDA5598&Options=ID|Text|&Search=62-04> (March 20, 2014).

Whereas, Resolution Number 18843, adopted on April 11, 2013, set forth a policy that provides the first quantitative measure for concentration in the Upper Market Neighborhood, which established a formula for calculating the visual impacts of formula retail uses on a street frontage and determined that if the concentration of formula retail linear frontage is greater than or equal to 20% of the total linear frontage of all parcels located within 300 feet of the subject property and also zoned neighborhood commercial, the Planning Department shall recommend disapproval; and

Whereas, the summer of 2013 saw five ordinances introduced at the Board of Supervisors to alter the definition and implementation of formula retail controls; and

Whereas, on June 13, 2013, then-Planning Commission President Fong directed staff to review and analyze planning controls for formula retail uses in San Francisco due to the numerous pending proposals to change these controls; and

Whereas, the Board of Appeals ruled on June 19, 2013, that if a company has signed a lease for a location (even if the location is not yet occupied) those leases count toward the 11 establishments needed to be considered formula retail, and, while discussed, no action was taken on web-based establishments; and

Whereas, on June 25, 2013, Supervisor Weiner's ordinance Department of Public Works Code to restrict food trucks that are associated with formula retail establishments in the public right-of-way, including affiliates of formula retail restaurants; and

Whereas, the Planning Commission passed Resolution Number 18931 in July 2013, recommending to the Board of Supervisors that the issue of Formula Retail be further studied, with a focus on the economic, neighborhood, and visual impacts of the existing formula retail controls, as well as the anticipated impacts due to the potential expansion of controls; and

Whereas, in 2013-2014 the Planning Department commissioned a study prepared by Strategic Economics which described the existing formula retailers in San Francisco; the impact of these formula retailers on San Francisco's neighborhoods; the wages and benefits of formula retailers; the effects of San Francisco's existing formula retail controls; and current issues revolving around formula retail in the City; and

Whereas, in February 2014, Office of the Controller prepared an economic analysis in response to this proposed changes to San Francisco's formula retail policies, which included an analysis of consumer price and local spending differences between formula and independent retailers and an evaluation of the overall economic impact of expanding the City's formula retail controls.

WHEREAS, the proposed legislation is intended to resolve the aforementioned issues; and

WHEREAS, on May 22, 2014 the Planning Commission approved initiation of their own ordinance that would amend formula retail controls at duly noticed public hearing; and

WHEREAS, on July 8, 2014 the Planning Department received an email from Supervisor Mar's office describing additional intended amendments to his Ordinance which have been contemplated in the Commission's consideration of his proposed Ordinance; and

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on July 17, 2014; and

WHEREAS, the Planning Department has determined that the proposed Ordinance will not result in a direct or reasonably foreseeable indirect physical change on the environment, and therefore no further environmental review is required, as set forth in the California Environmental Quality Act Section 15060(c)(2); 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 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, inclusive of the proposed amendments described in the Supervisor's staff email of July 8, 2014

**MOVED**, that pursuant to Planning Code Section 302(b), the Planning Commission Adopts a Resolution recommending approval with modifications of Supervisor Mar's proposed Planning Code amendments.

The Commission recommends that the Ordinance is amended as follows:

1. Eliminate the economic impact studies from the Ordinance and study them further along with how to appropriately regulate subsidiaries.

## **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:

- While Supervisor Mar's proposal does not change the current number from 11/12, it differs from the draft Planning Commission proposal which does raise the threshold to 19/20. In a variety of ways the Supervisor's ordinance increases the number of businesses that would be regulated as formula retail: six new use categories would be added to the definition, and international locations would be counted towards the numerical threshold. Taken together, these changes would greatly increase the businesses regulated as formula retail. The Commission firmly believes that this increase should be balanced with some relief for formula retailers that are on the smaller end of the spectrum.
- The economic impact study in the proposed ordinance is excessively burdensome without clear public benefit. The thresholds for determining when an economic impact report would be

required are exceeding small. Any store over 3000 square feet would require an impact report as would any new store that was smaller than 3000 square foot but where the combination of outlets within San Francisco totaled more than 10,000. Generally speaking stores with fewer than 100,000 square feet are unlikely to have a significant, quantitative economic impact.

- With the experience of applying the formula retail controls over the last ten years and the benefit of the recent Study "San Francisco Formula Retail Economic Analysis", the originally identified concerns of the voters remain relevant. The Departments core findings are that the Conditional Use process is working and can be adjusted to better serve residents.
- Resident concerns include a displacement of critical goods and services to meet the daily needs of the neighborhood, a homogenization of the neighborhood's aesthetics and that formula retailers are of less economic benefit than nonformula retailers.
- The Office of Economic Analysis (OEA) report "Expanding Formula Retail Controls: Economic Impact Report" was unable to quantify the impact of the presence of formula retailers on premium that residents pay to live in the City's unique neighborhoods. However, the report found the uniqueness of San Francisco's neighborhoods is based on a combination of unique visual characteristics and a sense of community fostered by small merchants and resident relationships. A formula retail establishment is determined by its recognizable look which is repeated at every location, therefore, detracting from the unique community character.
- The OEA report found that non-formula retailers may spend up to 9.5 percent more within the City economy than chain stores, but charge prices that average 17 percent more. The Report determined that, on balance, the economic benefits of greater local spending by non-formula retailers are outweighed by higher consumer prices.<sup>2</sup>
- The Planning Department commissioned a report by Strategic Economics that found the existing formula retail Conditional Use process creates a disincentive for formula retailers to be located in the NCDs.<sup>3</sup> This report also found formula retail controls continue to be a useful tool in promoting small, startup businesses.
- Neighborhood Commercial Districts are intended to preserve the unique qualities of a district while also serving the daily needs of residents living in the immediate neighborhood; however community members have reported loss of daily needs uses due to inundation of formula

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<sup>2</sup> City and County of San Francisco, Office of the Controller, Office of Economic Analysis, "Expanding Formula Retail Controls: Economic Impact Report", February 12, 2014 [http://www.sf-planning.org/ftp/files/legislative\\_changes/form\\_retail/formretail\\_130788\\_economic\\_impact\\_final.pdf](http://www.sf-planning.org/ftp/files/legislative_changes/form_retail/formretail_130788_economic_impact_final.pdf)

<sup>3</sup> Strategic Economics, "San Francisco Formula Retail Economic Analysis", prepared for San Francisco Planning Department. April 10, 2014 Draft Document, Page 5.

retailers that target larger citywide or regional audiences<sup>4</sup>. The City strives to ensure that goods and services that residents require for daily living are available within walking distance and at an affordable price. Establishments that serve daily needs and formula retail establishments are neither mutually exclusive nor overlapping.

- When considering the appearance for a new formula retail establishment, these businesses, are ubiquitous and diminish the unique qualities of a shopping street. Under the Planning Code, formula retail establishments are defined as “an...establishment which, along with eleven or more other retail sales establishments...maintains two or more [standardized] features”. In other words, formula retailers are stores with multiple locations and a recognizable “look” or appearance. What makes a look recognizable in this case, is the repetition of the same characteristics of one store in multiple locations. The sameness of formula retail outlets, while providing clear branding for consumers, counters the general direction existing land use controls which value unique community character. The standardized characteristics that are found other places provide some level of homogenization. Formula retailers cannot be unique because there are at least 11 others with the same look.
- The homogenizing effect of formula retail, based on its reliance on standardized branding, is greater if the size of the formula retail use, in number of locations or size of use or branded elements is larger. The increased level of homogeneity distracts from San Francisco’s unique neighborhoods which thrive on a high level of surprise and interest maintained by a balanced mix of uses and service, both independent and standardized.
- Due to the distinct impact that formula retail uses have on a neighborhood, these uses are evaluated for concentration as well as compatibility within a neighborhood. As neighborhoods naturally evolve over time, changes and intensifications of formula retail uses should also be evaluated for concentration and compatibility within a neighborhood.
- San Francisco is an international city that seeks to attract innovative business development. Established corporations as well as new startups choose San Francisco to test new concepts and ideas. Citywide, subsidiaries account for only three percent of retail businesses in San Francisco formula retail businesses and most of these would already qualify as formula retail under the existing Planning Code because they have 12 or more locations in the United States. Expanding the definition of formula retail to include subsidiaries is not recommended as it would constrain business development and innovation, be inconsistently applied and further complicate an existing process with minimal, if any, benefit.
- The National Bureau of Economic Research published a study titled “The Effects of Wal-Mart on Local Labor Markets” examined one specific brand of superstore, Wal-Mart, and found a

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<sup>4</sup> Strategic Economics, “San Francisco Formula Retail Economic Analysis”, prepared for San Francisco Planning Department. April 10, 2014 Draft Document, Page 110.



negative effect on overall retail employment<sup>5</sup>. Specifically, this report found, "The employment results indicate that a Wal-Mart store opening reduces county-level retail employment by about 150 workers, implying that each Wal-Mart worker replaces approximately 1.4 retail workers. This represents a 2.7 percent reduction in average retail employment. The payroll results indicate that Wal-Mart store openings lead to declines in county-level retail earnings of about \$1.4 million, or 1.5 percent.

- Similarly, studies indicate that in terms of tax revenue, mixed-use is the most beneficial to the economy, while big box retailers do not significantly help the economy<sup>6</sup>. This is largely due to property taxes. The standard for a super store (a large, single-floor structure), does not yield the same multiplier effect that comes from vertical expansion that can be seen in a dense mixed-used development. The sales tax is negligible, because even the increase in sales is offset by lower prices in super stores.

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

**I. COMMERCE & INDUSTRY ELEMENT**

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

**OBJECTIVE 2**

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

**Policy 2.3**

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

**OBJECTIVE 3**

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

**Policy 3.4**

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<sup>5</sup> David Neumark, Junfu Zhang, and Stephen Ciccarella. National Bureau of Economic Research, "The Effects of Wal-Mart on Local Labor Markets." Originally published 2005, revised on July 31, 2007. Journal of Urban Economics. Volume 67, Issue 1 (2010). Retrieved from <http://www.nber.org/papers/w11782.pdf>. Page 28.

<sup>6</sup> Philip Langdon. New Urban News, "Best bet for tax revenue: mixed-use downtown development." Published September 13, 2010. Retrieved from <http://bettercities.net/article/best-bet-tax-revenue-mixed-use-downtown-development-13144> on May 14 2014.

Assist newly emerging economic activities.

*The proposed changes the Ordinance, including amendments described on July 8, 2014, may be placing too many barriers on formula retail without acknowledgement of the benefits that formula retail may provide. In particular, the economic impact study may be overly broad and without public benefit.*

**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.

*By encouraging independent, small businesses, the proposed changes help to enhance the diversity of the City's neighborhoods and their shopping areas. The added rigor in consideration of neighborhood-serving goods intended to meet the daily needs of residents will further the retention and addition of these valuable goods and services, whether provided by a formula retail or nonformula retail establishment. Neighborhood commercial areas vary widely in function, form, design, and character, and the proposed changes to Commission review would ease the approval of formula retailers that would meet such unmet needs for daily needs while also providing a critical review of formula retail establishments that would displace critical daily need uses.*

**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.

*Having a healthy mix of both formula retail and independent businesses would promote vital commercial districts throughout the City, which could help foster small business enterprises and entrepreneurship.*

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

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

*The proposed changes the Ordinance, including amendments described on July 8, 2014, may be placing too many barriers on formula retail without acknowledgement of the benefits that formula retail may provide.*

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

*The proposed amendments, are intended to conserve and protect neighborhood character by preserving independent retail that does not erode existing neighborhood character and provide uses critical to daily living within an easy walk and without the need for auto-generated trips. At the same time, requirements for economic impact studies may discourage formula retails who may prevent vacancies that would otherwise be hard for independent retailers to fill.*

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

*The proposed Ordinance and procedural changes 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 and procedural changes will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking. In fact, the proposed changes are intended to improve neighborhood services so that more daily needs can be met within an easy walk, decreasing demand for auto-generated trips.*

- 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 seeks to influence positive changes to the service sectors and future opportunities for resident employment or ownership in these sectors. At the same time, requirements for economic impact studies may discourage formula retails who would offer valuable jobs within the City.*

- 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. 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 and procedural changes. Should a proposed use be located within a landmark or historic building, such site would be evaluated under all applicable 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:

**Resolution No. 19194**  
**Hearing Date: July 17, 2014**

**CASE NO. 2013.1166T**  
**Expanding Formula Retail Controls**

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

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on July 17, 2014.

Christine Lamorena  
Acting Commission Secretary

AYES: Commission President Wu, Commissioners Johnson, Moore and Sugaya

NAYS: Commissioners Antonini, Fong and Hillis

ABSENT: N/A

ADOPTED: July 17, 2014



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text Change HEARING DATE: JULY 17, 2014

*Date:* July 10, 2014  
*Project Name:* Expanding Formula Retail Controls  
*Case Number:* 2013.1166T [Board File No. 130788-2]  
*Initiated by:* Supervisor Eric Mar/ Substituted May 13, 2014  
*Staff Contact:* AnMarie Rodgers, Senior Policy Advisor  
anmarie.rodgers@sfgov.org, 415-558-6395  
*Reviewed by:* Kanishka Burns, Formula Retail Project Manager  
*Recommendation:* **Recommend Approval with Modifications**

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Suite 400  
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### PLANNING CODE AMENDMENT

The proposed Ordinance would amend 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 study as part of the formula retail conditional use application; charge administrative fees to pay for staff review time of such studies; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

#### The Way It Is Now:

**Definition:** The Planning Code includes an identical definition of "Formula Retail"<sup>1</sup> in three locations: Section 303(i)(1), 703.3, and 803.6(c). The definition of formula retail applies to businesses with eleven or more (the twelfth location is regulated) establishments that maintains two or more of standardized features<sup>2</sup>. In addition, the Planning Code establishes that only certain retail sales and service use types may be categorized as formula retail<sup>3</sup>.

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<sup>1</sup> Formula Retail is defined in Section 703.3 of 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 standardize array of merchandise, a standardized façade, a standardized décor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark."

<sup>2</sup> The standardized features that establish if a use is formula retail include the following: 1) standardized array of merchandise, 2) standardized façade, 3) standardized décor and color scheme, 4) uniform apparel, and 5) standardized signage, a trademark or a servicemark.

<sup>3</sup> Section 303(i)(2) establishes that formula retail may include the following uses: Bars (defined in Section 790.22); Drive-Up Facilities (Section 790.30); Eating and Drinking Use, Take Out Food, Limited Restaurants, and Restaurants (Sections 790.34, 790.122, 790.90 and 790.91); Liquor Stores (Section 790.55); Sales and Service, Retail (Section 790.104); Financial Service (Section 790.110); Movie Theatre, Amusement & Game Arcade (Sections 790.64 and 790.4), and Trade Shop (Section 790.14).

**The Way It Would Be:**

Below is a summary of Supervisor Mar's current proposal. The Supervisor's current proposal is reflected in the draft Ordinance as substituted on May 13, 2014 (Exhibit D) and as revised in a July 8, 2014 email from the Supervisor's Office (Exhibit E). Where appropriate, the Supervisor's proposal is contrasted with the Commission's proposal and/or existing regulations.

**Definition Changes:** Supervisor Mar's current proposal would add amend the definition of Formula Retail to include more use types, add international establishments, and establish a committee to further study subsidiaries.

**Comparison with draft Planning Commission Proposal.** All of these definitional changes are consistent with the current Planning proposal.

- **New Use Types Proposed to Be Formula Retail.** The Supervisor's proposal would increase the retail sales and services uses that may be Formula Retail by adding the following use categories to the definition: 1) Limited Financial Service, 2) Personal Service, 3) Business or Professional Service, 4) Massage Establishment, 5) Fringe Financial Service, and 6) Tobacco Paraphernalia Establishments<sup>4</sup>.
- **Addition of International Establishments.** The proposed Ordinance would not only count establishments located in the United States but would also count international locations towards the threshold for being designated as a Formula Retail use.
- **Further Consideration of Subsidiaries.** The Supervisor's proposal would amend his proposed Ordinance to create a committee to study the difficult issue of subsidiaries and prepare a report for the Board of Supervisors within six months<sup>5</sup>.

**Notification Changes:** In addition to the current notice requirements described in Section 312, the proposed Ordinance would add new notification requirements<sup>6</sup>.

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<sup>4</sup> The July 8, 2014 email from the Supervisor's office indicated that the Supervisor would remove the following uses from his proposed broadening of the definition of Formula Retail 1) Tourist Hotel, 2) Automobile Parking, 3) Automotive Gas Station, 4) Automotive Service Station, 5) Automotive Repair, 6) Automotive Wash, 7) Automobile Sale or Rental, 8) Storage, 9) Light Manufacturing, Wholesale Sales, 10) Storage, 11) Other Entertainment, 12) Medical Service, 13) Administrative Service, and 14) Adult Entertainment.

<sup>5</sup> The July 8, 2014 email from the Supervisor's office indicated the Supervisor would amend his proposed Ordinance to remove the proposed regulation of subsidiaries and instead to create a committee to study the difficult issue of subsidiaries and prepare a report for the Board of Supervisors within 6 months.

<sup>6</sup> The July 8, 2014 email from the Supervisor's office indicated the Supervisor would remove the poster size requirement from the draft ordinance and any requirements which are duplicative with existing notification requirements.

- The draft ordinance would have established a 18"x 24" requirement which is smaller than the current poster provided which is 36"x 40".
- Existing notification requirements that were duplicated in Supervisor Mar's draft ordinance and are now proposed for elimination include: description of the proposal compared to any existing improvements on the site with dimensions of the basic features, elevations and site plan of the proposed project including the position of any adjacent buildings, exterior dimensions and finishes, a graphic reference scale, existing and proposed uses and commercial or institutional business name, if known. The notice shall also include the name of the

**Comparison with draft Planning Commission Proposal.** The draft Ordinance, initiated by the Planning Commission does not change Formula Retail notification requirements. To help understand the scope of the Supervisor's changes, each notification change is compared with the existing requirements below.

- **Written Notice.** The notice shall include the name of the proposed formula retail business and its corporate parent name(s), if any.  
**Comparison with Existing Required Notice.** The inclusion of the corporate parent name(s) would be a new requirement.
  
- **Parties Receiving Notice.** The written notice shall be mailed to the notification group, which shall include the applicant, tenants of the subject property, relevant neighborhood organizations as described in Subparagraph 312(d)(2)(C), all individuals having made a written request for notification, and all owners of property and tenants within the notification area.  
**Comparison with Existing Required Notice.** All of the parties described above are currently included in the existing notification for 312, except for the inclusion of the tenants of properties between 150' and 300' of the proposed project.
  
- **Notification Period.** All building permit applications shall be held for a period of 45 calendar days from the date of the mailed notice.  
**Comparison with Existing Required Notice.** The current required notice is only 20 days, not 45 days.
  
- **Department Staff Report and Recommendation.** This report shall be available at the Planning Department and on the Planning Department's website two weeks prior to the Planning Commission hearing at which the Conditional Use permit would be considered.  
**Comparison with Existing Requirements.** Currently this report is available one week prior to the Commission hearing.
  
- **New Methods of Notification.** The notice shall also be posted on the Planning Department's website.  
**Comparison with Existing Requirements.** No internet posting is currently required.

**Evaluating the Concentration of Formula Retail:** The draft ordinance would codify a methodology for evaluating the concentration of formula retail. While the July 8, 2014 email from the Supervisor's office indicates support of the Planning Commission proposal for evaluating concentration as described in the draft Commission Guide; the Supervisor's draft proposal maintains a strict threshold of 20% for the

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proposed formula retail business if any, and a map of the notification area, showing the location of proposed use and existing adjacent businesses/uses. The notice shall describe the project review process and shall set forth the mailing date of the notice and the expiration date of the notification period.

- Supervisor Mar's ordinance requires notification within "the notification area" which was largely duplicative of existing requirements in that it includes the applicant, tenants of the subject property, relevant neighborhood organizations as described in Subparagraph 312(d)(2)(C), all individuals having made a written request for notification, and all owners of property and tenants within the notification area. These items are proposed for deletion from the draft Ordinance. The only new parties to be notified under Supervisor Mar's proposal would be the inclusion of tenants who live between 150' and 300' of the proposed project.

Upper Market NCD. Any proposed formula retail establishment that would push the concentration over 20% within the 300' vicinity would trigger a requirement for Planning Department staff to recommend disapproval.

**Comparison with draft Planning Commission Proposal.** The Planning Commission established this as Commission policy for the Upper Market NCD and NCT on April 11, 2013 via Resolution No. 18843. Since establishing this policy, the Commission has expressed concerns about the implementation of the obligatory staff disapproval. The Planning proposal that would also be considered by the Commission on July 17, 2014 leaves the Planning Commission policy in place.

**Economic Impact Study:** Supervisor Mar's current proposal would establish a broad and rigorous regulatory framework requiring economic impact studies for formula retail uses, including very small uses. There would be three size categories established for such study: small-scale (3,000sf or smaller store where all San Francisco based outlets would be 10,000 sf or smaller in total); medium scale (3,000-10,000 sf or smaller store where all San Francisco based outlets would be 20,000 sf or smaller in total) and large-scale (10,000 sf store where all San Francisco based outlets would be 20,000 sf or larger in total). Small scale formula retail uses would not need to complete a study. Medium-scale uses would need to produce a study covering an area of 2.5 miles. Large-scale uses would need to produce a study covering the entire City and County of San Francisco. The content of the study would include the following:

- a. the extent to which the proposed retailer will capture a share of retail sales in the market area;
- b. how the construction and operation of the proposed retailer will affect the supply and demand for retail space in the market area;
- c. how the construction and operation of the proposed retailer will affect employment in the market area, including an analysis of whether the proposed retailer will result in a net increase or decrease in employment in the market area;
- d. the effect on wages and benefits of employees of other retail businesses, and community income levels in the market area;
- e. the costs of public services and public facilities resulting from the construction and operation of the proposed retailer and the incidence of those costs;
- f. the effect that the construction and operation of the proposed retailer will have on retail operations, including grocery or retail shopping centers, in the same market area;
- g. the effect that the construction and operation of the proposed retailer will have on average total vehicle miles traveled by retail customers in the same market area;
- h. the potential for long-term vacancy of the property on which the retailer is proposed in the event that the business vacates the premises; and
- i. For purpose of the economic impact study, the "market area" is defined as an area around the store large enough to support its operation, but which may not extend further than 2.5 miles from the store for a medium-scale project, City-wide for a large-scale project.

**Comparison with draft Planning Commission Proposal.** The draft Planning Commission proposal would not require an economic impact study per se for formula retail. Instead, the Commission proposal focuses a requirement for economic study on large-scale retail as defined by Planning Code Section 121.6, regardless of whether the retailer is formula. Large-scale retailers would be those over 50,000sf in most districts and over 120,000sf in the downtown or C-3 district. The draft Planning Commission proposal would require a report on the following content areas:

- a. **Leakage analysis study.** A leakage analysis estimates the net impact that a new retail use is likely to have on sales "leakage," defined as the difference between the buying power (demand)



of the household and workforce population in a trade area and the actual sales (supply) in that same trade area . For leakage studies, in particular, it's important to establish the appropriate size of the study area. Conducting a leakage study at a neighborhood level may be appropriate for smaller stores as this is the level where impacts may be identified. At the same time, conducting such a study for a wider area, such as at the citywide level, may not provide any information as any impact would be too small to be reliably projected. Further, the trade area of impact varies widely by store type and size and other factors. For this reason, the proposal would maintain flexibility in the size of the area to be studied. This numerical leakage analysis described above should be paired with a qualitative assessment of whether the new business would complement the existing merchandise selection in the area. For example, even in the case where there may be no measurable unmet demand for a particular category of goods, a new store may add greater variety in the offerings available to shoppers, helping to bolster the strength of a cluster of similar retailers. In other cases, there may not appear to be any sales leakage because existing stores are capturing sales all of the expected sales, but the existing stores may not necessarily match evolving consumer preferences. Allowing flexibility for determining appropriate trade area for analysis of each project and supplement this number with qualitative assessments are key components to this study.

- b. **Employment analysis.** The Planning proposal includes the following employment information for the proposed project: a projection of both construction-related and permanent employment generated by the proposed project; an analysis of whether the proposed project will result in a net increase or decrease in permanent employment in the impact area; and a discussion of whether the employer is expected to pay a living wage relative to San Francisco's cost of living.
- c. **Fiscal Impact.** The intent of the fiscal impact portion of the report would be to itemize public revenue created by the proposed project and public services needed because of the proposed project. This would be calculated based upon the net fiscal impact to the General Fund. Such estimates should be done using the city's current assumptions used in existing nexus studies (from area plan, transit, open space in-lieu fee and other impact fees) and should include any contributions the business would make through such impact fee payments.

## **ISSUES AND CONSIDERATIONS**

Formula Retail regulation raises a host of planning and land use issues. The case report for the draft Planning Commission proposal (Case No. 2013.0936UT) considers these issues in detail. Therefore this report will focus only on the aspects of Supervisor Mar's proposal which differs from the draft Planning Commission proposal. These issues are discussed in this report under the heading "Basis for Recommendation".

## **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 and adopt the attached Draft Resolution to that effect.

The Department recommends that the Ordinance is amended as follows:

1. Raise the threshold for establishments to become formula retail from the existing 11/12 threshold to 19/20.
2. Maintain the existing notification processes. When technology allows, enable the public use the Department website to generate a list of pending formula retail projects.
3. Do not codify mandatory disapproval in the Upper Market NCD if the vicinity concentration is calculated at over 20%.
4. Require economic impact studies only when meaningful information may be provided.

## BASIS FOR RECOMMENDATION

After ten years of experience implementing formula retail controls in coordination with decision makers, the public, and applicants; the Department believes that it is time for a thoughtful update to the controls. The proposal initiated by the Planning Commission in May and refined in the intervening months represents the culmination of significant study and outreach. This proposal was developed and vetted through multiple hearings before this Commission as well as through stakeholder groups that represented independent businesses, formula retailers, and community groups. San Franciscans generally demand such public processes and we believe that the Commission's draft proposal responds to input from all parties, including Supervisor Mar. The Department appreciates the Supervisor's interest in coordinating on the final proposal and where we were able to reach agreement; we believe the agreements represent good policy. For the remaining three topics, the Department believes the Supervisor's proposal does not reach the balance needed to respond to the varied needs of the City. The three items below seem to lack the acknowledgement that formula retail can play a valuable role in the City and does have benefits to offer to our residents. For this reason, the Department believes the following components of the draft ordinance should be modified.

1. **Definition of Formula Retail.** As described in "The Way It Would Be" section of this report, Supervisor Mar's proposal matches the draft Planning Commission proposal in all aspects but for one: the threshold number of establishments needed in order for a store to become a formula retailer. While Supervisor Mar's proposal does not change the current number from 11/12, it differs from the draft Planning Commission proposal which does raise the threshold to 19/20. In a variety of ways the Supervisor's ordinance increases the number of businesses that would be regulated as formula retail: six new use categories would be added to the definition, and international locations would be counted towards the numerical threshold. Taken together, these changes would greatly increase the businesses regulated as formula retail. The Department firmly believes that this increase should be balanced with some relief for formula retailers that are on the smaller end of the spectrum. This recommendation is based upon comment from public and decision-makers alike that smaller or local stores should receive some relief from controls that can be difficult to navigate. While, the City cannot give preferential treatment to retailers

based in San Francisco, the controls could focus on larger retailers with at least 20 or more outlets.

2. **Notification.** Public notification should be a simple process that informs the public of important issues with regularity and consistency. Unfortunately, San Francisco's requirements are neither simple nor consistent. The Supervisor's proposal would continue to add complexity and irregularity to the process. The Commission periodically attempted to add predictability to this process. Most recently, the Commission examined noticing requirements in 2009. At that time, the Commission identified more than 40 different notification requirements. (See Exhibit A: Existing Notification Standards 10/5/09.) In the attached table, there are currently five different requirements for Conditional Use authorizations. This proposal would create a sixth unique notice requirement for CU. Most notably, the proposal would require a 45 day notice requirement. This is a longer notice wait period than any other Planning Code notification requirement. It would more than double the existing notice for formula retail from 20 days to 45 days. Further, this requirement could create substantial scheduling delays and therefore increase costs to the project sponsor without apparent benefit. Notably, even formula retail proposals which are embraced by the community would be subject to these costly delays. The existing notification process is comprehensive and effective.
3. **Do not codify mandatory disapproval in the Upper Market NCD if the vicinity concentration is calculated at over 20%.** As mentioned earlier in this report, effectively, there would no change in the way the Department reviews formula retail in the Upper Market by codifying this policy. The Commission continues to use the policy and no change is currently proposed. While the community continues to be relatively satisfied with the 20% threshold; the community is also currently engaged in a detailed study of the neighborhood's retail sector. According to the February/March Duboce Triangle Neighborhood Association (DTNA) newsletter, DTNA "in partnership with the Castro Community Benefits District (CBD) and Castro Merchants (MUMC), Eureka Valley Neighborhood Association (EVNA), Supervisor Wiener's office, and building developers in Upper Market will embark on a retail study for the Castro/Upper Market corridor to better understand the various retail users and uses, who shops here and why, as well as who doesn't shop here and why".

The primary lesson the Department has learned through examining formula retail, is that discretionary review of each proposal is critical to guiding neighborhood character. The CU process is largely working and the Department has concerns about codification of overly rigid structures that remove the capacity for professional discretion. This combined with the pending study by the neighborhood's community and merchant groups; indicates that the time is not right for making this this control permanent. (A minor error in the draft ordinance is that 20% threshold is being applied only to the Upper Market NCD, which is only one parcel, as opposed to the Upper Market NCT which is the primary zoning district for this area.)

4. **Economic Impact Study.** The economic impact study in the proposed ordinance is excessively burdensome without clear public benefit. The thresholds for determining when an economic impact report would be required are exceeding small. Any store over 3000 square feet would require an impact report as would any new store that was smaller than 3000 square foot but where the combination of outlets within San Francisco totaled more than 10,000. Generally speaking stores with fewer than 100,000 square feet are unlikely to have a significant, quantitative economic impact. The total square footage of all stores owned by the applicant throughout the city is not likely to affect the economic impacts of a specific new location. The fact that such small

stores are proposed for economic impact studies combined with the proposed requirement for a large study area of either 2.5 miles or citywide; makes it unlikely that any impacts will be discovered with this report.

Other aspects of this report have also been identified as very to extremely difficult to quantify, including:

- the impacts of the construction (as opposed to operation) of a proposed retailer on factors such as supply and demand for retail space, the cost of providing public services and facilities, other retail operations, and vehicle miles traveled;
- the effect on wages and benefits of employees of other retail businesses and community income levels in the impact area; (Existing literature and data sources do not provide a basis for estimating the effects of most new formula or large-scale retailers on existing competitors); and
- assessing the potential for long-term vacancy of the property on which the retailer is proposed in the event that the business vacates the premises<sup>7</sup>.

Lumped in with the economic impact study are other aspects which are not economic. Estimating the impact of a new retailer on total vehicle miles traveled (VMT) would require a transportation impact study. Further, it's not clear how helpful this information would be because, except for the very largest of big box stores, it's unlikely that an impact would be discovered in San Francisco's traditional neighborhood commercial districts. Typically VMT is not measurable for these smaller retail uses; only where a proposed store would provide a parking lot with 50-100 car spaces would we begin to see a negligible impact. In NC districts, providing 50-100 spaces for a retail use would generally be prohibited.

## **ENVIRONMENTAL REVIEW**

The proposed Ordinance would result in no direct or indirect physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15060(c) and 15378 of the CEQA Guidelines.

## **PUBLIC COMMENT**

As of the date of this report, the Planning Department has received several inquiries about the proposed Ordinance, but has only received a letter from the Small Business Commission. This letter is in Exhibit B.

<b>RECOMMENDATION:</b> <b>Recommendation of Approval with Modifications</b>
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<sup>7</sup> July 8, 2014 Memorandum from Strategic Economics to the Planning Department. Preliminary Assessment of Proposed Economic Impact Study Requirements.

**Executive Summary**  
**Hearing Date: July 17, 2014**

**CASE NO. 2013.1166T**  
**Expanding Formula Retail Controls**

**Attachments:**

- Exhibit A: Existing Notification Standards 10-05-09
- Exhibit B: Letter from the Small Business Commission
- Exhibit C: Draft Planning Commission Resolution
- Exhibit D: Board of Supervisors File No. 13-0788
- Exhibit E: July 8, 2014 Letter from Supervisor Mar's Office describing intended amendments to his draft ordinance
- Exhibit F: July 8, 2014 Memorandum from Strategic Economics analyzing economic impact studies

# Existing Notification Standards (10/5/09)

**Note: This summary is not definitive. The Summary includes Planning Code Standards that may differ from Department practice.**

PROJECT TYPE	Code Reference	EXISTING STANDARDS								Comment
		Posting		Mailing			Newspaper			
		Type	Length	Type	Recipients	Radius	Length	Type	Length	
<b>Building Permit Application (BPA)/Discretionary Review (DR)</b>										
BPA notice in NC District	PC §312	[per ZA requirements ] practice is 11"x17"	30 days	notice along with plans [practice is 8.5x11"; no specification s; no floorplans]	owners and occupants	150'	30 days	none	none	Western SoMa subject to Section 312 controls per 803.7. uncodified practice is to use orange paper?
BPA Notice in R District	PC § 311	[per ZA requirements ] practice is 11"x17"	30 days	notice along with 11"x17" plans (inc. floor plans)	owners and occupants	150'	30 days	none	none	uncodified practice is to use orange paper
DR - Standard Hearing Notice	PC § 311(d) and 312(e)	30" x 30"	10 days	notice	owners and occupants	150'	10 days	none	none	longstanding practice has been to notify only adjacent neighbors via mail
DR - Mandatory Hearing (MCD)	PC § 217(k), 312(e), 790.141 and 890.133	notice [unspecified]	30 days	notice	owners and occupants	300'	30 days	none	none	Subsequent DR hearing notice under Section 312(e) required.
DR - Staff-Initiated Hearing with 311/312	PC § 311(d)	30" x 30"	10 days	notice	owners and occupants	150'	10 days	none	none	Regular DR Notice performed after completion of Section 311/312 notice.
DR - Staff-Initiated Hearing without 311/312	PC § 311(d)	[per ZA requirements ] practice is 11"x17"	30 days	notice along with 11"x17" plans (inc. floor plans)	owners and occupants	150'	30 days	none	none	
DR - Mandatory Hearing	PC § 317 and 311/312 (if required)	30" x 30"	10 days	notice	owners and occupants	150'	10 days	none	none	Regular DR Notice performed after completion of Section 311/312 notice (if required)
Intro Tower	PC § 306.9	none	none	notice	owners (and occupants?), neighborhood organizations and interested parties.	1,000'	none specified	none	none	

# Existing Notification Standards (10/5/09)

**Note: This summary is not definitive. The Summary includes Planning Code Standards that may differ from Department practice.**

PROJECT TYPE	Code Reference	EXISTING STANDARDS								
		Posting		Mailing			Newspaper		Comment	
		Type	Length	Type	Recipients	Radius	Length	Type		Length
<b>Environmental Review</b>										
MEA - Notification of Project Receiving Environmental Review (all but Class 1 or 3 catex)	Not required - Department policy	none	none	notice	owners	300'	14 days	none	none	practice is to include adjacent occupants and nbhd groups as well
MEA - Notice of Availability of NegDec	Admin. Code Chapter 31.11, CEQA	11x17 onsite	20 days	notice	owners	300'	20 days	notice	20 days	practice is to include adjacent occupants/ nbhd groups as well
MEA - Notice of Availability of NegDec Involving Regional Agencies & State Clearinghouse	Admin. Code Chapter 31.11, CEQA	11x17 onsite	30 days	notice	owners	300'	30 days	notice	30 days	practice is to include adjacent occupants/ nbhd groups as well
MEA - Notice of Preparation of EIR	Admin. Code Chapter 31.11, CEQA	11x17 onsite	30 days	notice	owners	300'	30 days	notice	30 days	practice is to include adjacent occupants/ nbhd groups as well
MEA - Publication of DEIR	Admin. Code Chapter 31.11, CEQA	11x17 onsite	45 days	notice	owners	300'	45 days	notice	45 days	practice is to include adjacent occupants/ nbhd groups as well
MEA - Notice of Appeal of PMND	Admin Code Chapter 31.11	none	none	notice	owner, appellant and interested parties	none	up to 30 days	none	up to 30 days	practice is to include adjacent occupants/ nbhd groups as well

## Existing Notification Standards (10/5/09)

**Note: This summary is not definitive. The Summary includes Planning Code Standards that may differ from Department practice.**

PROJECT TYPE	Code Reference	EXISTING STANDARDS								
		Posting		Mailing			Newspaper		Comment	
		Type	Length	Type	Recipients	Radius	Length	Type		Length
<b>Preservation</b>										
Certificate of Appropriateness (LPAB Only)	PC § 1006.2	none	none	none	none	none	none	none	n/a	
Certificate of Appropriateness (with CPC Review)	PC § 1006.3	none	none	notice	applicant, owner of subject property	subject property	10 days	notice	20 days	
Certificate of Appropriateness (with CPC Review) AND in Historic District	PC § 1006.3	none	none	notice	applicant, owner of subject property AND all property owners in historic district	subject property	10 days	notice	20 days	
Historic Survey	Policy	none	none					none	none	
Landmark (District)	PC § 1004.3	none	none	notice	all property owners in district	district	10 days	notice	20 days	
Landmark (Individual)	PC § 1004.3	none	none	notice	owner of subject property	subject property	10 days	notice	20 days	
Notice of Designation	PC § 1104	posting "in a conspicuous place"	not specified	notice	owner of subject property	none	not specified	"publication" pursuant to California Government Code 6064	not specified	
Notice of Change of Designation	PC § 1106	none	none	notice	owner of subject property	none	not specified	none	none	



# Existing Notification Standards (10/5/09)

**Note: This summary is not definitive. The Summary includes Planning Code Standards that may differ from Department practice.**

PROJECT TYPE	Code Reference	EXISTING STANDARDS								
		Posting		Mailing			Newspaper		Comment	
		Type	Length	Type	Recipients	Radius	Length	Type		Length
<b>Public Hearing for Project Entitlement</b>										
<b>B - Office Allocation Hearing</b>	PC § 322, PC § 306.8	notice 30" x 30"	20 days	none	none	none	none	none	none	
<b>C - Conditional Use (CU)</b>	PC § 306.3	30" x 30"	20 days	notice	owners	300'	10 days	notice	20 days	
<b>CU for Planned Unit Development (PUD)</b>	PC § 306.8	30" x 30" must include map	20 days	notice	owners	300'	10 days	notice	20 days	
<b>CU for PUD in NC or SoMa District</b>	PC § 316.3	[size not specified] must include map	20 days	notice	owners	300'	20 days	notice	20 days	
<b>CU in NC or SoMa District</b>	PC § 316.3	[not specified] practice is 30" x 30"	20 days	notice	owners	300'	20 days	notice	20 days	
<b>CU for Wireless Telecommunications (WTS) Facility (within C-3 &amp; RC-4 Districts)</b>	WTS Guidelines	30" x 30"	20 days	notice	owners AND residential tenants of subject building AND residential tenants within 25 feet of subject building	300'	10 days	notice	20 days	
<b>CU for WTS Facility (all other Districts)</b>	WTS Guidelines	30" x 30"	20 days	notice	owners and occupants	300'	10 days	notice	20 days	
<b>Gas Station Conversion</b>	PC § 228.4	[unspecified]	20 days	notice	owners	300 feet	10 days	none	none	
<b>V - Variance</b>	PC § 305, PC § 306.3, PC § 306.8	30" x 30"	20 days	notice	owners	300'	10 days	none	none	
<b>X - Downtown Project Exception Hearing</b>	PC § 309, PC § 306.8	30" x 30"	20 days	notice	owners	300'	10 days	none	none	
<b>X - Hearing on Downtown Project Proposed Approval (no exceptions sought and sponsor accepts any additional requirements)</b>	PC § 309(g)(2)	none	none	notice	owners and any person who has submitted request for additional requirements	adjacent properties	none specified	none	none	

# Existing Notification Standards (10/5/09)

**Note: This summary is not definitive. The Summary includes Planning Code Standards that may differ from Department practice.**

PROJECT TYPE	Code Reference	EXISTING STANDARDS								Comment
		Posting		Mailing			Newspaper			
		Type	Length	Type	Recipients	Radius	Length	Type	Length	
<b>Text/Map Change</b>										
General Plan Amendments	PC § 306.3	none	none	none	none	none	none	notice along with map, if applicable	20 days	
Map Change Greater Than 1/2ac but Less Than 30ac	PC § 306.3	none	none	notice	owners	300'	10 days	notice	20 days	
Map Change Greater than 30ac	PC § 306.3	none	none	notice	owners	300'	10 days	notice along with map	20 days	practice is to include a map in mailed notice if appropriate
Map Change Less Than 1/2ac	PC § 306.3	8 1/2" by 11" posting at every street intersection w/in 300' radius of subject lot(s)	none	notice	owners	300'	10 days	notice along with map	20 days	
Text Change	PC § 306.3	none	none	none	none	none	none	notice	20 days	
<b>Other</b>										
BBN	PC § 351(f)	none	none	not specified	BBN Requestor	not specified	not specified	none	none	Practice is 10 day notice, signature on plans or phone call.
Child Care Exaction Determination Notice	PC § 314.4(a)(2), PC § 306.3	none	none	notice	owners	300'	10 days	notice	20 days	
Coastal Zone Application Filing	PC § 330.6	none	none	notice	California Coastal Commission	none	10 days	none	none	notice to CC give within 10 days of filing.
Coastal Zone Determination	PC § 330.6	none	none	notice	California Coastal Commission	none	7 days	none	none	notice to CC given within 7 days of decision.
Coastal Zone Appeal (to Board of Appeals)	PC § 330.6	none	none	notice	California Coastal Commission	none	10 days	none	none	notice to CC given within 10 days of appeal filing.
Coastal Zone	PC § 330.7	none	none	notice	occupants	100'	none specified	none	none	notice of coastal zone permit application

# Existing Notification Standards (10/5/09)

**Note: This summary is not definitive. The Summary includes Planning Code Standards that may differ from Department practice.**

PROJECT TYPE	Code Reference	EXISTING STANDARDS								Comment
		Posting		Mailing			Newspaper			
		Type	Length	Type	Recipients	Radius	Length	Type	Length	
IMP Hearing Notice	304.5, 306.3	none	none	notice	owners	300'	10 days	notice	20 days	Practice is to include 20-day posted notice (30"x30"). Mailed notice may also be of longer duration per ZA discretion.
Jobs-Housing Exaction Determination Notice	PC § 313.4(b), PC § 306.3	none	none	notice	owners	300'	10 days	notice	20 days	
X - Downtown Project Application Filing	PC § 309(c)	none	none	notice	owners	adjacent properties only	none specified	notice	none specified	
X - Downtown Project Proposed Approval (no exceptions sought and sponsor accepts any additional requirements)	PC § 309(d)	none	none	notice	owners	adjacent properties only	10 days	notice	none specified	



SMALL BUSINESS COMMISSION  
OFFICE OF SMALL BUSINESS

CITY AND COUNTY OF SAN FRANCISCO  
EDWIN M. LEE, MAYOR

June 30, 2014

President Cindy Wu  
San Francisco Planning Commission  
1650 Mission Street, Suite 400  
San Francisco, CA 94103-2414

**Subj: File No. 130788 [Planning Code - Expanding Formula Retail Controls]**

**Small Business Commission Recommendation: No Recommendation**

Dear President Wu:

At its meeting of June 23, 2014, the Small Business Commission heard Board of Supervisors (BOS) File No. 130788. The Commission moved to make no recommendation on the legislation. The Commission believed that the legislation does not amend the formula retail controls in a balanced way. Rather, it broadly expands the use categories to which formula retail controls will apply, which will result in a deluge of new conditional use authorization (CUA) hearings at the Planning Commission. With your docket already very full, this does not seem to be a wise development. Furthermore, the legislation contains no provisions to expedite review of the least controversial applications. Experience has shown that simple requests – such as changes of ownership within the same use category – might be more efficiently handled through an administrative process.

In the Commission's view, the legislation does not embrace many of the quantitative and qualitative findings of the Planning Department's "San Francisco Formula Retail Analysis." For instance, the Analysis found no relationship between increasing commercial rents and formula retail occupancies. Yet, the legislation strives to discourage all formula retail by imposing an onerous economic impact study requirement on nearly all formula retail applications, even those with small store footprints that are most likely to be owned by local franchisees.

As you are aware, the Small Business Commission on June 9 moved to approve a related proposal put forth by the Planning Department to amend formula retail controls. The Commission suggested the legislative sponsor continue his dialogue with the Planning Department to unify both proposals. The Commission found many valuable aspects in the Planning Department's legislation, and believes it should be possible to align both pieces of legislation into a single proposal.

Thank you for considering the Commission's recommendation on this legislation. Please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Regina Dick-Endrizzi". The signature is fluid and cursive.

Regina Dick-Endrizzi  
Director, Office of Small Business

Exhibit B: Letter from the Small Business Commission

Hearing Date: July 17, 2014

CASE NO. 2013.1166T

Expanding Formula Retail Controls

SUBJ: FILE NO. 130788 [PLANNING CODE - EXPANDING FORMULA RETAIL CONTROLS]  
(6/30/2014)

cc: Jason Elliott, Mayor's Office  
Nick Pagoulatos, Office of Supervisor Eric Mar  
Jonas Ionin, Planning Department  
Aaron Starr, Planning Department  
Kanishka Burns, Planning Department  
AnMarie Rodgers, Planning Department

**From:** Paoulatos, Nickolas (BOS)  
**To:** Rodgers, AnMarie (CPC); Burns, Kanishka (CPC)  
**Subject:** Revised FR Ordinance Amendments  
**Date:** Tuesday, July 08, 2014 5:05:54 PM

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AnMarie and Kanishka,

Here is a revised version of the email I sent earlier.

Thank you for continuing to work this issue through with our office. Following up on our recent conversations, below are some changes that we will be making to our ordinance:

We are removing the following uses from our proposed broadening of the definition of Formula Retail 1) Tourist Hotel, 2) Automobile Parking, 3) Automotive Gas Station, 4) Automotive Service Station, 5) Automotive Repair, 6) Automotive Wash, 7) Automobile Sale or Rental, 8) Storage, 9) Light Manufacturing, Wholesale Sales, 10) Storage, 11) Other Entertainment, 12) Medical Service, 13) Administrative Service, and 14) Adult Entertainment. We agreed that the Department's proposal would mirror the our revised list of additional uses.

We are removing the poster size requirement from the draft ordinance and any requirements which are duplicative with existing notification requirements.

We are removing existing notification requirements that were duplicative of the existing code, including: description of the proposal compared to any existing improvements on the site with dimensions of the basic features, elevations and site plan of the proposed project including the position of any adjacent buildings, exterior dimensions and finishes, a graphic reference scale, existing and proposed uses and commercial or institutional business name, if known. The notice shall also include the name of the proposed formula retail business if any, and a map of the notification area, showing the location of proposed use and existing adjacent businesses/uses. The notice shall describe the project review process and shall set forth the mailing date of the notice and the expiration date of the notification period. We will keep the requirement to list the name of the parent company.

We are revising the ordinance section that requires notification within "the notification area" which was largely duplicative of existing requirements in that it includes the applicant, tenants of the subject property, relevant neighborhood organizations as described in Subparagraph 312(d)(2)(C), all individuals having made a written request for notification, and all owners of property and tenants within the notification area. These items are proposed for deletion from the draft Ordinance. The only new parties to be notified under our proposal would be the inclusion of tenants who live between 150' and 300' of the proposed project.

We also agreed to amend both of our Ordinance to remove the proposed regulation of subsidiaries and instead to create a committee to study the difficult issue of subsidiaries and prepare a report with recommendations for the Board of Supervisors within 6 months. Your Ordinance will also mirror this component.

We agreed that both of our Ordinances will amend the method for measuring concentration of Formula Retail as follows: the Department will generally look at the district and then also look at concentration in a closer scale, either 300' or ¼ mile, per staff judgment. Planning will also revise the Performance-Based Standards document from consistently using ¼ mile to reflect this change.

Our policy will also codify the Upper Market policy that requires a negative Planning recommendation should the concentration of Formula Retail rise above 20%. This trigger will only exist for the Upper Market area.

Again, thank you both for continuing to work with us on this complicated issue, we look forward to ongoing progress.



## MEMORANDUM

Date: July 9, 2014

To: John Rahaim, AnMarie Rodgers, and Kanishka Burns, San Francisco Planning Department

From: Dena Belzer, Sarah Graham, and Alison Nemirow Strategic Economics,

Project: San Francisco Formula Retail Economic Analysis

Subject: Preliminary Assessment of Proposed Economic Impact Study Requirements

Planning Department staff and Supervisor Eric Mar have each proposed that an economic impact study be required as part of the conditional use authorization process for certain retail businesses. The City & County of San Francisco requested that Strategic Economics (SE) provide a preliminary assessment of the two proposals, based on the results of the San Francisco Formula Retail Economic Analysis and SE's professional experience. This memorandum provides some guiding principles for the City to consider in establishing an economic impact study requirement for certain retail businesses, as well as some questions for clarification and potential challenges posed by the staff proposal (as initiated by the Planning Commission on May 22, 2014) and Supervisor Mar's proposal (Board of Supervisors File No. 130788, substituted May 13, 2014).

### Considerations for Establishing an Economic Impact Study Requirement

**Many of the considerations that motivate San Francisco's formula retail controls are challenging to measure through economic impact analysis, and are already assessed qualitatively through the existing formula retail conditional use (CU) authorization process.** The existing CU process considers vacancy rates within the district where the new establishment will be located, the availability of similar retail uses within the district, and the existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the district. These impacts are challenging to quantify, particularly for stores under 100,000 square feet, and may be best considered qualitatively. Other considerations, such as the relatively larger local economic impact of independent retailers compared to formula retailers (due to the fact that independent retailers tend to generate more local spending) have been well established through specialized research, but are extremely challenging to measure at the level of the individual establishment using traditional economic impact study methodologies.

**A business with fewer than 100,000 square feet is unlikely to have a significant, measurable, citywide economic impact.** In Strategic Economics' professional experience, smaller retail projects may have localized neighborhood impacts (e.g., on direct competitors), but are unlikely to have significant citywide impacts on total employment, a city budget, or overall economic output.

**The appropriate study area for an economic impact analysis depends in part on the likely trade area of the specific business under study.** A trade area is typically defined as the area from which



the majority of customers will travel in order to shop, and can vary widely depending on the type of business, size of business, supply and location of existing competitors, local population density, and other factors. For example, a grocery store is likely to draw from a trade area of at least one mile in radius, but could attract customers from a wider market if it is located in an area with few other existing grocery stores, or if it fills a particular niche (e.g., providing particularly high-end or discounted products). A large-scale (100,000 sq. ft. or more) general merchandise store (such as a Target) or a hardware store would generally be expected to serve a three- to five-mile trade area, but could attract shoppers from across the city or region depending on where competitors are located.

Note that trade areas are an appropriate frame of reference for studying the impacts of a new businesses on competing stores, the impacts that employees may have in terms of generating demand for certain types of services may relate to a completely different geography. For example, a big box retailer like Target may draw on a three- to five-mile trade area for its customers, but employees could come from a much larger catchment area.

**Economic impact studies are typically performed for a proposed site development or land use plan, rather than a proposed new business.** Most new formula retail establishments in San Francisco locate in existing retail buildings, rather than in new buildings or shopping centers.<sup>1</sup> While many of the analytical methods used for new development projects can be applied to new businesses locating in existing buildings, some methods may need to be adjusted in order to account for the impacts of the previous use of the building (whether it was vacant or occupied by another business). This issue may require further consideration.

**The economic impact studies proposed by both Supervisor Mar and City staff draw from standard impact analysis methodologies, but do not completely conform to standard practice.** Brief descriptions of the conventional methodological approaches to the types of analyses that appear to most closely address the intent of the two proposals are provided below. A further discussion of suggested modifications to the respective ordinances is included in the following two sections.

- **Leakage analysis:** A leakage analysis estimates the net impact that a new retail use is likely to have on sales “leakage,” defined as the difference between the buying power (demand) of the household and workforce population in a trade area and the actual sales (supply) in that same trade area.<sup>2</sup> Leakage analyses:
  - Are performed for a specific trade area.
  - Measure impacts for the operations phase of a project (i.e., when sales stabilize) rather than construction impacts.
  - Focus on the potential impacts on the specific type of retail that is being proposed (e.g., apparel, general merchandise, food stores, eating and drinking places, other specific retail category).
  - Require a number of assumptions about the incomes and buying power of the existing residents and workforce population, existing sales in the trade area, projected sales for the new use, future population and employment growth, and other factors.

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<sup>1</sup> Strategic Economics, *San Francisco Formula Retail Economic Analysis*, prepared for San Francisco Planning Department, June 2014.

<sup>2</sup> Leakage analyses are often performed for large retail projects (e.g., 100,000 square feet or more) as part of an urban decay study for an environmental impact report (EIR). Urban decay analyses are required under the California Environmental Quality Act (CEQA) if a development project is likely to cause economic impacts that result in significant physical impacts, such as persistent vacancies and blight. Generally, the economic impacts of a project are considered to have a significant effect on the environment if they result in stores closing and becoming vacant, and that those buildings and/or properties remain vacant, deteriorate, and lead to the decline of nearby real estate.

- Include a qualitative assessment of potential effects on existing competitors.
- May result in either a positive or a negative result. If the leakage is positive, there is a gap between total buying power and actual sales that indicates a potential to capture additional retail in the trade area because the sales are “leaking” to another area. A negative leakage number means that actual sales exceed the total buying power, or a sales surplus is being generated by shoppers coming into the trade area from other places. In the San Francisco context, for certain categories of retail sales such as apparel, food stores, or eating and drinking places, leakage is likely to be negative – meaning that the city is attracting more sales in certain categories than would be expected based on local population alone because San Francisco is a regional shopping destination.
- May not capture qualitative factors that could show a positive benefit to adding a new store in a given location. For example, even in the case where there may be no measurable unmet demand for a particular category of good, a new store may add greater variety in the offerings available to shoppers, helping to bolster the strength of a cluster of similar retailers. In other cases, there may not appear to be any sales leakage because existing stores are capturing sales all of the expected sales, but the existing stores may not necessarily match evolving consumer preferences. Grocery stores are a good example of a category where store formats have changed considerably to meet changing consumer preferences for prepared foods, fresh produce, and a larger selection of organic offerings. As a result, even in a trade area where the size of demand has not changed, a new store may enter the market to better address these new preferences. While this new store will likely “cannibalize” sales from an existing store, the new outlet is still meeting a form of previously unmet consumer demand.
- **Multiplier analysis:** A multiplier analysis estimates the total regional economic impact of a new firm or project in terms of sales, value added (gross domestic product), earnings, or employment. Typically, this approach to measuring economic impact is used for very large scale projects such as a large public infrastructure investment, or the impact of a major employer or institution. The analysis uses multipliers (or ratios) calculated using regional input-output economic models (for example, by the U.S. Bureau of Economic Analysis) that capture how changes in one industry generate indirect and induced effects in other industries throughout a county or region.<sup>3</sup> Multiplier analyses:
  - Are performed at the county or regional level; multipliers are not available below the county level (note that San Francisco is both a city and a county, so in this case, the analysis could be performed for the city as a whole).
  - May assess short-term impacts of construction as well as long-term impacts of a business’s ongoing operations.
  - Do not capture nuance about the different potential spending patterns of independent versus formula retail firms. While studies have established that independent retailers tend to spend more locally and thus have a larger local economic impact than formula retailers, multipliers are available at the industry level and (while they account for the

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<sup>3</sup> *Direct effects* are the initial changes in employment, earnings, and output generated by the industry, firm, or project under study. *Indirect effects* occur in industries that provide inputs or respond to the demand generated by the industry, firm, or project under study. *Induced effects* result from households spending the income they earn, whether as a result of the direct effects associated with the initial changes in economic activity, or the indirect effects on different employers throughout the supply chain.

- fact that not all inputs are purchased locally), and do not differentiate by types of firms within industries.
- Require assumptions about the direct effects of the firm under study, or the initial amount of employment, earnings, and/or sales generated by the firm.
  - **Fiscal impact (public revenues and services) analysis:** Fiscal impact analyses measure the impact of a potential project on the City's finances, including new service costs created by increased demand for city services (such as police and fire) and facilities (such as parks); new revenues such as sales tax, property tax, and fee income; and total net fiscal impact (i.e., total revenues minus total costs). Fiscal impact analysis:
    - Assess the impact of a proposed project at the city level (i.e., on the city budget).
    - Measure impacts for the operations phase of a project (i.e., when sales stabilize) rather than construction impacts, but may assess the infrastructure cost impacts of certain types of construction (e.g., the cost of building a new road to serve a project).
    - Require a detailed study of a city's budget, as well as many assumptions about the number of new employees, sales and other revenues, and service needs generated by a project, as well as other factors.
    - Often overstate the cost impact of a given project. While new revenues generated by any given project are often relatively simple to calculate, costs can be much more difficult to measure. The most precise way to address the cost issue is to consider the marginal cost increase taking into account the ability of existing services to accommodate the new demand. However, it is often difficult to ascertain accurate marginal cost increases, so many fiscal impact analyses rely on average cost assumptions, which can also significantly overstate the cost impact of any given project.
    - Are primarily intended to measure the impact of residential rather than commercial development, since these analyses assume that households are more significant consumers of municipal services than businesses. While assumptions related to both property and sales tax revenues generated by commercial projects and their employees are typically included in fiscal impact analyses, the costs for municipal services for employees are generally discounted at a rate of 30-50 percent of those assumed for residents (using an average per capita cost approach).
    - Are calculated for specific funds within a city's budget. For example, many fiscal impact analyses focus on calculating the net fiscal impact of a project on a city's General Fund. Fiscal impact analyses may also assess the impacts on enterprise funds or special revenue funds (for example, in San Francisco, the Municipal Transportation Agency, the Airport, and Port, and the Public Utilities Commission are all enterprise funds). However, in many cities, enterprise funds and other special funds are largely self-supporting (i.e. paid for with fees for service, state or federal grants, and other sources), so new businesses or other growth does not have a direct effect on their operations.
    - Do not typically capture increases in demand for services, such as childcare or other social services, that are not directly paid for by property taxes, sales taxes, and other General Fund sources. Demand for these services may be better measured using different methodologies, such as a nexus study methodology, rather than a fiscal impact analysis.
  - **Employment impact analysis:** An employment impact analysis estimates the impact of a project on total employment. Employment impact analyses:
    - May be conducted at the trade area, city, or regional level.

- Measure the number of short-term construction-related and/or permanent jobs generated by a proposed project; may also assess the likely wages and/or benefits of employees hired by the new firm.
- May assess whether a proposed project will result in a net increase or decrease in permanent employment in a specific trade area (based on findings from a leakage analysis) and/or the economy-wide impact of a new project on total employment and earnings within a county or region (based on a multiplier analysis).
- Do not typically assess the effect on wages and benefits of employees at competing retail businesses; there are no known literature or data sources on which to base such an analysis except for a very limited set of retailers in specific contexts (i.e., almost all of the literature on the competitive effects of new retail establishments is based on studies of new Walmart stores, mostly in suburban or rural locations<sup>4</sup>).
- Require assumptions about the expected number of jobs, type of jobs, and earnings generated by the proposed project.

### Planning Department Staff Proposal

The staff proposal (as initiated by the Planning Commission on May 22, 2014) would establish an economic impact study requirement for large-scale retail uses (i.e., retail uses over 50,000 square feet in most districts and over 120,000 square feet in the C-3 district). Given that this proposal focuses on larger stores which are more likely to have measurable impacts, the proposal generally conforms to the characteristics of typical economic impact studies and the other considerations discussed above. However, SE identified the following potential issues and questions for clarification:

- The appropriate study area may vary by 1) type of analysis and 2) the specific trade area of the proposed project. As discussed above, multiplier and public revenues/services (fiscal impact) analyses would assess the impacts of a project for the City and County as a whole. Leakage analyses typically estimate impacts for a specific trade area, while the employment analysis could be conducted for the trade area or other geography. Because the size of the trade area can vary significantly depending on the specific type of retailer, it may be appropriate for City staff and/or the consultant to decide on the appropriate study areas on a project-by-project basis.
- The multiplier and public revenues/services (fiscal impact) analyses could be performed using either 1) only the direct employment and sales impacts of the proposed project or 2) the total, net impacts on the trade area and/or city as estimated in the leakage analysis. The current language is unclear as to which type of analysis is desired.
- It is not clear how a multiplier analysis would assess the spending impacts of a business's local competitors. This may require additional clarification, or could be eliminated, since the issue of existing competition is already addressed through the conditional use authorization process.
- Quantifying the effect on wages and benefits of employees of other retail businesses and community income levels in the impact area is likely to be extremely challenging. As discussed above, existing literature and data sources do not provide a basis for estimating the effects of most new formula or large-scale retailers on existing competitors.
- The description of the public revenues/services analysis could benefit from additional clarification on the following questions and issues:

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<sup>4</sup> See discussion in Strategic Economics, June 2014, Chapter V.

- Should the public services analysis assess the impact of a new project on General Fund services such as public health, police and fire, recreation and parks, and general administration?
- Should the analysis calculate the net fiscal impact on the General Fund (i.e., total revenues from sources such as sales tax, property tax, property transfer tax, and payroll tax, minus the total cost of providing increased General Fund services)?
- Note that the impacts of new businesses or development on other types of municipal and social services (such as transit and childcare) may be paid for in whole or in part using non-General Fund revenues, including impact fees, state and federal grants or formula funds, and other sources. These impacts should be estimated separately from impacts to General Fund services, and may require complex assumptions. For example, a calculation of transit impacts would require assumptions about employee household vehicle ownership and mode share. A calculation of impacts on childcare or other social services would require assumptions about employee household incomes, program eligibility criteria, and the rate at which households take advantage of public assistance programs for which they are eligible.
- Staff may wish to reference the City's existing nexus studies for transit, childcare, and other impact fees, which have already created a methodology for measuring impacts on public services of new development projects (although these nexus studies may not address the impact of new businesses locating in existing buildings).
- Impacts of a new retail store on the State budget will be very challenging to quantify, and would likely be minimal given the scale of California's budget relative to the demand for services created by one new retail store.

#### Supervisor Mar's Proposed Ordinance

Supervisor Mar's proposed ordinance would create an economic impact study requirement for formula retail conditional use (CU) applicants meeting certain thresholds based on 1) the size of the store proposed by the applicant and 2) the total square footage of all stores in the city owned by the applicant. Given the significant overlap between the two proposals, many of the issues and questions identified above for the staff proposal also apply to Supervisor Mar's proposed ordinance. In addition, several other components of the economic impact study described in the proposed ordinance could benefit from additional clarification or are likely to present methodological challenges. These include the following:

- The proposed ordinance would require multiple different studies, including a leakage analysis, an employment analysis, a fiscal impact analysis, and a transportation impact study to measure vehicle miles traveled.
- Businesses with fewer than 100,000 square feet are unlikely to have a significant, quantitative economic impact, and the total square footage of all stores owned by the applicant throughout the city is not likely to affect the economic impacts of a specific new location. Many of the qualitative impacts of a new formula retail establishment are already examined through the existing CU process, including the existing vacancy rates within the district, the availability of similar retail uses within the district, and the existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the district.
- Although it is not possible to estimate the number of businesses that would be subject to the economic impact study requirement given the ownership criteria described in the proposed

ordinance, it is likely that the majority of formula retail CU applicants would be subject to the requirement.<sup>5</sup>

- The appropriate study area may vary by 1) type of analysis and 2) the specific trade area of the proposed project. Because the size of the trade area can vary significantly depending on the specific type of retailer, it may be appropriate for City staff and/or the consultant to decide on the appropriate trade area on a project-by-project basis.
- The impacts of the construction (as opposed to operation) of a proposed retailer on factors such as supply and demand for retail space, the cost of providing public services and facilities, other retail operations, and vehicle miles traveled<sup>6</sup> are likely to be challenging to estimate. While construction may create short-term employment opportunities, it is not clear how construction could significantly affect the other factors identified in the proposed ordinance (particularly since for many formula retail CU applicants, construction will involve limited tenant improvements to an existing building, rather than the development of a new building).
- Quantifying the effect on wages and benefits of employees of other retail businesses and community income levels in the impact area is likely to be extremely challenging.<sup>7</sup> Existing literature and data sources do not provide a basis for estimating the effects of most new formula or large-scale retailers on existing competitors.
- Estimating the impact of a new retailer on total vehicle miles traveled (VMT)<sup>8</sup> would require a transportation impact study. Typically, transportation impact studies assess vehicle trip generation rates; calculating VMT would require additional assumptions about the length of customer trips by car. Although some existing transportation impact tools include VMT estimates,<sup>9</sup> additional research may be required to determine the level of precision, appropriate size thresholds, complexity, and applicability of these tools to the San Francisco context where many retail stores provide limited on-site parking.
- Assessing the potential for long-term vacancy of the property on which the retailer is proposed in the event that the business vacates the premises<sup>10</sup> would be extremely challenging. The ease with which a property could be re-tenanted in the future will depend on future market conditions, which are difficult to predict. The potential for long-term vacancy may also depend on whether the retailer continues to hold the lease after vacating the property (a common arrangement among some chains that allows the retailer to keep out competitors) or extinguishes the lease; this in turn is likely to depend on future market conditions, the conditions under which the business vacates the building, the applicant's future business strategy, and other unknown factors. Finally, many if not most new formula retailers in San Francisco locate in existing buildings, many of which are already vacant; it is not clear how the impacts of a future vacancy would be measured in this case.

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<sup>5</sup> The *San Francisco Formula Retail Economic Impact Analysis* found that 61 percent of all existing formula retailers in San Francisco are between 3,000 and 10,000 square feet in size, and that 21 percent are between 10,000 and 50,000 square feet. Only 15 percent are smaller than 3,000 square feet, while fewer than 1 percent are larger than 50,000 square feet. Source: Strategic Economics, June 2014.

<sup>6</sup> BF 130788, Sections 2(3)(F)(ii)(b), (e), (f), and (g).

<sup>7</sup> *Ibid.* Section 2(3)(F)(ii)(d).

<sup>8</sup> *Ibid.* Section 2(3)(F)(ii)(g).

<sup>9</sup> See discussion in Governor's Office of Planning and Research, "Preliminary Evaluation of Alternative Measures of Transportation Analysis," State of California, December 30, 2013, <http://opr.ca.gov/docs/PreliminaryEvaluationTransportationMetrics.pdf>.

<sup>10</sup> BF 130788, Section 2(3)(F)(ii)(h).



SMALL BUSINESS COMMISSION  
OFFICE OF SMALL BUSINESS



CITY AND COUNTY OF SAN FRANCISCO  
EDWIN M. LEE, MAYOR

June 30, 2014

Ms. Angela Calvillo, Clerk of the Board  
Board of Supervisors  
City Hall Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**Subj: File No. 130788 [Planning Code - Expanding Formula Retail Controls]**

**Small Business Commission Recommendation: No Recommendation**

Dear Ms. Calvillo:

At its meeting of June 23, 2014, the Small Business Commission heard Board of Supervisors (BOS) File No. 130788. The Commission moved to make no recommendation on the legislation. The Commission believed that the legislation does not amend the formula retail controls in a balanced way. Rather, it broadly expands the use categories to which formula retail controls will apply, which will result in a deluge of new conditional use authorization (CUA) hearings at a Planning Commission with an already full docket. Furthermore, the legislation contains no provisions to expedite review of the least controversial applications. Experience has shown that simple requests – such as changes of ownership within the same use category – might be more efficiently handled through an administrative process.

In the Commission's view, the legislation does not embrace many of the quantitative and qualitative findings of the Planning Department's "San Francisco Formula Retail Analysis." For instance, the Analysis found no relationship between increasing commercial rents and formula retail occupancies. Yet, the legislation strives to discourage all formula retail by imposing an onerous economic impact study requirement on nearly all formula retail applications, even those with small store footprints that are most likely to be owned by local franchisees.

On June 9, 2014, the Small Business Commission moved to approve a related proposal put forth by the Planning Department to amend formula retail controls. The Commission suggested the legislative sponsor continue his dialogue with the Planning Department to unify both proposals. The Commission found many valuable aspects in the Planning Department's legislation, and believes it should be possible to align both pieces of legislation into a single proposal.

Thank you for considering the Commission's recommendation on this legislation. Please feel free to contact me should you have any questions.

Sincerely,

Regina Dick-Endrizzi  
Director, Office of Small Business

SUBJ: FILE NO. 130788 [PLANNING CODE - EXPANDING FORMULA RETAIL CONTROLS]  
(6/30/2014)

cc: Jason Elliot, Mayor's Office  
Nick Pagoulatos, Office of Supervisor Eric Mar  
Aaron Starr, Planning Department  
Kanishka Burns, Planning Department  
AnMarie Rodgers, Planning Department  
Andrea Ausberry, Office of the Clerk of the Board



BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

May 21, 2014

File No. 130788

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Jones:

On May 13, 2014, Supervisor Mar introduced the following proposed substituted legislation:

**File No. 130788**

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 study as part of the formula retail conditional use application; charge administrative fees to pay for staff review time of such studies; and making environmental findings and findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk  
Land Use & Economic Development Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Jeanie Poling, Environmental Planning  
Nannie Turrell, Environmental Planning

*Not a project under CEQA  
Guidelines Sections 15060(c)  
and 15378 because there  
is no direct or indirect  
physical change in the  
environment.  
N. P. Turrell 5/21/14*



BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

August 8, 2013

File No. 130788

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Jones:

On July 30, 2013, Supervisor Mar introduced the following proposed legislation:

**File No. 130788**

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.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

Handwritten signature of Alisa Miller in cursive.

By: Alisa Miller, Committee Clerk  
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning  
Joy Navarrete, Environmental Planning

Non physical exemption  
Cred Section 15060 (c)(2)

JN  
8/14/13  
JOY NAVARRETE  
2013.1166E



**CITY AND COUNTY OF SAN FRANCISCO  
OFFICE OF THE CONTROLLER**

*BOS-U electronically*  
*LU clerk* Ben Rosenfield  
Controller  
COB  
Monique Zmuda  
Deputy Controller

February 12, 2014

The Honorable Board of Supervisors  
City and County of San Francisco  
Room 244, City Hall

Angela Calvillo  
Clerk of the Board of Supervisors  
Room 244, City Hall

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2014 FEB 12 PM 1:02  
AK

**Re: Office of Economic Analysis Impact Report for File Number 130788**

Dear Madam Clerk and Members of the Board:

The Office of Economic Analysis is pleased to present you with its economic impact report on file number 130788, "Expanding Formula Retail Controls: Economic Impact Report." If you have any questions about this report, please contact me at (415) 554-5268.

Best Regards,

Ted Egan  
Chief Economist

# Expanding Formula Retail Controls: Economic Impact Report

Item #130788

Office of Economic Analysis

February 12, 2014



## Main Conclusions

- This economic impact report was prepared in response to a proposed ordinance (item #130788), introduced by Supervisor Mar in the Summer of 2013, which would expand formula retail controls in San Francisco. Formula retail controls limit the growth of chain stores within San Francisco.
- The proposed legislation would both expand the definition of formula retail, and require the Planning Commission to consider an independent economic impact report detailing how a proposed chain store would affect existing businesses.
- Formula retail controls primarily affect the economy by changing the retail prices paid by consumers, the amount of local spending by retail businesses, commercial rents and vacancy rates, and perceptions of neighborhood quality.
- In general, chain stores charge lower prices, but may spend less within the local economy, and can be unpopular with some residents because they can be seen to diminish the character of the neighborhood. On the other hand, limiting chain stores can reduce commercial rents and raise vacancy rates.
- Research by the Office of Economic Analysis suggests that local retailers may spend up to 9.5% more within the local economy than chain stores, but charge prices that average 17% more. On balance, the economic benefits of greater local spending by non-formula retailers are outweighed by higher consumer prices.
- Accordingly, the report concludes that expanding the definition of formula retail in the city will not expand the local economy. Moreover, while the proposed independent report would document the impact of chain stores on existing businesses, a new store could benefit the economy without benefiting existing businesses, by offering lower prices to consumers, for example.
- The OEA therefore recommends that the report instead consider the relative prices and local spending by proposed chain stores and existing businesses. In addition, the report recommends the Planning Commission explicitly consider the views of residents, and whether a proposed store could prevent blight.



## Introduction

- Formula retail controls are intended to limit the growth of chain stores within San Francisco. The City has adopted a number of formula retail controls, ranging from the prohibition of new formula retail, to requirements for a conditional use authorization.
- For example, Proposition G, in 2006, which requires a conditional use authorization for new formula retail use in a neighborhood commercial district.
- This economic impact report was prepared in response to a proposed ordinance, introduced by Supervisor Mar, which would expand formula retail controls.
- The Office of Economic Analysis (OEA) determined that the proposed legislation could have a material effect on San Francisco's economy.



## Background

- Section 303(i) of the Planning Code defines a "formula retail use" as type of retail sales establishment with more than eleven other establishments in the United States, along with two or more of the following characteristics:
  - A standardized array of merchandise
  - A standardized facade
  - A standardized decor and color scheme
  - Uniform apparel
  - Standardized signage
  - A trademark or servicemark
- Most chain stores possess, at a minimum, a trademark or servicemark and sell standardized merchandise, regardless of the physical appearance of the store or its facade. Such stores would qualify as formula retail uses if there were eleven or more other stores in the United States.
- Other sections of the Planning Code impose land use controls on formula retail uses, which vary across neighborhoods in the city.
- The proposed legislation leaves these existing neighborhood controls intact, and only changes the underlying, city-wide definition of a "formula retail use".





## Effects of the Legislation

The legislation has three major effects, which are described in the following pages:

1. Broadening the industries subject to formula retail controls
2. Extending the definition and geography of ownership
3. Modifying direction to the Planning Commission when considering a Conditional Use Application



## Effects of the Legislation: Broadening the Industries Subject to Formula Retail Controls

- At present, 12 industries (or commercial land uses) are covered by formula retail controls, such as retail sales and services, restaurants and bars, financial services, and movie theaters.
- The proposed legislation would extend the controls to an additional 27 types of business activity, including business and professional services, wholesaling and light industry, and administrative services.



## Effects of the Legislation: Extending the Definition and Geography of Ownership

- Formula retail controls currently only apply to the legal entity that owns the eleven establishments.
- In other words, a wholly-owned, but legally-distinct, subsidiary of a formula retail would not be subject to formula retail if it had less than eleven establishments of its own.
- The proposed legislation would change this. Any subsidiary, affiliate, or parent of a formula retail use would, itself, be considered a formula retail use.
- In addition, the current code requires a retailer to have eleven establishments within the United States to qualify as a formula retail use.
- The proposed legislation would broaden this to the entire world, meaning international chain stores just opening in the United States would be covered by formula retail controls for the first time.



**Effects of the Legislation:  
Modifying Direction to the Planning Commission Regarding  
Conditional Use Authorization**

- A conditional use authorization from the Planning Commission is required for a formula retail use to open, in most of the city.
- The Planning Code currently directs the Commission to consider several things when evaluating such an application for a conditional use, including:
  - The existing concentration of formula retail uses in the neighborhood.
  - The availability of similar retail uses (to the applicant) already existing in the neighborhood.
  - Existing retail vacancy rates.
  - The existing mix of city-wide and neighborhood-serving retail uses in the neighborhood.
- **The proposed legislation would make two additions:**
  1. Directing the Commission to consider the percentage of formula retail uses within a 300-foot radius of the applicant's proposed address.
  2. Adding a requirement that the Planning Commission consider the impact of the proposed use on existing businesses in the area, as indicated by an independent economic impact report.

Office of the Controller - Office of Economic Analysis



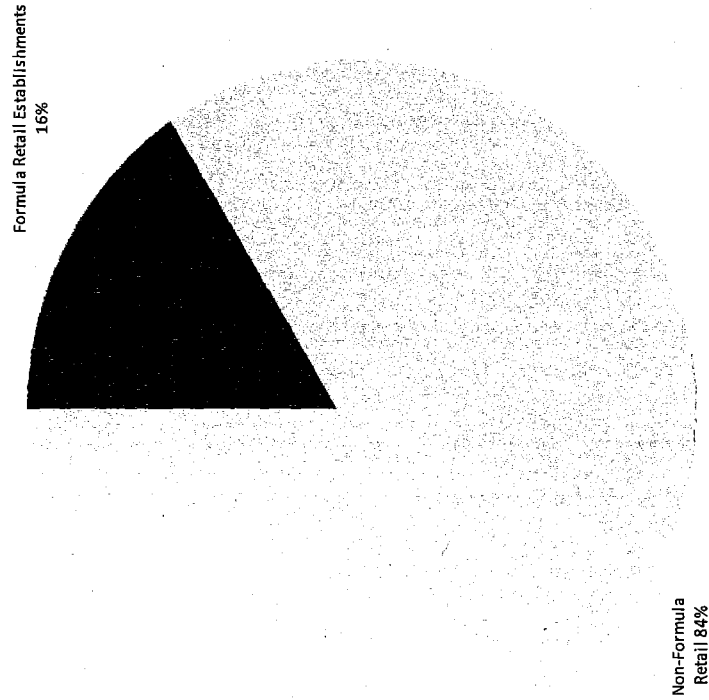
## Understanding Formula Retail Trends in San Francisco

- Because the definition of formula retail is unique to San Francisco, no state or federal economic statistics are available for this economic category.
- However, the Controller's Office has access to individual sales tax payer information from the State Board of Equalization.
- This data allowed the OEA to identify businesses with over 11 establishments within California. These would qualify as formula retail under the City's rules.
- The data set also allowed us to identify businesses that have only one store in San Francisco. A examination of a random sample of 50 of these revealed 98% of were not formula retail.
- These two sets of businesses were therefore used to examine growth trends for both types of retail business in the city.
- However, only businesses subject to the Sales Tax are covered by these samples, which exclude other businesses that are subject to formula retail control, in particular, business and personal service providers.



## Formula Retail – Percentage of Businesses

**Formula Retail Percentage of All San Francisco Retail Establishments, 2012**

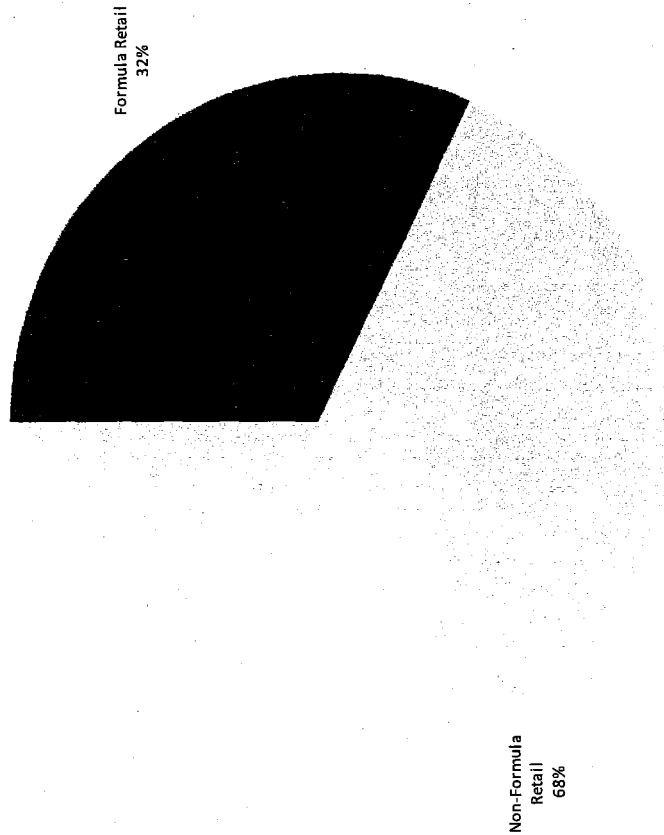


Formula retailers represent a fairly small share of San Francisco's 28,000 sales tax payers. In 2012 only 1 out of 6 retailers was potentially subject to the City's formula retail controls.



# Formula Retail – Percentage of Sales

**Formula Retail Percentage of All  
San Francisco Retail Sales, 2012**

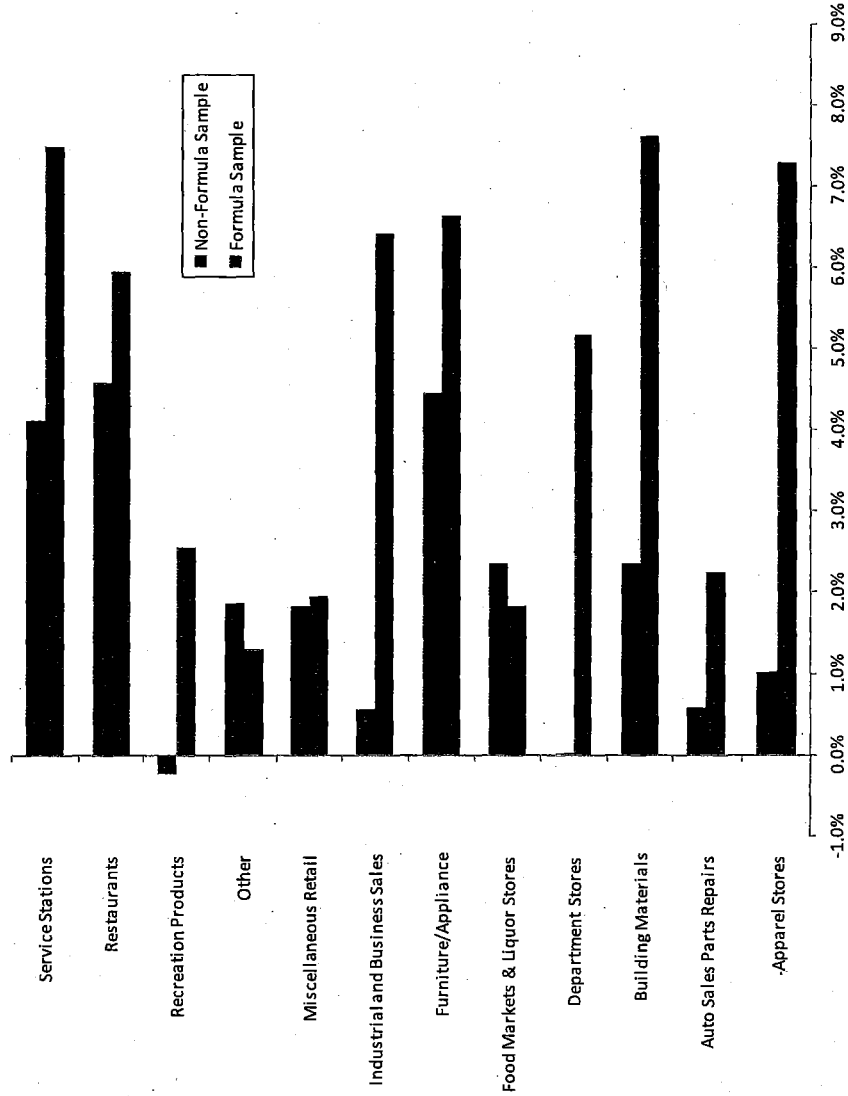


Formula retailers account for a larger share of taxable sales made in San Francisco. 32%, or \$4.4 billion, of San Francisco's \$13.8 billion in retail sales occur at stores that are potentially subject to formula retail controls.



# Growth Trends in Formula and Non-Formula Retail Sales

**Average Annual Growth in San Francisco Retail Sales, 1993-2012:  
Formula and Non-Formula Retail Samples**



In virtually every type of taxable retail activity in San Francisco, sales at formula retailers have grown more rapidly than non-formula retail, over the past twenty years.

The difference in growth rates is most pronounced for apparel stores, industrial and business sales, and building materials.

Food markets and liquor stores were the only retail category for which local sales have expanded more quickly than formula retail sales.

These categories derive from the Sales Tax database and do not align with the categories used in formula retail controls.

Source: Board of Equalization





## **Economic Impact of Formula Retail Controls**

- Formula and non-formula retailers are likely to have different effects on the local economy.
- Controls on formula retail uses could potentially affect the city's economy in the following five ways, discussed on the following pages:
  1. Impacts on the cost of retail distribution, retail prices, and consumer spending
  2. Impacts on spending by retail businesses in the local economy
  3. Impact on employment
  4. Impact on commercial vacancy rates and rents
  5. Impacts on neighborhood quality



## **Economic Impact Factors: Distribution Costs, Retail Prices, and Consumer Spending**

- On average, the sample of non-formula retailers examined by the OEA were smaller than the formula retailers, as measured by sales per establishment within San Francisco.
- Smaller stores generally lack economies of scale, which can lead these stores to have higher costs than chain stores, per unit of item sold.
- Restricting chain stores will therefore likely increase the average cost of retail distribution in the city. Higher costs usually have two effects on markets: higher prices and reduced sales. Businesses pass their higher costs on to consumers in the form of higher prices, who react by spending less in the local economy.
- Higher prices harm consumers, and reductions in sales harm other businesses.



## **Economic Impact Factors: Business Spending**

- Anecdotal evidence suggests that local, non-formula retailers are more likely to locally source their business services, such as accounting, advertising, and legal services.
- Formula retailers, it is often claimed, rely on their corporate offices for these services, and therefore have less reliance on local suppliers of these services.
- This higher spending by local, non-formula retailers, generates positive multiplier effects as it circulates throughout the local economy, expanding spending and employment.



## Trade-off Between Higher Prices and Higher Local Spending

- An economic trade-off exists between local spending and consumer prices.
- If consumer price differences between formula and non-formula retailers are sufficiently small, then formula retail controls could expand economic activity in the city by shifting spending to retailers with a higher local multiplier.
- If, on the other hand, there are wide differences in prices, then the negative economic harm of higher consumer prices could outweigh the economic benefit of greater local spending, and overall spending in the city would contract.



## Economic Impact Factors: Commercial Vacancy Rates and Rents

- Current city policy recognizes that formula retail restrictions may increase commercial vacancy rates. The Planning Commission considers vacancy rates in the neighborhood when evaluating a conditional use application.
- Higher commercial vacancy rates, and/or lower rents, primarily harm commercial property owners, reducing the rate of return on their investment.
- Lower rates of return in real estate normally affect the broader economy by reducing the incentive to maintain existing and develop new commercial property. However, the legal ability to develop new commercial space in most San Francisco neighborhoods is already severely restricted by the Planning Code.
- In addition, growth in consumer spending is generally strong in San Francisco, reducing the incentive to leave existing property vacant or under-maintained.
- Therefore, the broader economic impact of higher vacancy rates and lower rents is generally quite limited in most San Francisco neighborhoods.
- However, neighborhoods at risk of commercial decline due to blight conditions would be an exception. In such neighborhoods, policies that discourage formula retail tenants could have negative consequences on the surrounding neighborhood and the city's economy.



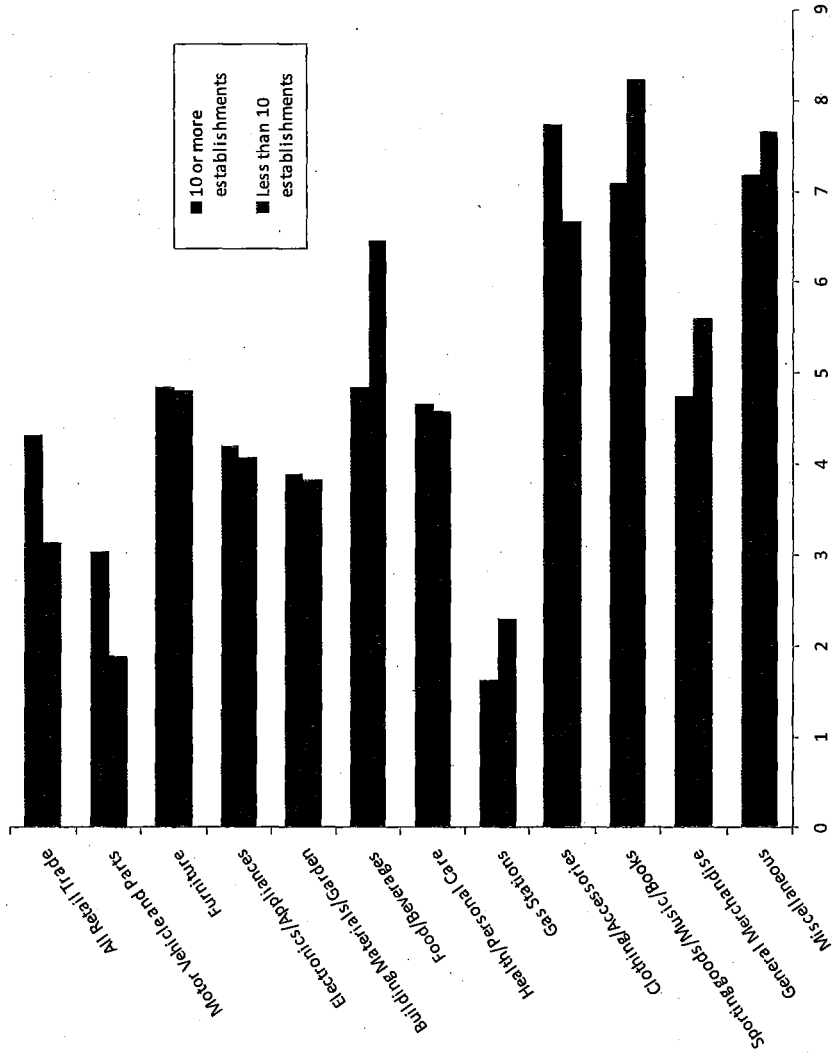
## **Economic Impact Factors: Employment**

- If smaller local businesses are generally less efficient, it is reasonable to expect them to employ more people to distribute the same amount of goods to consumers.
- In effect, local businesses may produce more jobs per dollar spent by consumers.
- Formula retail restrictions could then be seen as having an employment benefit. By protecting smaller businesses from competition from larger, more efficient retailers, the city would experience higher retail employment.



# Employment and Sales at Small and Large Retailers

Employees per Million Dollars in Revenue:  
U.S. Retail Trade Businesses, by Number of Establishments and Type of Store



The available evidence, from the Census Bureau, suggests that employment per million dollars of sales is not higher at retail businesses with 10 or fewer establishments.

On the contrary, across all retail types, larger retail establishments employ 4.3 workers per million dollars in sales, while smaller retailers employed 3.2.

The pattern is different across different types of retail trade: smaller food stores do tend employ more people per million dollars in sales, for example.

However, across the breadth of business activities subject to the proposed ordinance, there appears to be no clear employment gain from promoting smaller retail at the expense of larger retail.

Source: U.S. Census Bureau, 2007 Economic Census, "Retail Trade: Subject Series - Establishment and Firm Size: Summary Statistics for Single Unit and Multiunit Firms for the United States: 2007"



## Economic Impact Factors: Perceived Impacts on Neighborhood Quality

- Formula retail controls may also have an effect on the city's economy, through their effect on the city's neighborhoods.
- Proposition G in 2006, which required a conditional use authorization for formula retail uses in most of the city, was passed by a wide majority. This can be read as evidence that many residents do not favor the unrestricted growth of formula retail in their neighborhoods.
- Neighborhood quality is priced into rents and housing prices. Analysis of the Bay Area housing market suggests that San Francisco residents do pay a premium to live in the city. At this point, the OEA is unable to quantify the impact of the presence of formula retailers on this neighborhood premium, if any.
- Consequently, we cannot estimate the relative importance of any effect of formula retail on rents and housing values within neighborhoods, or how it might compare with the impacts of prices and local business spending.
- However, there could be cases in which some neighborhood residents prefer to pay higher prices at local, non-formula retailers to the presence of formula retailers. A decision to limit formula retail in such a circumstance need not necessarily be harmful to the city's economy.



## **Economic Impact Assessment**

- The OEA is able to produce quantitative estimates of two of the economic impact factors just discussed:
  - Estimate of the difference in consumer prices at formula and non-formula retailers.
  - Estimate of the difference in local spending at formula and non-formula retailers.
- As discussed earlier, the available evidence does not suggest that formula retail controls can be expected to increase employment in the city's retail trade industry.
- At this time, the OEA is unable to estimate the impact of formula retailers on commercial or residential property values, or perceptions of neighborhood quality. Recommendations on how these issues may be weighed and considered are provided in the conclusion to this report.



## OEA Research on Price Differences at Formula and Non-Formula Retailers

- To assess the extent of price differences at formula and non-formula retailers, OEA economists surveyed prices for a standardized basket of commodities at a range of over 30 formula and non-formula retailers in San Francisco.
- Over 500 individual price points were created over 3 weeks of research.
- Prices of individual commodities were weighted according to how frequently they are purchased, following guidelines established by the Bureau of Labor Statistics when creating Consumer Price Indices.
- Because the research had to be focused on branded, common commodities that can be found in both formula and non-formula retail stores, the research did not consider major retail categories in the city, including restaurants, apparel stores, and industrial sales. Establishing price differences at restaurants, for example, would require adjusting for service and food quality, which is very difficult.
- The research concluded that, on average, prices were 17% higher at the non-formula retailers than at the formula retailers that were surveyed<sup>[1]</sup>.



## Estimating Differences in Local Spending by Formula and Non-Formula Retailers

- The table on the following page relies on U.S. Census to derive an estimate of the percentage of consumer dollars that are spent within the local economy by formula and non-formula retailers.
- On average, U.S. retailers spend 73% of every dollar on the goods they sell, with the remaining 27% going to labor costs, rent, purchased supplies, taxes, and net income.
- Some of these spending categories, such as labor and purchased supplies, generate local multiplier effects. Others, such as cost of goods, do not. Net income for non-formula retailers was presumed to benefit the local economy, while net income from formula retailers was presumed not to.
- The data suggest that, at maximum, non-formula retailer could spend 24% of every dollar received in ways that benefit the local economy, while an estimated 14.5% of formula retail revenue would.
- Accordingly, the estimated difference in spending between formula and non-formula revenue would be a maximum of 9.5%.



## Operating Expenses and Local Economic Impacts for Formula and Non-Formula Retailers (as a percent of revenue)

Expense	Formula Retail	Non-Formula Retail	Local Economic Impact?
Cost of goods [2]	73%	73%	No
Labor [3]	9%	10%	Yes
Rent [4]	2%	2%	Yes
Purchased Services/Supplies - Local [5]	3.5%	7%	Yes
Purchased Services/Supplies - Non-Local [5]	6.5%	3%	No
State/Federal Taxes, other expenses[5]	2%	2%	No
Net Income[6]	6%	5%	Yes for Non-Formula
<b>Local Spending</b>	<b>14.5%</b>	<b>24%</b>	<b>Maximum 9.5% difference</b>

Notes at end of report.



## **Net Economic Impact of Consumer Price and Local Spending Differences**

- Based on Census data, the OEA's maximum estimate is that non-formula retailers could spend, on average, 9.5% more of their revenue on local goods and services than formula retailers.
- On the other hand, the OEA's research suggests that prices at non-formula retailers are 17% higher than they are at formula retailers.
- This price difference means that, even though policies that effectively divert spending to non-formula retailers do lead to higher levels of spending on local factors of production such as business suppliers, consumers that shift their purchases to non-formula retailers will have less to spend at other businesses.
- As the table on the next page illustrates, the economic cost of higher prices on local consumers outweighs the potential benefit of greater local spending by non-formula retailers, and the net local spending impact is somewhat negative.



# Net Spending Impact Illustration

	Formula Retail	Non-Formula Retail
Retail Price (as share of Formula Retail) <sup>[7]</sup>	\$1.00	\$1.17
a. Spending on local factors, per \$ of formula retail spending <sup>[8]</sup>	\$0.145	\$0.29
b. Spending on non-local factors, per \$ of formula retail spending <sup>[9]</sup>	\$0.855	\$0.88
c. Change in local consumer spending, relative to formula retail per \$ of formula retail spending <sup>[10]</sup>	\$0.00	-\$0.17
Spending on local factors plus change in local consumer spending <sup>[11]</sup>	\$0.145	\$0.12

Higher prices reduce the local spending impact of non-formula retail



## Conclusions and Recommendations

- Notwithstanding the fact that formula retail controls, in general, raise consumer prices and reduce the overall level of economic activity in the city, situations may arise in which limiting formula retail can be beneficial to the economy.
- This could happen when price differences between a proposed formula retailer and existing retailers are low, when local spending differences between them are high, and when residents believe the presence of the formula retailer, or the loss of an existing business, would have a negative impact on the quality of the neighborhood.
- Because individual circumstances are important, the case-by-case conditional use authorization may be the appropriate policy tool to deal with the issue.
- The proposed legislation changes both the definition of formula retail, and what the Planning Commission must consider in a conditional use application.
- The recommendations that follow from this analysis therefore address these proposed definitional and procedural changes.



## Conclusions and Recommendations

- As this analysis suggests that, in general, limiting formula retail in the city would not expand the local economy, expanding formula retail controls to cover non-U.S. establishments would also not expand the local economy.
- Similarly, there is no reason to believe that expanding the definition of formula retail to include companies that are owned by, or are affiliates of formula retailers, would expand spending in the city.
- The proposed economic impact report to the Planning Commission is required to consider the impact of the proposed formula retailer on existing businesses. However, a new formula retailer could be beneficial to the economy as a whole without benefitting existing businesses—by charging lower prices to consumers, for example.
- Requiring the report to consider the prices and local spending of the proposed and existing businesses would provide better information to the Planning Commission on the overall economic impact of the proposal.
- In addition, the impact of formula retailers on neighborhood quality can be weighed by directing the Commission to consider both the opinions of neighborhood residents, and whether a proposed store could prevent blight.





## End Notes

1. In August, 2013, OEA staff priced 25 different commodities at 11 different formula retailers and 20 different non-formula retailers across San Francisco, gathering 366 prices in all. The establishments were chosen at random from the City's database of sales tax payers, and were geographically spread across the city. For each of the 25 commodities, each observed price was expressed as a percentage of the minimum price observed for that commodity at any store. This approach allowed prices to be standardized across commodities. The standardized prices were then weighted according to the weights used by the Bureau of Labor Statistics in calculating the Consumer Price Index, reflecting the fact that some commodities are purchased more frequently than others. Average weighted prices at formula and non-formula retailers were then compared. The weighted average price at non-formula retailers was found to be 17% higher. Based on the number of observations, the 90% confidence interval is a price premium for non-formula retail between 2% and 32%.
2. Source: U.S. Census, *2011 Annual Retail Trade Survey*, "Gross Margin as a Percentage of Sales (1993-2011)", <http://www2.census.gov/retail/releases/current/arts/gmper.xls>. Figure cited in the table is based on 2011 data. Gross margin is defined as is defined as sales less cost of goods sold, so cost of goods sold as a percentage of sales equals one minus the percentage shown in the table (27.1%). Detailed data on costs of good sold is not available by number of establishments within a firm. Since virtually none of the goods sold at retail in San Francisco are manufactured in the city, this is a business expense that leaks out of the city's economy and generates no local multiplier effect. The assumption that both formula and non-formula retailers spend 73% of every revenue dollar on goods sold is unrealistic. Formula retailers are often vertically-integrated or buy in bulk from wholesalers, and hence benefit from lower wholesale prices than non-formula. Our assumption therefore under-estimates the spending leakage associated with non-formula retail, leading to a generous estimate of their overall local spending impact.



## End Notes

3. Source: U.S. Census Bureau, *2007 Economic Census*, "Retail Trade: Subject Series - Establishment and Firm Size: Summary Statistics for Single Unit and Multiunit Firms for the United States: 2007" The Census reports payroll and sales data for retailers having differing numbers of establishments, allowing the comparison presented here between firms with fewer than ten U.S. establishments and those with ten or more. This closely approximates the City's formula retail definition. The data is for the U.S. as a whole.
4. Source: U.S. Census, *2009 Annual Retail Trade Survey*, "2007 Detailed Operating Expenses Table", [http://www2.census.gov/retail/releases/historical/arts/2009\\_ARTS\\_detailed\\_operating\\_expenses.xls](http://www2.census.gov/retail/releases/historical/arts/2009_ARTS_detailed_operating_expenses.xls). Data is provided as a percentage of retail operating expenses, which on average is 21.6% of sales in the retail trade industry. (For this calculation, see "Sales 1992-2011" and "Total Operating Expenses 2006-11" in the same publication. Multiplying the figure from this source, 9.5%, by 21.6% yields the 2% figure in the table. Data is not available by number of establishments in the firm. Given that formula and non-formula retailers generally compete in the same market for the same spaces, this figure will probably be similar for both types.
5. The detailed operating expenses source cited in Note 4 was used to determine local and non-local expenses for formula and non-formula retailers. For formula retailers, local expenses (in addition to rent and payroll as already discussed) included labor fringe benefits, contract labor, repairs and maintenance to machinery, lease and rental payments for machinery and equipment, purchased electricity, purchased fuels (except motor fuels), water and sewer, and local taxes and license fees. In addition to this list, for non-formula retailers, local expenses were also assumed to include: expensed equipment; packaging materials and containers; purchases of other materials, parts, and supplies; data processing and other purchased computer services; commissions; purchased communication services; purchased transportation, shipping, and warehousing services; purchased advertising and promotional services; purchased professional and technical services. All other expenses were presumed to be non-local for both formula and non-formula retailers.



## End Notes

6. Net income here refers to the residual percentage of sales remaining after all of the above categories of expenses are deducted. Again, in an assumption that is extremely generous to the local spending impact of non-formula retailers, it is assumed that 0% of the net income earned by the formula retailer is spent within the city, while 100% of non-formula spending is spent within the city. The latter assumption is unrealistic because it assumes that all owners of the non-formula business either spend or invest all of the earnings only within San Francisco. If either assumption is violated, the local economic impact of these earnings will be less than what is assumed here.
7. This illustration is based on a hypothetical commodity with a price of \$1.00 at a formula retail store. Based on the research presented earlier, that commodity would cost \$1.17 at a non-formula retail store in the city.
8. If a consumer purchased the commodity at a formula retailer, 14.5 cents of that dollar would flow to local factors of production such as labor, rent, and local suppliers, based on the analysis on page 24. On the other hand, if the consumer purchased the commodity at a non-formula retailer, the cost would be \$1.17 and 24% of that, or \$0.29, would flow to local factors of production, again based on the page 24 analysis.
9. Whatever is not spent on local factors of production flows to non-local factors like manufacturers not based in the city. This equals 85.5 cents for a formula retailer, or 88 cents ( $\$1.17 \times 76\%$ ) for a non-formula retailer.
10. The purchase of the same commodity at a non-formula retailer entails a loss of consumer spending to the local economy of \$0.17, relative to formula retail.
11. The net impact on local spending is the amount that flows to local factors of production plus the relative impact on consumer spending. This equals 14.5 cents for formula retail, and \$0.29 - \$0.17 or \$0.12 for non-formula retail.



## Staff Contacts

Ted Egan, Ph.D., Chief Economist  
[ted.egan@sfgov.org](mailto:ted.egan@sfgov.org)

Asim Khan, Ph.D., Principal Economist  
[asim.khan@sfgov.org](mailto:asim.khan@sfgov.org)

Jay Liao, Economist  
[jay.liao@sfgov.org](mailto:jay.liao@sfgov.org)

The OEA would like to acknowledge the assistance of Mary Hom and Lily Conover of the Controller's Office in the preparation of this report.



## Caldeira, Rick

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**From:** Calvillo, Angela  
**Sent:** Friday, July 26, 2013 2:01 PM  
**To:** Caldeira, Rick  
**Subject:** FW: Legislative Update: Formula Retail Study  
**Attachments:** image001.png; image002.png; image003.png; image004.png; Formula Retail Study Scope of Work.pdf

Angela Calvillo  
Clerk of the Board

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**From:** Rodgers, AnMarie [mailto:anmarie.rodgers@sfgov.org]  
**Sent:** Friday, July 26, 2013 01:32  
**Subject:** Legislative Update: Formula Retail Study

Dear Interested Party,

Yesterday the San Francisco Planning Commission held a hearing on formula retail. You can review the materials that were before the commission here: <http://commissions.sfplanning.org/cpcpackets/2013.0936U.pdf> In response, the Commission passed a resolution authorizing a study of the issue and seeking public comment on the scope of that study. Attached is the draft scope. We encourage comment on this scope by August 5, 2013. To provide comment on the scope of work for this study, please reply to [AnMarie.Rodgers@sfgov.org](mailto:AnMarie.Rodgers@sfgov.org).

Due to the multiple proposals pending to amend the City's formula retail controls, the City seeks to secure a consultant and complete the study by this fall so that the pending proposals to change formula retail can be informed by data and public comment. The Department will schedule a hearing on the draft study prior to completion of the study. After completion of the study, the Department will use the study to make policy recommendations to the Planning Commission. Ultimately and with benefit of public comment, the Commission will make policy recommendations to the Board of Supervisors.

This effort will be strengthened with your involvement. If you are receiving this email, you are already on our contact list. Others may subscribe to the list titled "legislative updates" by enrolling here: <http://signup.sfplanning.org/>

**AnMarie Rodgers, Manager  
Legislative Affairs**

Planning Department | City and County of San Francisco  
1650 Mission Street, Suite 400, San Francisco, CA 94103  
Direct: 415.558.6395 | Fax: 415.558.6409  
Email: [anmarie@sfgov.org](mailto:anmarie@sfgov.org)  
Web: <http://www.sf-planning.org/Legislative.Affairs>  
Property Info Map: <http://propertymap.sfplanning.org/>





# SAN FRANCISCO PLANNING DEPARTMENT

July 26, 2013

Ms. Angela Calvillo, Clerk of the 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 Department Case Number 2013.0936U:  
Formula Retail Controls: Today and Tomorrow  
Planning Commission Resolution: Recommending to the Board of Supervisors  
that the issue of formula retail controls be further studied**

120193  
120796  
120814  
130372  
130486  
130677  
130712  
130735  
130788

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

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

Dear Ms. Calvillo:

On July 25, 2013, the San Francisco Planning Commission conducted a duly noticed public hearing at the regularly scheduled meeting to consider the issue of formula retail, including a presentation about the history of the controls, recent and pending changes to the controls, and topics to study in order to inform future policy. At the hearing, the Planning Commission passed a resolution recommending to the Board of Supervisors that the issue be studied further and that if proposals do move forward in the short term, that the Board resist patchwork changes to the structural components of the formula retail controls. Specifically, Planning Commission Resolution No. 18931 states:

Recommending to the Board of supervisors that the issue of formula retail be studied further to increase understanding of the issue overall and to examine potential economic and visual impacts of the proposed controls versus the absence of new controls. If proposals are to move forward before further study can be done, the commission recommends resisting patchwork changes to structural components of the controls such as the definition of formula retail, for these types of structural changes are best applied citywide.

Please include this transmittal, including Resolution No. 18931 and the Executive Summary (both attached) in the files for recent and pending formula retail proposals, including: BF 120814, introduced by Supervisor Breed; BF 130468, also sponsored by Supervisor Breed; BF 130712 sponsored by Supervisor Kim; BF 120193, sponsored by Supervisor Wiener; and BF 130677, also sponsored by Supervisor Wiener.

Please find attached documents relating to the action of the Planning Commission. If you have any questions or require further information please do not hesitate to contact me.

Transmittal Materials

CASE NO. 2013.0936U  
Formula Retail Controls: Today and Tomorrow

Sincerely,

Handwritten signature of AnMarie Rodgers in black ink, consisting of the letters 'AM' followed by a stylized 'R' and 'G' with a horizontal line extending to the right.

AnMarie Rodgers  
Manager of Legislative Affairs

cc:

Supervisor Chiu, District 3, President of the Board of Supervisors, and Member, Land Use Committee

Supervisor Breed, District 5

Supervisor Kim, District 6, and Member, Land Use Committee

Supervisor Wiener, District 8 and Chair, Land Use Committee

Jason Elliot, Mayor's Director of Legislative & Government Affairs

Amy Cohen, Mayor's Office of Economic and Workforce Development

Attachments (two hard copies of the following):

Planning Commission Resolution 18931

Planning Department Executive Summary



# SAN FRANCISCO PLANNING DEPARTMENT

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## Memorandum to the Planning Commission

HEARING DATE: JULY 25, 2013

*Project Name:* Formula Retail Controls Today and Tomorrow  
*Case No.:* 2013.0936U  
*Initiated by:* Planning Commission  
*Staff Contact:* Sophie Hayward, Legislative Planner  
(415) 558-6372 [sophie.hayward@sfgov.org](mailto:sophie.hayward@sfgov.org)  
Jenny Wun, Legislative Intern  
*Reviewed by:* AnMarie Rodgers, Manager, Legislative Affairs  
[AnMarie.Rodgers@sfgov.org](mailto:AnMarie.Rodgers@sfgov.org)

*Recommendation:* **Recommend Further Study**

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

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

### STATEMENT OF PURPOSE

On June 13, 2013, Planning Commission President Rodney Fong directed staff to review and analyze planning controls for formula retail uses in San Francisco due to the numerous pending proposals to change these controls. While the Department has requested additional time to develop a thorough proposal, the Commission will consider a pending proposed Ordinance introduced by Supervisor Cohen to establish the Third Street Formula Retail Restricted Use District during the July 25, 2013 hearing.

This report will provide a history of formula retail controls in San Francisco, and will summarize existing controls across zoning districts, highlighting similarities and differences. In addition, this report will outline recent legislative proposals to amend the formula retail controls in individual neighborhoods. It is the Department's goal to develop a series of controls that are clear, concise, and easy to implement that will protect neighborhood character and provide necessary goods and services. Finally, this report will identify topics for additional study and will outline ideas for future amendments to the formula retail controls to better maintain both a diverse array of available goods and services and the unique character of San Francisco's neighborhoods, including Neighborhood Commercial Districts, downtown districts, and industrial areas.

### BACKGROUND

**History of San Francisco's Formula Retail Controls.** In 2004, the Board of Supervisors adopted San Francisco's first formula retail use controls, which added Section 703.3 ("Formula Retail Uses") to the Planning Code to provide both a definition of formula retail and a regulatory framework that intended, based on the findings outlined in the Ordinance, to protect "a diverse



retail base with distinct neighborhood retailing personalities comprised of a mix of businesses.”<sup>1</sup> The Ordinance established the existing definition for formula retail as “a type of retail sales activity or retail sales establishment which, along with eleven or more other retail sales establishments, 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.”<sup>2</sup> This first identification of formula retail in the Planning Code provided the following controls:

- Neighborhood Notification pursuant to Planning Code Section 312 for most permitted uses in Neighborhood Commercial Districts (NCDs);
- Conditional Use (CU) authorization for specific blocks and lots in the area of Cole and Carl Streets and Parnassus and Stanyan Streets; and,
- A prohibition on all formula retail uses within the Hayes-Gough Neighborhood Commercial District.

The 2004 Ordinance established a precedent for formula retail controls; a number of amendments in quick succession added districts in which formula retail uses require CU authorization, including: 2005 amendments that added the Haight Street NCD and the small-scale NCD along Divisadero Street between Haight and Turk Streets, and a 2006 amendment that added the Japantown Special Use District (SUD).<sup>3</sup> In addition, a 2005 amendment added a prohibition on formula retail uses in the North Beach NCD.<sup>4</sup> In 2006, Section 803.6 was added to the Planning Code, requiring CU authorization for formula retail uses in the Western SoMa Planning Area SUD.<sup>5</sup>

In 2007, formula retail controls were further expanded when San Francisco voters approved Proposition G, the so-called “Small Business Protection Act,” which amended the Planning Code by adding Section 703.4, requiring CU authorization for formula retail uses (as defined in the Code) proposed for any NCD.<sup>6</sup>

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<sup>1</sup> Ordinance Number 62-04, Board File 031501, available online at: <http://sfgov.legistar.com/LegislationDetail.aspx?ID=473759&GUID=A83D3A84-B457-4B93-BCF5-11058DDA5598&Options=ID|Text|&Search=62-04> (July 16, 2013). It is interesting to note that when this Ordinance was originally proposed, the definition of “formula retail” referred to a retail establishment with four or more outlets, rather than eleven or more other establishments (as indicated in “Version 1” of the legislation). In addition, during the legislative review process, the Planning Department was not supportive of the controls, and cited difficulties in implementation and the additional staff required in order to implement the additional review procedures.

<sup>2</sup> Planning Code Section 703.3(b).

<sup>3</sup> Ordinances Nos. 8-05 (Haight Street), 173-05 (Divisadero Street), and 180-06 (Japantown). Available online at: <http://sfgov.legistar.com/Legislation.aspx>.

<sup>4</sup> Ordinance No. 65-05, available online at: <http://sfgov.legistar.com/Legislation.aspx>.

<sup>5</sup> Ordinance No. 204-06. This Section has since been further amended to allow formula retail uses with Conditional Use authorization in the MUG, UMU, Western SoMa SUD, the Chinatown Business District and the Chinatown Residential Neighborhood Commercial District, and to prohibit formula retail uses in the Chinatown Visitor Retail District, and to prohibit formula retail Restaurants in any Chinatown Mixed Use District. The Ordinances are available online at: available online at: <http://sfgov.legistar.com/Legislation.aspx>.

<sup>6</sup> The text of the Proposition, as well as arguments for (drafted by then-Supervisors Peskin, Sandoval, Ammiano, Daly, Mirkarimi, Gonzalez, and the nonprofit San Francisco Tomorrow) and against (drafted by then-Supervisors Elsbernd and Alioto-Pier) are available online here: <http://smartyoter.org/2006/11/07/ca/sf/meas/G/> (July 16, 2013).

The passage of Proposition G set the stage for a series of further amendments to the Planning Code that have further limited formula retail uses in a range of zoning districts, through CU authorization requirements and prohibitions, as summarized in Table 1, below.

**Voter-Established Controls vs. Typical Planning Code Amendments.** Proposition G, a voter-approved ballot proposition, established Planning Code Section 703.4; therefore, the contents of this section can only be changed through a similar ballot process, and may not be amended by the typical legislative process.

The specific provision that may not be altered without a ballot initiative requires that formula retail uses proposed for an NCD requires Conditional Use authorization by the Planning Commission. Conversely, the definition of "formula retail," the use types included in the definition, and the criteria for consideration may be altered through a standard Planning Code Amendment initiated by the mayor, the Board of Supervisors, or the Planning Commission. Furthermore, Section 703.4 specifically notes that the Board of Supervisors may adopt more restrictive provisions to regulate formula retail in any NCD.

**The Way It Is Now:**

**Definition.** The Planning Code includes an identical definition of "Formula Retail" in three locations: Section 303(i)(1), 703.3, and 803.6(c). "Formula Retail" is defined 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 façade, a standardized décor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark." As noted above, this definition was first established in Section 703.3.

**Use Types Subject to the Definition of Formula Retail.** Section 303(i)(2) refines the definition of formula retail to include the following specific retail uses:

- Bars (defined in Section 790.22);
- Drive-Up Facilities (defined in Section 790.30);
- Eating and Drinking Use, Take Out Food, Limited Restaurant, and Restaurants (defined in Sections 790.34, 790.122, 790.90, and 790.91);
- Liquor Store (defined in Section 790.55);
- Sales and Service, Retail (defined in Section 790.104);
- Financial Service (defined in Section 790.110); and,
- Movie Theatre, Amusement and Game Arcade (defined in Sections 790.64 and 790.4).

The formula retail controls described in Articles 7 and 8 refer Section 303(i)(2) for the above listed uses. The exception to this list is "Trade Shop," a use defined in Section 790.124, which is only subject to the formula retail controls when proposed in the Taraval Street NCD, Noriega Street NCD and the Irving Street NCD.<sup>7</sup>

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<sup>7</sup> Sections 739.1 and 740.1. Section 790.124 defines Trade Shop as: "A retail use which provides custom crafted goods and/or services for sale directly to the consumer, reserving some storefront space for display and retail service for the goods being produced on site ..." includes: repair of personal apparel, accessories, household goods, appliances, furniture and similar items, but excluding repair of motor vehicles and structures; upholstery services; carpentry; building,

**Zoning Districts that Control Formula Retail.** Retail uses that fall into the category of formula retail, as described above, may be permitted, prohibited, or may require CU authorization, depending on the zoning district in which the use is proposed. In addition, there are specific controls or combinations of controls that apply only in certain zoning districts. Controls for formula retail uses are summarized in Tables 1 and 2 below.

**Table 1: Summary of Basic Controls for Formula Retail Uses**

Formula Retail Not Permitted	Formula Retail Requires a CU	Formula Retail Permitted
Hayes-Gough NCT	All Neighborhood Commercial Districts listed in Article 7	C-2, C-3 (all), C-M, M-1, M-2, PDR-1-G, PDR-1-D, PDR-1-B, PDR-2 (Section 218)
North Beach NCD	RC-3 and RC-4 (Section 209.8(d))	Potrero Center Mixed Use SUD (Section 249.40)
RH-1(D)-3, RM-1-4, RTO, RTO-M (Section 209.8)	Japantown SUD (249.31)	South Park District (Section 814)
Chinatown Visitor Retail District (Section 811)	Bayshore Boulevard Home Improvement SUD (249.65, when 10,000 square feet or larger).	RSD (Section 815)
Residential Enclave District (Section 813)	Chinatown Community Business District (Section 810)	SLR (Section 816)
RED-MX (Section 847)	Chinatown Residential NCD (Section 812.1)	SLI (Section 817)
	Western SoMa SUD (Section 823, including specific review criteria)	SSO (Section 818)
	MUG District (Section 840)	Rincon Hill Downtown Residential District (Section 827)
	UMU (Section 843)	Transbay Downtown Residential District (Section 828)
	WMUG (Section 844)	Southbeach Downtown Residential District (Section 829)
	SALI (Section 846), with size limits	MUR (Section 841)
	WMUO (Section 845), with size limits	MUO (Section 842)

Table 1 summarizes the basic controls for Formula Retail by zoning district.

As illustrated above, formula retail uses typically require CU authorization in NC districts, are not permitted in residential districts, and are permitted in downtown and South of Market industrial districts.

Within a number of zoning districts, however, formula retail controls are further refined and differ from the basic uses and controls that apply to formula retail, as summarized below in Table 2. These controls have typically been added in response to concern regarding over-concentration of certain uses, perceived threats to independent businesses, or the impacts to neighborhood character caused by large use sizes within a geographic area. Examples of these specific controls

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plumbing, electrical, painting, roofing, furnace or pest control contractors ; printing of a minor processing nature; tailoring; and other artisan craft uses, including fine arts uses.

include the stipulation that Trade Shops (defined in Section 790.124) are subject to formula retail controls in certain NC districts in the Sunset, and that Pet Supply stores are subject to the controls on Geary Boulevard – a district that does not restrict many other uses categorized as formula retail.

**Table 2: Summary of Formula Retail Controls Applicable to Individual Zoning Districts**

Zoning Districts with Specific FR Controls	Summary of Control or Controls	Underlying FR Control
Upper Fillmore NCD (Section 718)	FR Restaurants/Limited Restaurants NP	FR Requires CU
Broadway NCD (Section 714)	FR Restaurants/Limited Restaurants NP	FR Requires CU
Mission Street FR Restaurant SUD (Section 781.5)	FR Restaurants/Limited Restaurants NP	FR Requires CU
Taraval Street Restaurant SUD	FR Restaurants/Limited Restaurants NP	FR Requires CU
Geary Boulevard FR Retail Pet Store and Restaurant SUD (Section 781.4)	FR Pet Supply Store NP and FR Restaurants/Limited Restaurants NP	FR Requires CU
Taraval Street NCD (Section 741)	Trade Shops are subject to FR Controls	FR Requires CU
Noriega Street NCD (Section 739)	Trade Shops are subject to FR Controls	FR Requires CU
Irving Street NCD (Section 740)	Trade Shops are subject to FR Controls	FR Requires CU
WMUO (Section 845)	FR NP if use is over 25,000 square feet	FR Requires CU
SALI (Section 846)	FR NP if use is over 25,000 square feet	FR Requires CU

*Table 2 summarizes the more specific controls that apply in certain zoning districts.*

As Table 2 indicates, a number of NCDs and SUDs have adopted controls specifically geared toward controlling formula retail restaurants, as well as more limited concern regarding formula retail pet supply stores and trade shops. Use size in association with formula retail has been identified as an issue to closely manage in the south of market districts.

**Conditional Use Criteria.** When hearing a request for CU authorization for a formula retail use, Section 303(i)(3) outlines the following five criteria the Commission is required to consider in addition to the standard Conditional Use criteria set for in Section 303(c)::

1. The existing concentrations of formula retail uses within the district.
2. The availability of other similar retail uses within the district.
3. The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the district.
4. The existing retail vacancy rates within the district.
5. The existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the district.

**Changes of Use.** Planning Code Section 303(i)(7) requires that a change of use from one formula retail Use to another formula retail use requires a new Conditional Use authorization. In addition, a new Conditional Use authorization is required when the use remains the same, but the operator changes, with two exceptions::

1. Where the formula use establishment remains the same size, function and with the same merchandise, and

2. Where the change in the formula retail operator is the result of the "business being purchased by another formula retail operator who will retain all components of the existing retailer and make minor alterations to the establishment(s) such as signage and branding."

When the exceptions apply and no new Conditional Use authorization is required, all conditions of approval that were imposed with the first authorization remain associated with the entitlement.

**The Way It Would Be:**

**Active or Pending Legislation, Policies, or Decisions Related to Formula Retail.** The Commission is expected to consider the contents of this report on July 25, 2013. During this same hearing, the Commission also is expected to consider a draft Ordinance from Supervisor Cohen that would enact two changes regarding formula retail [Board File 130372]. This amendment would first create the Third Street Formula Retail Restricted Use District (RUD) along Third Street from Williams Avenue to Egbert Avenue. Second, the proposed RUD would require that any new formula retail use on Third Street between Williams Avenue and Egbert Avenue seek CU authorization to operate. If any existing formula retail use has not already procured a CU permit to operate as a formula retail use, any alteration permits for a new formula retail use would require CU authorization. Any expansion or intensification of an existing Formula Retail use would also require CU authorization.

In addition to Supervisor Cohen's pending ordinance described above, there are seven other proposals or pending modifications formula retail controls in the City. The following is a summary of active formula retail control proposals:

1. **Commission Policy for Upper Market.** This policy (established by Commission Resolution Number 18843 on April 11, 2013) provides the first quantitative measure for concentration. Under the law, concentration is to be considered but without guidance, concentration levels have been interpreted differently. Under this enacted policy, the Department recommends disapproval if certain concentrations are reached.
2. **Supervisor Breed** would create the Fillmore [BF 120814] and Divisadero [BF 120796] NCDs which, among other controls, originally sought to prohibit new formula retail uses. Her new proposal would seek to weigh the community voice over other considerations (including staff recommendation); generally weigh the hearing towards disapproval; legislate a requirement for pre-application meeting; and codify our current formula retail policy for Fillmore and Divisadero. While the commission recommended against codifying the formula retail policy and against deferring the commission recommendation to community groups, the Supervisor is still considering how to best amend this proposal.
3. **Supervisor Breed** would also amend the definition of formula retail but only in the Hayes-Gough NCT [BF 130468]. The legislation proposes to modify the definition of formula retail to include formula retail that is a type of retail sales activity or retail sales establishment and has eleven or more other retail sales establishments located *anywhere in the world* (emphasis added). The definition of formula retail would also include a type of retail sales activity or retail sales establishment where fifty percent (50%) or more of the stock, shares, or any

similar ownership interest of such establishment is owned by a formula retail use, or a subsidiary, affiliate, or parent of a formula retail use, even if the establishment itself may have fewer than eleven retail sales establishments located anywhere in the world.

4. **Supervisor Kim** introduced interim controls [BF 130712] at the July 9<sup>th</sup>, 2013 Board of Supervisors' hearing that would impose interim zoning controls requiring conditional use authorization for certain formula retail uses, as defined, on Market Street, from 6th Street to Van Ness Avenue, subject to specified exceptions for grocery stores, for 18 months.
5. **Implications from recent Board of Appeals hearing.** The Board of Appeals recently ruled (Appeal No. 13-030) that if a company has signed a lease for a location (even if the location is not yet occupied) those leases count toward the 11 establishments needed to be considered formula retail. The Board discussed, but did not act on web-based establishments.
6. **Mobile Food Facilities.** Supervisor Wiener's recently approved ordinance amended the Department of Public Work's code [BF 120193] to restrict food trucks that are *associated* with formula retail establishments in the public right of way. The change of note is that for this restriction, the formula retail definition includes "affiliates" of formula retail restaurants, which includes an entity that is owned by or has a financial or contractual agreement with a formula retail use.
7. **Interim Controls in Upper Market.** On June 25, 2013, Supervisor Wiener introduced interim controls for Upper Market [BF 130677]. Although not specifically related to formula retail this resolution seeks to require CU for uses that are not currently regulated by formula retail controls but that have been suggested for inclusion in formula retail definition in the same way that financial services were recently added to the definition. Centers around 16th and Market would require a CU for limited financial and business services for 18 months.

#### REQUIRED COMMISSION ACTIONS

No action is required. The proposed resolution is before the Commission so that it may recommend further study of the issue.

#### ISSUES AND CONSIDERATIONS

As has been noted in recent case reports by the Department that address specific proposals and projects that include a formula retail component, San Francisco has struggled with the how best to define, manage, and evaluate chain establishments since the 1980s, when the NCDs were added to the Planning Code. The NCDs districts were specifically created to protect and maintain the unique character of these districts. That said, there are districts and neighborhoods that want to encourage access to the goods and services provided by certain forms of formula retail, or by specific companies that are considered formula retail; there are also neighborhoods that have banned formula retail of all kinds in order to protect the character derived from independent businesses.

In this section, we consider the definition of formula retail, statistics related to CU authorization applications since the implementation of the first formula retail controls, a review of the economic impacts of formula retail, and the approach to formula retail controls taken in other jurisdictions.

**Formula Retail Defined: Chain Stores, National Brands, and Local Favorites**

Existing formula retail controls apply to businesses that one would expect to consider “chain stores,” such as so-called big box retailers, as well as to businesses that may be surprising, such as smaller-scale businesses with local ownership, but with eleven or more brick and mortar establishments. The broadest definition of “Formula Retail” included in the Planning Code is:

[A use] hereby defined 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 façade, a standardized décor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark.<sup>8</sup>

The definition currently appears in three places in the Planning Code: Sections 303(i), 703.3(c), and 803.6, and captures many of the types and sizes of businesses generally associated with the term “chain store”:

- “Big box” retailers such as Walmart, HomeDepot, and CVS;
- Fast food restaurants such as Subway, McDonalds, and casual dining establishments such as TGI Fridays and Chipotle;
- Nationally recognized brands such as the Gap, Footlocker, and AMC Movie Theaters.

As noted in the Finding 9 of Section 703.3(1), which outlines the general controls applicable within the City’s NCDs, formula retail establishments may ...“unduly limit or eliminate business establishment opportunities for smaller or medium-sized businesses, many of which tend to be non-traditional or unique, and unduly skew the mix of businesses towards national retailers in lieu of local or regional retailers[...].” The controls are explicit in their intent to provide additional oversight to national brands that may fit general use size limitations, but may also pose a threat to the unique visual character of San Francisco’s neighborhood commercial districts.

However, the definition also captures a number of local brands and smaller retailers that may not typically be associated with the term chain store, such as:

- La Boulange Bakery, which has 20 locations, all in the Bay Area;
- Pet Food Express, which has 47 stores, all in the Bay Area;
- Blue Bottle Coffee, which has 11 locations: six in the Bay Area, and five in New York City;
- Benefit Cosmetics, which has six Bay Area locations, as well as five in the Chicago area, and seven in the northeast including New York, Massachusetts, and Connecticut.

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<sup>8</sup> Planning Code Sections 703.3 and 803.6

Conversely, the definition does not apply to a number of establishments that are nationally known brands with standardized signage, a standardized décor, and a trademark, such as:

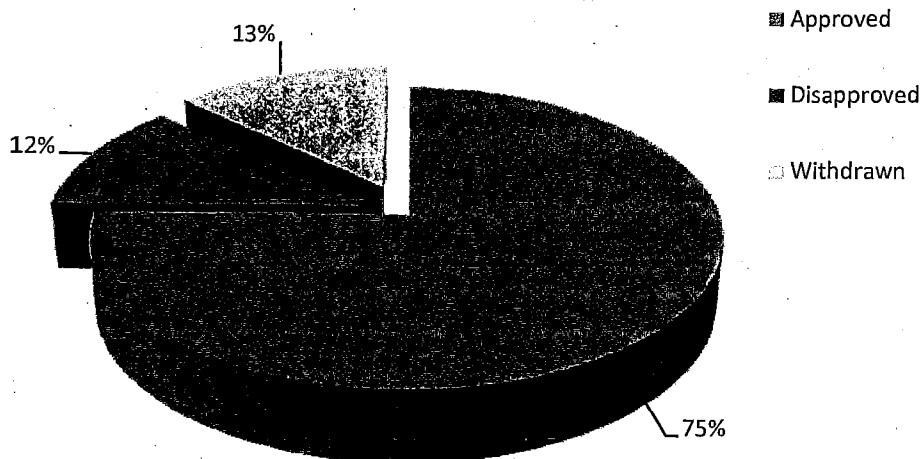
- Uniqlo, Boots Pharmacy, and David's Teas: three internationally known stores and brands with fewer than 11 stores or retail outlets in the United States;
- High end clothiers that are found in many department stores, with few brick and mortar stores, such as Gant, Jack Spade, and Joie;
- Chevron Gas Station and Equinox Gym meet threshold criteria for the number of locations as well as standardized branding, but do not fall into the types of "retail" to which the controls apply.

#### Data Related to Applications for CU Authorization for Formula Retail in San Francisco

Of the cases that have been filed with the Department and resolved since the enactment of San Francisco's formula retail controls in 2004, there have been approximately 93 formula retail Conditional Use cases. Of those 12 have been withdrawn, 11 have been disapproved, 70 have been approved. Not including currently active cases,

- 25% of all Formula Retail Conditional Use applications have been either withdrawn by the applicant or disapproved by the Commission and
- 75% of all Conditional Use applications have been approved by the Planning Commission.

### Actions on Conditional Use Applications for Formula Retail



*This pie-chart shows the results of the 93 CU applications for formula retail that have been resolved. In addition to the closed cases shown above, there are currently 12 applications which are pending a hearing before the Planning Commission.*



### Survey of Economic Impacts of Formula Retail Uses and Non-Formula Retail Uses

During a staff review of existing research and study of formula retail, the Department found that most of the studies done to date focused on big box retail. The Institute for Local Self-Reliance maintains a collection of research, some of which was relevant information for San Francisco. Attachment C contains a survey of material, some published in journals such as the Cambridge Journal of Regions and Economy and Society, Economic Development Quarterly, some not. The majority of the relevant research has been completed by Civic Economics and The Institute for Local Self-Reliance, as commissioned work. A review of existing findings of this work showed several case studies that compare economic impacts from formula retail uses and non-formula retail uses, including one study conducted in San Francisco<sup>9</sup>. Although most studies investigate economic impacts in smaller cities with less density and intense uses than San Francisco, the studies conclude that non-formula retail uses generate greater economic impacts for the local economy.

Below, the department reviews two recent studies examining formula retail and non-chain stores: an overview of other studies by Ridley & Associates in 2008 and the Civic Economics that was specific to San Francisco in 2007.<sup>10</sup> Both of these studies found that both formats have economic advantages. The Ridley & Associates study compared the economic impacts of "local stores" vs. "chain stores" and established three major findings:

- First, formula retailers provide goods and services at a more affordable cost and can serve as retail anchors for developing neighborhoods.
- Second, these formula retailers can also attract new customers, and offer a greater selection of goods and services.
- Third, conversely, independent businesses generate a higher investment return, and overall economic growth, for the local economy in comparison to formula retailers. According to the report, local stores generate more economic growth because they tend to pay higher wages; purchase goods and services from local businesses at twice the rate as chain stores; and employees and owners tend to live in the local area, therefore returning their earnings back to the local community.

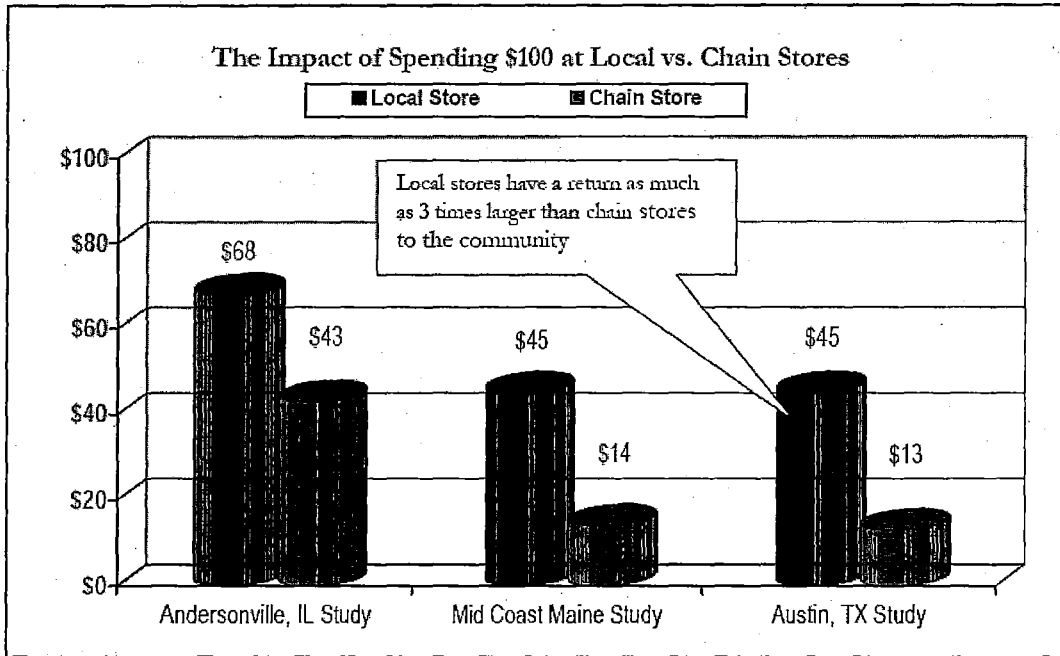
Looking specifically at San Francisco, the Civic Economics study stated that the increased retail sales generated by independent merchants generate additional taxable income for public services. The study highlights that independent restaurants tend to generate the most economic growth for the local economy due to the fact they function like small manufacturing establishments and pay higher wages. Other independent merchants that generate less pronounced economic growth include book stores, toy stores and sporting goods stores. Figure 1 illustrates the difference in economic growth generation between chain and independent retailers in three communities:

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<sup>9</sup> Institute for Local Self-Reliance. "Key Studies on Big Box Retail and Independent Business". <http://www.ilsr.org/key-studies-walmart-and-bigbox-retail/> (June 28, 2013).

<sup>10</sup> Ridley & Associates, Inc. "Are Chain Stores Bad?" 2008. [http://www.capecodcommission.org/resources/economicdevelopment/Are\\_Chain\\_Stores\\_Bad.pdf](http://www.capecodcommission.org/resources/economicdevelopment/Are_Chain_Stores_Bad.pdf) and Civic Economics. "The San Francisco Retail Diversity Study." May 2007. <http://civiceconomics.com/app/download/5841704804/SFRDS+May07.pdf>

Anderson, Illinois, Maine, and in Austin, Texas. The Department believes that further research is needed in this area.



*This graphic prepared by Ridley and Associates illustrates the higher investment return to the community by local stores.*

### Formula Retail Controls Across the Nation

The proliferation of formula retail is occurring throughout the nation. Several cities are in the process of or have recently adopted formula retail regulations. (See Attachment B for a table of cities with such controls compiled by the Institute for Local Self-Reliance.) Staff review of these controls reveal that concerns about formula retail include: 1) preservation of the neighborhood character; 2) maintenance of diverse store fronts, goods and services. 3) activation of streetscapes and 4) support for potential economic advantages of independent businesses. Many of the ordinances do not seek to prohibit every formula establishment, but instead seek to prevent a proliferation of formula retail may disrupt the culture of a neighborhood and/or discourage diverse retail and services.

Formula retail controls have been enacted in states including Texas, Florida, Idaho and Massachusetts. Cities that have adopted formula retail laws tend to be smaller than San Francisco and are often located in California. Other than San Francisco, the largest city that has an enacted law is Fairfield Connecticut which has a population of 57,000. In addition to whole cities, a portion of New York City, the Upper West Side neighborhood, has enacted controls that while not formula retail controls per se, do seek to limit the size of establishments and impose

aesthetic regulation of transparency, largely as a response to a perceived over-proliferation of banks<sup>11</sup>.

Generally, other jurisdictions define formula retail in a manner similar to San Francisco. Typical definitions include retail establishments that are required to operate using standardized merchandise, trademarks, logos, uniform apparel, and other standardized features. To date, zoning tools have largely required special permits (similar to San Francisco's CU authorization), instilled a ban, or have limited the number of establishments or the size of the establishments permitted. As described above, San Francisco defines formula retail as eleven or more national establishments, whereas Malibu's definition captures retail establishments with six or more other locations in Southern California.<sup>12</sup> On the other end of the spectrum, Chesapeake City's threshold for formula retail is 50 or more establishments, regardless of location in the United States.

This report explores controls from two cities. One set of controls enacted in New York City represents an attempt to encourage "active and varied" retail in a large dense, urban area similar to San Francisco. The other set of controls passed in the small town of Coronado California, is important in that it withstood a court challenge.

#### 1. Upper West Side, New York City.

San Francisco is often compared to New York City (NYC) in regards to the intensity of land uses, density and urbanity. While not regulating formula retail per se, in 2012 NYC City Council passed a zoning text and map amendment to to promote an "active and varied" retail environment in the Upper West Side (UWS) of Manhattan. The UWS is typified by high residential density and limited commercial space. After the community board and elected officials approached New York City Department of City Planning (NYCDCP) with concerns that the current retail landscape and the overall aesthetic of the neighborhood were threatened, the New York Department of City Planning conducted a block-by-block survey of the area, which illustrated that banks disproportionately occupied the existing retail frontages of the limited commercial space.<sup>13</sup> At that time, 69 banks had in retail frontage in the UWS. The banks uses often consolidated between 60-94' of street frontage, while the smaller, neighborhood-serving uses featured storefronts that were 10-17'<sup>14</sup>.

The adopted Special Enhanced Commercial Districts in the UWS provide stricter controls for the two neighborhood-serving commercial corridors, and less restrictive controls for the regional-commercial hub. The controls restrict the size of street frontages for banks as well as residential lobbies and non-retail uses. Highlights of the adopted controls include:

- a. For every 50' of street frontage, there must be at least two store fronts;
- b. No single store may include more than 40' of street frontage. (Grocery stores, houses of worship and schools are exempt from restrictions.)

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<sup>11</sup> New York City Department of City Planning. "Special Enhanced Commercial District Upper West Side Neighborhood Retail Street." Accessed July 15, 2013. <http://www.nyc.gov/html/dcp/html/uws/index.shtml>

<sup>12</sup> Malibu's ordinance defines "Southern California" as the counties of San Luis Obispo, Kern, San Bernardino, Santa Barbara, Ventura, Los Angeles, Orange, Riverside, San Diego, and Imperial.

<sup>13</sup> New York City Department of City Planning. "Special Enhanced Commercial District Upper West Side Neighborhood Retail Street." Accessed July 15, 2013. <http://www.nyc.gov/html/dcp/html/uws/index.shtml>

<sup>14</sup>Upper West Side Neighborhood Retail Streets - Approved! Presentation - updated on June 28, 2012, reflecting City Council adoption of proposal" Accessed July 16, 2013. <http://www.nyc.gov/html/dcp/html/uws/presentation.shtml>

- c. Banks and residential lobbies are limited to 25' of ground floor frontage.
- d. A 50% transparency requirement is established.<sup>15</sup>

The intent of this district is to maintain and encourage a pedestrian friendly neighborhood and the retail diversity of the district, while protecting the neighborhood-serving retailers.

## 2. Coronado, California

Coronado is an affluent resort city of 24,000 people located in San Diego County. It is described to have a village atmosphere, "in which its housing, shops, work places, schools, parks and civic facilities co-exist in relative harmony—its streets invite walking and bicycling and its eclectic architecture styles create a sense of timelessness that have contributed to a strong Sense of community."<sup>16</sup> Coronado has two zoning ordinances that regulate formula retail establishments: one establishes limits on formula retail restaurants; the other requires conditional use authorization for formula retail stores. The Formula Restaurant Ordinance allows no more than ten formula restaurants to be approved in the city. New formula retail restaurants must obtain a special use permit, may not locate on a corner, and must meet adopted design standards.

In December 2000, Coronado adopted a formula retail ordinance related to commercial stores. The ordinance requires that formula retail businesses obtain a special use permit from the city. Approval hinges on demonstrating that the store will contribute to an appropriate balance of local, regional, or national-based businesses and an appropriate balance of small, medium, and large-sized businesses. Formula retail businesses must be compatible with surrounding uses and occupy no more than 50 linear feet of street frontage.

Coronado's formula retail ordinance was challenged in court shortly after it was enacted, but a California Appeals Court upheld the law in June 2003. In its decision, the court stated that the ordinance does not violate the US Constitution's commerce and equal protection clauses, and is a valid use of municipal authority under California state law.<sup>17</sup> Specifically, the court stated,

"[The] primary purpose was to provide for an economically viable and diverse commercial area that is consistent with the ambiance of the city, and that it believed the best way to achieve these goals was to subject to greater scrutiny those retail stores that are contractually bound to use certain standard processes in displaying and/or marketing their goods or services, and to limit

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<sup>15</sup> NYC Zoning Resolution 132-20 "Special Use Regulations" – Special Enhanced Commercial Districts: EC 2 (Columbus and Amsterdam Avenues) and EC 3 (Broadway). Available online at: <http://www.nyc.gov/html/dcp/pdf/zone/art13c02.pdf> (July 17, 2013).

<sup>16</sup> Coronado's Formula Retail Ordinance. "<http://www.ilsr.org/rule/formula-business-restrictions/2312-2/>"

<sup>17</sup> Ibid.

the frontage area of these businesses to conform with existing businesses.”<sup>18</sup>

By upholding Coronado’s right to enact controls that provided strict oversight over formula retail establishments, the Court sent a signal to other jurisdictions considering local controls.

## **RECOMMENDATION**

The Department recommends that the Commission recommend that the issue of formula retail be studied further to increase understanding of the issue as a whole, and to examine potential economic and visual impacts of the proposed controls compared to the absence of new controls. If pending proposals move forward before the Department completes further study, the Department recommends that the Commission recommend resisting patchwork changes to structural components of the controls (such as modifying the definition of formula retail); these types of structural changes are best applied citywide.

## **BASIS FOR RECOMMENDATION**

The goal of this report is to lay the groundwork for a set of controls that appropriately and accurately evaluates the merits of formula retail and manages its impacts – positive and negative. The Department seeks a solution that will consolidate controls in a manner that is clear to the public, and consistently implemented by staff. Further, the Department seeks to develop criteria based on sound economic data and land use policy in order to protect the diversity of goods and services available to residents and visitors as well as the economic vitality of commercial districts large and small.

Formula retail controls in San Francisco have evolved over the last nine years, and as indicated by the diversity of pending legislative proposals, many elected officials believe the controls need updating. As the issues and implications are numerous, the department recommends that changes be made based upon data and sound research. To assist with this effort, the Director has asked staff to seek consultant assistance on a study of the issues early this fall.

There are at least six discreet topics that staff grapples with and that the Department seeks to understand better, including: 1) the structure of the controls including the definition of use types, size, and number of establishments, 2) the criteria for evaluation, 3) visual impacts, 4) economic impacts, and 5) geographic boundaries of the controls.

### **1. Structural Controls: Definition, Use Types, and Size**

All formula retail use types are currently considered in the same manner, and the criteria for evaluation are universally applied: a clothing store is evaluated using the same criteria as are used to consider a proposed new grocery store or a fast food restaurant. This begs the question: should the formula retail controls treat all use types equally? Are there formula

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<sup>18</sup> The Malibu Times, “Public Forum: Chain Stores, formula retail ordinances and the future of Malibu”. Posted on March 27, 2013. Retrieved from: [http://www.malibutimes.com/opinion/article\\_145150ca-9718-11e2-892c-001a4bcf887a.html](http://www.malibutimes.com/opinion/article_145150ca-9718-11e2-892c-001a4bcf887a.html) on July 16, 2013.

retail use types that should be encouraged, and others that should be discouraged? Do all formula retail uses have the same impacts in every location?

The Department would like to explore whether uses such as grocery stores and pharmacies provide needed neighborhood-serving goods and services to underserved areas, and whether there exist a sufficient number of independent retailers to provide such goods and services. Proposed amendments to the formula retail controls may target specific uses, such as grocery stores, for specific underserved areas and provide a set of criteria and/or incentives to encourage use types that provide essential goods or services in appropriate locations. Based upon the current controls, on the other hand, it appears that formula retail restaurants are less beneficial, perhaps having a greater impact on neighborhood character than other use types.

Conversely, the range of use types and sizes captured by the existing definition of formula retail may decrease the availability of neighborhood-serving goods and services, and lead to gentrification. Can the presence of upscale formula retail lead to gentrification? A 2002 report from the Institute for Local Self Reliance (ILSR) addresses the role of formula retail in gentrification, and specifically addresses the role of protecting neighborhood-serving retailers.<sup>19</sup> Stacy Mitchell of ILSR notes, “[...]And of course there are plenty of formula businesses that are very expensive, such as Whole Foods, Restoration Hardware, and many clothing chains. (Indeed, these are probably the kinds of formula businesses that would locate in Hayes Valley if given the chance.)”<sup>20</sup>

Further, many proposals seek to expand the definition of formula retail. Perhaps the trigger of eleven national establishments could be revised, or perhaps the definition should also consider the prevalence of an establishment within San Francisco. It seems increases in the square footage, street frontage or number of formula retail establishments within San Francisco may dilute the City’s unique character.

## 2. Criteria for Evaluation

As noted throughout this report, the same five criteria are used to evaluate all forms of formula retail proposed in districts that require CU authorization. The Department proposes to consider gradations of criteria that address concentration on one hand, and use types on the other.

Should local retailers with eleven establishments be subject to the same criteria as Walmart? Or, does it make more sense to establish a simpler set of criteria for smaller outlets that are not part of large retailers that perhaps already have a significant presence in the city, and to impose a more rigorous set of criteria on larger stores? Is “eleven” the appropriate number to define a business as a formula retail establishment?

A recently adopted Commission policy considers the existing concentration of formula retail uses within the Upper Market NCT when evaluating new formula retail proposals in the district. This approach will be reviewed as the Department’s proposal is developed.

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<sup>19</sup>“Tackling the Problem of Commercial Gentrification,” November 1, 2002, available online at: <http://www.ilsr.org/retail/news/tackling-problem-commercial-gentrification/> (July 17, 2013).

<sup>20</sup> Stacy Mitchell. Institute for Local Self Reliance. E-mail communication. July 17, 2013.

### 3. Visual Impacts

The unique character of San Francisco neighborhoods is derived not only from the diversity of goods and services offered, but also from the appearance of the streetscape. While the term "formula retail" may conjure images of large big box chain stores, formula retail establishments may also be small, upscale boutiques. The common thread is that formula retail businesses all have a standardized brand used across a minimum of eleven locations. Does this level of standardization allow for a sense of place that can respond to the unique neighborhood character of a particular location?

### 4. Economic Impacts

While one study of potential economic impacts of formula retail has been completed in San Francisco (the previously cited Civic Economics Report), the Department would like to examine the issue more specifically with neighborhood case studies comparing neighborhoods with and without controls to assess vacancy rates, commercial rents, turnover rates, and the availability of services and goods appropriate to the neighborhood.

The Department intends to explore ways to incorporate use size limits, street frontage maximums, transparency thresholds, and signage considerations into our formula retail controls as ways to further protect and enhance the visual character of neighborhoods. Until this study can be completed, the Department is wary of enacting a patchwork of different formula retail controls throughout the city without specific evidence to warrant such changes. For this reason, the Department recommends minimal changes until a study can be completed to clarify impacts of formula retail controls to neighborhood vitality and character.

### 5. Geographic Boundaries of Controls

Two pending proposals would extend formula retail controls beyond the traditional neighborhood commercial districts and mixed use districts and into more the industrial production, distribution, and repair districts [Supervisor Cohen, BF 130372] and the city's downtown C-3 district [Supervisor Kim, BF130712]. The department seeks to inform potential geographic expansion with new information gleaned from exploration of the issues above.

If the Commission agrees, the Department proposes to develop a more robust set of amendments to bring forward to the Commission for consideration in the fall of 2013 to ensure that neighborhood-serving retailers thrive, the visual character of individual neighborhood commercial districts is maintained, and essential goods and services are available to residents and visitors alike.

### ENVIRONMENTAL REVIEW

The proposal to conduct a study prior to further changes to existing controls would result in no physical impact on the environment. This proposal is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

**PUBLIC COMMENT**

As of the date of this report, the Planning Department has received an email from Paul Wermer summarizing his understanding of existing community sentiment as well as his own proposal for the regulation of formula retail. The letter is attached.

<b>RECOMMENDATION:</b> <b>Recommendation of Further Study</b>
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# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Resolution No. 18931

HEARING DATE: JULY 25, 2013

*Date:* July 25, 2013  
*Case No.:* 2013.0936U  
*Initiated by:* Planning Commission  
*Staff Contact:* Sophie Hayward, Legislative Planner  
(415) 558-6372 [sophie.hayward@sfgov.org](mailto:sophie.hayward@sfgov.org)  
Jenny Wun, Legislative Intern  
*Reviewed by:* AnMarie Rodgers, Manager, Legislative Affairs  
[AnMarie.Rodgers@sfgov.org](mailto:AnMarie.Rodgers@sfgov.org)

*Recommendation:* **Recommend Further Study**

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

RECOMMENDING TO THE BOARD OF SUPERVISORS THAT THE ISSUE OF FORMULA RETAIL BE STUDIED FURTHER TO INCREASE UNDERSTANDING OF THE ISSUE OVERALL AND TO EXAMINE POTENTIAL ECONOMIC AND VISUAL IMPACTS OF THE PROPOSED CONTROLS VERSUS THE ABSENCE OF NEW CONTROLS. IF PROPOSALS ARE TO MOVE FORWARD BEFORE FURTHER STUDY CAN BE DONE, THE COMMISSION RECOMMENDS RESISTING PATCHWORK CHANGES TO STRUCTURAL COMPONENTS OF THE CONTROLS SUCH AS THE DEFINITION OF FORMULA RETAIL, FOR THESE TYPES OF STRUCTURAL CHANGES ARE BEST APPLIED CITYWIDE.

### PREAMBLE

Whereas, in 2004, the Board of Supervisors adopted San Francisco's first Formula Retail Use controls, which added Section 703.3 ("Formula Retail Uses") to the Planning Code to provide both a definition of formula retail and a regulatory framework that intended, based on the findings outlined in the Ordinance, to protect "a diverse retail base with distinct neighborhood retailing personalities comprised of a mix of businesses."; and

Whereas, in 2007, formula retail controls were further expanded when San Francisco voters approved Proposition G, the so-called "Small Business Protection Act," which amended the Planning Code by adding Section 703.4, requiring Conditional Use authorization for formula retail uses (as defined in the Code) proposed for any Neighborhood Commercial District.; and

Whereas, since the passage of Proposition G, controls for formula retail have been amendment multiple times; and

Whereas, currently there are no less than eight proposals to further amend formula retail controls that are under consideration; and

Whereas, the San Francisco Planning Commission (hereinafter "Commission") wants to ensure that changes to formula retail are fully vetted and researched; and

Whereas, the proposed policy is not an action subject to CEQA; and

Whereas, on July 25, 2013 the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Policy and adopted the proposed policy; 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 public, 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

**MOVED**, that the Commission recommends that the issue of formula retail be studied further to increase understanding of the issue overall and to examine potential economic and visual impacts of the proposed controls verses the absence of new controls. If proposals are to move forward before further study can be done, the Department recommends that the Commission recommend resisting patchwork changes to structural components of the controls such as the definition of formula retail, for these types of structural changes are best applied citywide.

## **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:

- The Commission seeks a solution that will consolidate controls in a manner that is clear to the public, and consistently implemented by staff.
- The Commission seeks to develop criteria based on sound economic data and land use policy in order to protect the diversity of goods and services available to residents and visitors as well as the economic vitality of commercial districts large and small.
- Formula retail controls in San Francisco have evolved over the last nine years, and as indicated by the diversity of pending legislative proposals, many elected officials believe the controls need updating.
- As the issues and implications are numerous, the Commission recommends that changes be made based upon data and sound research. To assist with this effort, the Director has asked staff to seek consultant assistance on a study of the issues early this fall.
- The topics that staff are grappling with and that the Commission would seek to understand better at least six topics including: 1) the very structural of the controls such as definition use

- types and size, 2) the criteria for evaluation, 3) visual impacts, 4) economic impacts, and 5) geographic boundaries of the controls.
- The Commission has directed Planning Department staff to include public involvement in the process of developing future policy recommendations.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on July 25, 2013.

Jonas P Ionin  
Acting Commission Secretary

AYES: Commissioners Borden, Moore, Sugaya, and Wu

NAYS: None

ABSENT: Commissioners Antonini, Fong, and Hillis

ADOPTED: July 25, 2013



# SAN FRANCISCO PLANNING DEPARTMENT

## Economic Analysis of Formula Retail

The Planning Department is seeking proposals for an analysis of Formula Retail land use controls, including using sales tax and business data to evaluate how historic data and future projections could inform the process. The focus of the study will be the economic implications of formula retail uses for non-formula retail uses in San Francisco neighborhoods and the effects of formula retail uses on community vitality and character.

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

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

### BACKGROUND

In 2004, the Board of Supervisors adopted San Francisco's first Formula Retail Use controls; this initial effort formed the basis for most of the City's current controls. This Ordinance established a definition of formula retail; prohibited Formula Retail in one district; required Conditional Use authorization in another; and established notification requirements in all neighborhood commercial (NC) districts. Since 2004, the Planning Code has been amended to expand Formula Retail Use controls. Notably the voters approved a ballot initiative in 2007 that established the existing requirement for Conditional Use authorization in all Neighborhood Commercial Districts. To date, there have been no less than 16 incremental changes to the City's controls of Formula Retail. Currently there are eight pending proposals which would further expand the geography of the controls, amend the definition of formula retail, or alter the criteria under which applications should be reviewed.

While there is clearly a great deal of interest in the topic, there is still much to learn about the effects of formula retail and its regulation.

### REQUESTED SCOPE OF WORK

The Planning Department seeks a consultant to conduct an analysis of formula retail uses in San Francisco. The anticipated scope for the Formula Retail Study includes the following task categories and tasks:

#### Overall Assessments:

1. Identify, analyze and prepare case studies on San Francisco neighborhoods with existing formula retail controls vs. neighborhoods where formula retail is not regulated—both quantitative and qualitative measures of economic indicators and neighborhood character should be explored. The City recommends studying a neighborhood without Formula Retail controls such as Mid-Market; a neighborhood with a long-standing requirement for Conditional Use Authorization, for Formula Retail such as Divisadero, Lower 24<sup>th</sup> Street Mission, or Ocean Avenue; and a neighborhood with a long-standing prohibition on Formula Retail, such as Hayes Valley or North Beach. Note: The selection of neighborhoods should be done collaboratively with the City to get a contrast between neighborhoods with higher storefront vacancy rates and lower storefront vacancy rates (and/or with more or less development) and/or to compare neighborhoods with similar socioeconomic composition and scale with different controls for formula retail.

#### Economic Assessments:

1. Analyze the effect of a Conditional Use authorization on specific formula retail business types to determine which types of businesses may be deterred or inhibited from pursuing entitlements

## SOLICITATION FROM AS-NEEDED ECONOMIC POOL Formula Retail Study

where a conditional use authorization is required. Discuss differences in decision-making processes for business types such as restaurants vs. standard retailers.

2. Conduct stakeholder interviews with or subcontract with retail brokers who may be able to provide data on rental rates since 2004 for both formula retail and non-formula retail uses.
3. Evaluate market activity in specific districts for correlations between business types on turn-over rates and length of vacancies and other statistics as budget allows such as unmet demand for goods/services in formula retail v. nonformula retail businesses of the same type; cost of goods/services in formula retail v. nonformula retail businesses of the same type; infrastructure investment completed by formula vs. nonformula retail; total employment and wage differentials paid in formula vs. nonformula retail; including employment data by income or race; impact on public revenues, i.e. sales tax, property tax, payroll tax; spillover consumer spending in neighboring business near formula vs. nonformula retail; and spillover effects on residential rates in no control, CUA, and outright ban neighborhoods.
4. Examine impact that new formula retail businesses may have on existing non-formula retail businesses; for example but without limitation, procure and examine information about existing non-formula retail businesses that may have closed or experienced reduced income in the immediate vicinity following the opening of formula retail businesses.
5. Examine how the replacement of one formula retail business for another and how a change of ownership of formula retail businesses may affect differently the on-going economic performance of non-formula retail.
6. Study potential differences between businesses currently defined as formula retail; e.g., is there a difference between a business with 12 outlets vs. one with 300 outlets, number of international outlets vs. number of national outlets, restaurants vs. retail, and/or are some neighborhood services, such as groceries and pharmacies, which may be provided only by formula retail businesses.
7. Evaluate the economic performance of non-formula retail businesses that sell products and/or merchandise distributed by formula retail businesses. Compare with and assess the potential impact on non-formula retail businesses that sell similar, but not formula retail, products and/or merchandise.

### Neighborhood Character Assessments:

1. Compare and contrast economic indicators (such as relevant fit of retail for the community, visitor spending, analysis of business mix) with neighborhood character features (such as qualitative experience, signage differences, building reuse or new construction, design compatibility and aesthetic character) in districts with formula retail controls to those without and/or districts with a high concentration of formula retail to those with a lower concentration of formula retail.
2. Forecast the qualitative impact of proposed San Francisco zoning amendments on neighborhoods subject to the existing controls as well as on neighborhoods where the controls may be extended.

### Larger Economic Assessments (may include, but not be limited to, any of the following):

1. Provide a comparative analysis on different types of formula retail controls in comparable cities evaluating how these different controls affected the neighborhood cultural and aesthetic character and economic landscape. By way of example but without limitation, a comparative analysis would analyze formula retail controls for smaller size formula retail uses within existing neighborhoods; an economic analysis of "big box" retail uses outside of downtown areas in other cities would not necessarily be helpful for purposes of analysis within San Francisco

**SOLICITATION FROM AS-NEEDED ECONOMIC POOL  
Formula Retail Study**

- neighborhood commercial zoning districts. Note: If budget does not allow cover all of the potential scope requests, this item may be substituted with a literature search or deleted completely.
2. Research potential for multiplier effects in local economy, due to formula retail, as compared to non-formula retail.
  3. Assess impact on local markets, evaluate formula retail effects such as increased selection, lower price, anchor tenant impacts, predatory pricing, and manipulation of suppliers.
  4. Examine potential public revenues and costs of public services and facilities resulting from the construction and operation of formula retail.

**PROPOSAL SUBMISSION**

**BUDGET**

Firms should submit a proposed budget not to exceed \$40,000 relative to the scope proposed above.

**DEPARTMENT RESOURCES**

The Planning Department can make the Dunn & Bradstreet Business database available from 2004 to current times. The Office of Workforce and Economic Development can provide a list of local retailers and CUA petitioners who 1) do not qualify as formula retail, 2) qualify as formula retail with few outlets (<20) and 3) large retailers (>20outlets ). Further recent work and business inventories by both Departments can be made available from the recent Invest In Neighborhoods effort.

**CONTRACT REQUIREMENTS**

The Planning Department will be using the City Controller's Office pre-approved economic consultant pool for this contract<sup>1</sup>. The Contracting pool has assigned to it a 5% Local Business Enterprise (LBE) subcontracting requirement. Responses to this bid will need to specify a proposal for complying with the LBE requirement.

**MINIMUM QUALIFICATIONS**

Firms must be pre-qualified under San Francisco Controller's Office Pre-Qualified pool with at least two-year experience in land use economics/real estate market analysis.

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<sup>1</sup> <http://famis.sfgov.org/economic2012/>



SAN FRANCISCO  
CHAMBER OF COMMERCE

July 29, 2013

The Honorable David Chiu, President  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Suite #244  
San Francisco, CA 94102-4689

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BOARD OF SUPERVISORS  
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RE: Holding Formula Retail Legislation Until City's Economic Analysis Is Completed

Dear President Chiu;

Yesterday, during the public hearing on formula retail, the San Francisco Planning Commission approved its staff recommendation that policies dictating permitting decisions for formula retail use be evaluated through a comprehensive economic study. The study, which will analyze formula and non-formula use in individual neighborhoods and citywide, will be conducted by an independent consultant and results and recommendations are expected this fall.

The San Francisco Chamber of Commerce, representing over 1500 businesses, including formula and non-formula retailers as well as many small local businesses, agrees that a study of San Francisco's formula retail use is critical to understanding the value, benefits and impacts of both formula and non-formula retail in our commercial areas and on the city's economic vitality as a whole. We also agree with staff's request at the hearing that legislation proposed by several members of the Board of Supervisors to alter the definition of formula retail and/or related controls in their districts be held until the study has been completed, recommendations made and publicly vetted, and new citywide policies approved.

There are currently eight individual ordinances in San Francisco's legislative pipeline (with introduction of the 9<sup>th</sup> anticipated next week from Supervisor Mar) related to formula retail. This patchwork of new policies, should they all be approved, will create confusion and a lack of uniformity of formula retail controls district by district. The better approach is to wait until the economic study produces facts and data upon which policy decisions related to all retail use can be made.

The San Francisco Chamber of Commerce requests that all formula retail-related legislation, resolutions and other policy actions be held until the economic study is complete and new policies are adopted citywide.

Sincerely,

Jim Lazarus  
Senior Vice President for Public Policy

cc: BOS Clerk (distribute to all supervisors); Rodney Fong, SF Planning Commission President; John Rahaim, SF Planning Director; AnMarie Rogers, SF Planning Manager Legislative Affairs; Mayor Ed Lee



September 16, 2013

The Honorable David Chiu, President  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Suite #244  
San Francisco, CA 94102-4689

**RE: Formula Retail Legislation: Hold Until City's Economic Analysis Is Completed**

Dear President Chiu:

On behalf of the California Restaurant Association (CRA), representing more than 22,000 members in California, both formula and non-formula restaurant establishments, I am writing to urge the San Francisco Board of Supervisors to not move forward with any decisions relating to formula retail legislation until the City's economic analysis is completed.

The Board of Supervisors should hold off on taking up all formula retail legislation that has been proposed. We respectfully urge that the Board not rush through a patchwork of legislation that will create confusion and a lack of uniformity of formula retail controls district by district. Instead, we strongly urge the Board to wait until the economic analysis is completed so that any decision made is done so in a thoughtful manner with as much information that is available.

At this point in time we will reserve our comments on specific merits of formula retail legislation.

The CRA, once again, respectfully requests that all formula retail-related legislation, resolutions and other policy action be held until the economic study is completed.

Sincerely,

A handwritten signature in black ink that reads "Javier M. González". The signature is written in a cursive style with a large, sweeping flourish at the end.

Javier M. González  
Director, Government Affairs + Public Policy

cc: BOS Clerk (distribute to all supervisors); Rodney Fong, SF Planning Commission President;  
John Rahaim, SF Planning Director; AnMarie Rodgers, SF Planning Manager Legislative Affairs;  
The Honorable Mayor Ed Lee





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2013 AUG 30 PM 2:18

1700 NORTH MOORE STREET  
SUITE 2250  
ARLINGTON, VA 22209  
T (703) 841-2300 F (703) 841-1184  
WWW.RILA.ORG

File 130788 LU  
BAS-11  
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130788

August 28, 2013

Angela Calvillo, Clerk of the Board  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room #244  
San Francisco, CA 94102

Re: Economic Analysis for Formula Retail Legislation

Dear Board Member Calvillo;

I am writing on behalf of the Retail Industry Leaders Association (RILA) to express our membership's concern about the legislation put forward by the San Francisco Board of Supervisors' before the economic study on formula retail in the city is completed. We encourage the Board to carefully evaluate those results and consider the implications of discriminatory legislation for formula retailers in the community

By way of background, RILA is the trade association of the world's largest and most innovative retail companies. RILA promotes consumer choice and economic freedom through public policy and industry operational excellence. Its members include more than 200 retailers, product manufacturers, and service suppliers, which together account for more than \$1.5 trillion in annual sales, millions of American jobs and operate more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

RILA's member companies operate hundreds of individual locations in the city of San Francisco. Enacting premature legislation before a full economic analysis is conducted is detrimental to these retailers and has potential to drive out future plans for new development in the city, creating missed opportunities for new jobs and lost tax revenues.

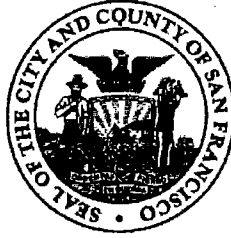
In closing, RILA requests that all formula retail-related legislation, resolutions and other policy actions be held until the economic study is complete. San Francisco's retailers provide good jobs and benefits for employees and offer affordable products and services at convenient locations. We urge you to weigh these important points when evaluating all policy decisions.

Sincerely,

**Joe Rinzel**  
Vice President, State Government Affairs  
Retail Industry Leaders Association (RILA)

cc: David Chiu, SF Board of Supervisors President; Rodney Fong, SF Planning Commission President; John Rahaim, SF Planning Director; AnMarie Rogers, SF Planning Manager Legislative Affairs; Mayor Ed Lee

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

May 21, 2014

File No. 130788

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Jones:

On May 13, 2014, Supervisor Mar introduced the following proposed substituted legislation:

**File No. 130788**

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 study as part of the formula retail conditional use application; charge administrative fees to pay for staff review time of such studies; and making environmental findings and findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

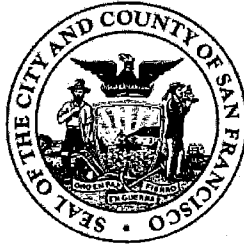
By: Andrea Ausberry, Assistant Clerk  
Land Use & Economic Development Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Jeanie Poling, Environmental Planning  
Nannie Turrell, Environmental Planning

*Not a project under CEQA  
Guidelines Sections 15060(c)  
and 15378 because there  
is no direct or indirect  
physical change in the  
environment.  
Nannie L Turrell 5/21/14*

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

# MEMORANDUM

TO: Regina Dick-Endrizzi, Director  
Christian Murdock, Commission Secretary  
**Small Business Commission, City Hall, Room 448**

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Economic Development  
Committee Board of Supervisors

DATE: May 21, 2014

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Land Use & Economic Development Committee

The Board of Supervisors' Land Use and Economic Development Committee has received the following substituted legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

**File No. 130788**

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.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

\*\*\*\*\*

**RESPONSE FROM SMALL BUSINESS COMMISSION - Date:** \_\_\_\_\_

- No Comment
- Recommendation Attached

\_\_\_\_\_  
**Chairperson, Small Business Commission**

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

May 21, 2014

File No. 130788

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Jones:

On May 13, 2014, Supervisor Mar introduced the following proposed substituted legislation:

**File No. 130788**

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 study as part of the formula retail conditional use application; charge administrative fees to pay for staff review time of such studies; and making environmental findings and findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

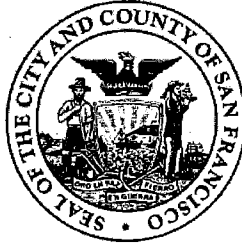
A handwritten signature in cursive script, appearing to read "A Ausberry".

By: Andrea Ausberry, Assistant Clerk  
Land Use & Economic Development Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Jeanie Poling, Environmental Planning  
Nannie Turrell, Environmental Planning

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

May 21, 2014

Planning Commission  
Attn: Jonas Ionin  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Commissioners:

On May 13, 2014, Supervisor Mar introduced the following proposed substituted legislation:

**File No. 130788**

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 study as part of the formula retail conditional use application; charge administrative fees to pay for staff review time of such studies; and making environmental findings and findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Andrea Ausberry".

By: Andrea Ausberry, Assistant Clerk  
Land Use & Economic Development Committee

c: John Rahaim, Director of Planning  
Aaron Starr, Acting Manager of Legislative Affairs  
AnMarie Rodgers, Senior Policy Manager  
Scott Sanchez, Zoning Administrator  
Sarah Jones, Chief, Major Environmental Analysis  
Jeanie Poling, Environmental Planning  
Joy Navarrete, Environmental Planning  
Nannie Turrell, Environmental Planning

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

August 8, 2013

**File No. 130788**

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Jones:

On July 30, 2013, Supervisor Mar introduced the following proposed legislation:

**File No. 130788**

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.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Miller".

By: Alisa Miller, Committee Clerk  
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning  
Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

August 8, 2013

Planning Commission and  
Attn: Jonas Ionin  
1660 Mission Street, 5<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Commissioners:

On July 30, 2013, Supervisor Mar introduced the following proposed legislation:

**File No. 130788**

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.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Miller".

By: Alisa Miller, Committee Clerk  
Land Use & Economic Development Committee

c: John Rahaim, Director of Planning  
Scott Sanchez, Zoning Administrator  
Sarah Jones, Chief, Major Environmental Analysis  
AnMarie Rodgers, Legislative Affairs  
Monica Pereira, Environmental Planning  
Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

# MEMORANDUM

TO: Regina Dick-Endrizzi, Director  
Chris Schulman, Commission Secretary  
**Small Business Commission, City Hall, Room 448**

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee  
Board of Supervisors

DATE: August 8, 2013

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Land Use & Economic Development Committee

The Board of Supervisors' Land Use and Economic Development Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

**File No. 130788**

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.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

\*\*\*\*\*

**RESPONSE FROM SMALL BUSINESS COMMISSION - Date:** \_\_\_\_\_

- \_\_\_\_\_ **No Comment**
- \_\_\_\_\_ **Recommendation Attached**

\_\_\_\_\_  
**Chairperson, Small Business Commission**





SMALL BUSINESS COMMISSION  
OFFICE OF SMALL BUSINESS

CITY AND COUNTY OF SAN FRANCISCO  
EDWIN M. LEE, MAYOR

June 30, 2014

Ms. Angela Calvillo, Clerk of the Board  
Board of Supervisors  
City Hall Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**Subj: File No. 130788 [Planning Code - Expanding Formula Retail Controls]**

**Small Business Commission Recommendation: No Recommendation**

Dear Ms. Calvillo:

At its meeting of June 23, 2014, the Small Business Commission heard Board of Supervisors (BOS) File No. 130788. The Commission moved to make no recommendation on the legislation. The Commission believed that the legislation does not amend the formula retail controls in a balanced way. Rather, it broadly expands the use categories to which formula retail controls will apply, which will result in a deluge of new conditional use authorization (CUA) hearings at a Planning Commission with an already full docket. Furthermore, the legislation contains no provisions to expedite review of the least controversial applications. Experience has shown that simple requests – such as changes of ownership within the same use category – might be more efficiently handled through an administrative process.

In the Commission's view, the legislation does not embrace many of the quantitative and qualitative findings of the Planning Department's "San Francisco Formula Retail Analysis." For instance, the Analysis found no relationship between increasing commercial rents and formula retail occupancies. Yet, the legislation strives to discourage all formula retail by imposing an onerous economic impact study requirement on nearly all formula retail applications, even those with small store footprints that are most likely to be owned by local franchisees.

On June 9, 2014, the Small Business Commission moved to approve a related proposal put forth by the Planning Department to amend formula retail controls. The Commission suggested the legislative sponsor continue his dialogue with the Planning Department to unify both proposals. The Commission found many valuable aspects in the Planning Department's legislation, and believes it should be possible to align both pieces of legislation into a single proposal.

Thank you for considering the Commission's recommendation on this legislation. Please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Regina Dick-Endrizzi". The signature is fluid and cursive.

Regina Dick-Endrizzi  
Director, Office of Small Business

Exhibit D: Public Comment  
Hearing Date: July 17, 2014

CASE NO. 2013.0936U  
Formula Retail Controls

SUBJ: FILE NO. 130788 [PLANNING CODE - EXPANDING FORMULA RETAIL CONTROLS]  
(6/30/2014)

cc: Jason Elliot, Mayor's Office  
Nick Pagoulatos, Office of Supervisor Eric Mar  
Aaron Starr, Planning Department  
Kanishka Burns, Planning Department  
AnMarie Rodgers, Planning Department  
Andrea Ausberry, Office of the Clerk of the Board



**ILENE DICK**  
idick@fbm.com  
D 415.954.4958

June 23, 2014

*Via E-Mail regina.dick-endrizzi@sfgov.org*

Stephen Adams, President  
San Francisco Small Business Commission  
Room 110, City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA. 94102

Re: Expanding Formula Retail Controls: BOS File No. 130788  
Item No. 5: June 23, 2014 Commission Meeting

Dear President Adams, Vice-President White and Commissioners:

We represent BOMA-San Francisco ("BOMA") with regard to the various amendments to existing formula retail controls proposed by the Planning Department and members of the Board of Supervisors. BOMA's membership is keenly interested in this issue since its members are the owners and managers of most of the buildings in the downtown/SOMA C-3 districts. These buildings are often chosen by many formula retailers because of their proximity to large numbers of people who benefit from having such products available within walking distance of their jobs and/or homes. Because of BOMA's interest, we are submitting our opposition to Sup. Mar's proposed amendment to formula retail controls to you by way of this letter.

I appeared before you on June 9, 2014 on behalf of BOMA to support the Planning Department's proposed amendments to formula retail legislation. As I stated then, the Planning Department's proposed amendments were based on data review and analysis of the various features of formula retail. Based on that data, the Planning Department proposed modest modifications that would address the issues of greatest concern to the neighborhoods and that could reasonably and fairly be administered by Planning staff without creating a tremendous barrier to formula retail stores located in San Francisco.

At that meeting, this Commission recommended approval of the Planning Department legislation by a 4-2 vote. During your deliberations, you noted that the Planning Department's proposal consisted of revisions to the existing scope of formula retail and addressed the main concern of many neighborhood opponents—esthetic character of the proposed formula retail store's façade and design. You also commended the Planning staff on its "data-driven" approach to analyzing how to best regulate the number and location of formula retail establishments.

Stephen Adams, President  
June 23, 2014  
Page 2

In contrast, rather than modify formula retail regulations to address existing problems with the administration of formula retail based on hard data, Sup. Mar's proposed legislation is a "solution in search of a problem." As Planning staff noted in its formula retail study, 75% of conditional use applications for formula retail stores are approved. The public benefits of conditional use is that it allows for case-by-case oversight of proposals based on their location and real, as opposed to, perceived impacts. Despite the fact that the conditional use process appears to be working to minimize impacts created by formula retailers, Sup. Mar's proposed overhaul to expand the coverage and scope of review of formula retail regulation will result in conditional use approval for formula retail being the rule rather than the exception.

Under long-standing land use principles, conditional use review is intended to provide additional oversight only when a particular use has potentially negative impacts different than neighboring uses. Existing Planning Code Section 303(i) and the Planning Department's proposed amendments to increase the minimum number of formula retail establishments subject to conditional use review to 20 and to exclude "subsidiaries" of formula retail stores from regulation, more than adequately enables the Planning Commission to impose conditions tailored to particular formula retail use in a specific location. If the current review system was not working as intended, which is the basis for Sup. Mar's far-reaching changes, all formula retail applications would be approved by the Planning Commission.

In place of the limited expansion of conditional use review proposed by the Planning Department, Sup. Mar would open the flood gates to subject far greater numbers of proposed retailers to Planning Commission review and to impose onerous requirements. You heard testimony during your June 9<sup>th</sup> hearing from Planning staff and the public that Planning staff is ill-equipped to determine whether a retailer is a "subsidiary" of an existing formula retailer. At that hearing, we and others also stated our support for the increase to a minimum of 20 stores internationally, as that number was based on the Planning Department's economic study. Despite that study and the fact that the "11" minimum formula retailers currently in the Planning Code was never based on any hard data, Sup. Mar seeks to retain that unsubstantiated number.

Sup. Mar's legislation will lead to Planning staff undertaking tasks outside their land use expertise. For example, the requirement that subsidiaries be included in formula retail regulation will require Planning staff to determine whether an entity is a subsidiary. This is not an easy task. Public information is not always available on corporate businesses. And if it were, it could require a corporate lawyer to trace the links of ownership to determine if an entity was a "subsidiary" as defined by Sup. Mar's legislation.

Another burdensome piece of Sup. Mar's legislation is the requirement that an economic impact study be prepared for formula retail uses based solely on the size of the store sought to be occupied. Sup. Mar requires increasingly more detailed studies for sites depending only on the size of the store.<sup>1</sup> This recommendation is made without any data to support it other than a

---

<sup>1</sup> Sup. Mar's proposal would require that a potential formula retail use of between 3000-10,000 square feet study its economic impacts of a 2.5 mile radius. A store greater than 10,000 square feet would be subject to citywide study economic impact study.

Stephen Adams, President

June 23, 2014

Page 3



simplified approach that store size, without regard to the intensity or type of use, is significant enough to merit an economic impact study. Like searching for subsidiaries, Planning staff does not regularly engage in economic impact studies, since they include data that is generally outside Planning's land use purview. Yet, in recognition of the value an economic impact study could provide for "superstore" formula retail proposals, the Planning Department is recommending economic impact studies only for stores greater than 50,000 square feet in most districts and 120,000 downtown. We believe that if economic impact studies are to be required, they should be reserved only for these larger size stores.

Given the central role economic analysis plays in Sup. Mar's proposal, we want to share with this Commission the City Economist's conclusions regarding its review of Sup. Mar's legislation.<sup>2</sup> If Sup. Mar heeded these observations, we believe that he would agree with BOMA's recommendations.

- Formula retail controls primarily affect the economy by changing the retail prices paid by consumers, the amount of local spending by retail businesses, commercial rents and vacancy rates, and perceptions of neighborhood quality.

- In general, chain stores charge lower prices, but may spend less within the local economy, and can be unpopular with some residents because they can be seen to diminish the character of the neighborhood. On the other hand, limiting chain stores can reduce commercial rents and raise vacancy rates.

- Research by the Office of Economic Analysis suggests that local retailers may spend up to 9.5% more within the local economy than chain stores, but charge prices that average 17% more. On balance, the economic benefits of greater local spending by non-formula retailers are outweighed by higher consumer prices.

Based on the above, we oppose all of the proposed changes to formula retail controls sought by Sup. Mar. Thank you in advance for considering BOMA's position on this important public policy issue.

Sincerely,

Ilene Dick

ID

<sup>2</sup> See "Expanding Formula Retail Controls: Economic Impact Report, Office of the Controller-Office of Economic Analysis, February 12, 2014" p. 2. The bases of these conclusions of the potential economic impact of Sup. Mar's legislation have not changed since Sup. Mar first introduced his legislation on July 30, 2013.

<http://sfcontroller.org/Modules/ShowDocument.aspx?documentid=5119>

Exhibit D: Public Comment  
Hearing Date: July 17, 2014  
**Stephen Adams, President**  
**June 23, 2014**  
**Page 4**

CASE NO. 2013.0936U  
Formula Retail Controls  
 **FARELLA**  
**BRAUN+MARTEL LLP**

cc: **Ken Cleaveland, BOMA-SF**  
**Regina Dick-Endrizzi, Director, Small Business Commission**  
**AnMarie Rodgers, Senior Policy Advisor, Planning Department**  
**Kanishka Burns, Planning Staff**

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## NOTICE OF PUBLIC HEARING

LAND USE AND ECONOMIC DEVELOPMENT COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

NOTICE IS HEREBY GIVEN THAT the Land Use and Economic Development Committee will hold public hearings to consider the following proposals and said public hearings will be held as follows, at which time all interested parties may attend and be heard:

**Date:** Monday, October 6, 2014

**Time:** 1:30 p.m.

**Location:** Committee Room 263, located at City Hall  
1 Dr. Carlton B. Goodlett Place, San Francisco, CA

**Subject:** **File No. 130788.** 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 study as part of the Formula Retail Conditional Use application; charge administrative fees to pay for staff review time of such studies; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

**File No. 140844** Ordinance amending the Planning Code to amend the definition of Formula Retail to include businesses that have 19 or more outlets worldwide; expand the applicability of Formula Retail controls to other types of uses; require Conditional Use authorization for Formula Retail establishments in the C-3-G district with facades facing Market Street, between 6th Street and the intersection of Market Street, 12th Street and Franklin Street; delete the requirement for Conditional Use authorization when a Formula Retail establishment changes operator but remains the

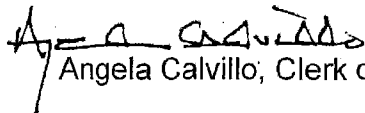
same size and use category; define intensification and abandonment for Formula Retail uses; require Formula Retail uses to comply with performance guidelines; amend the Conditional Use criteria for Large-Scale Retail Uses except for General and Specialty Grocery stores, to require an economic impact study and establish new fees for said study; amend Neighborhood Commercial Districts that required Conditional Use for Financial and Limited Financial Services to principally permit Financial and Limited Financial Services; delete the Conditional Use requirement for Walk-Up Facilities that are not set back three feet; and adopting findings, including environmental findings, Planning Code, Section 302, findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

If the legislation in File Nos. 130788 and 140844 both pass, new fees for preparation and review of an Economic Impact Study shall be charged to individuals applying for a Conditional Use authorization for a Formula Retail use. The applicant shall bear the cost to the consultant for preparation of the economic impact study and all necessary documents prepared as part of the study. The consultant shall be selected by the Planning Department from a pool of pre-qualified consultants. The applicant shall also pay a \$3,500 administrative fee to the Planning Department, including any additional time and materials as described in Planning Code, Section 350(c), to compensate City staff for their time reviewing the economic impact study.

If the legislation in File No. 140844 passes, a new fee shall be charged to individuals applying for a Conditional Use authorization for a Formula Retail use to provide performance review for Formula Retail uses equivalent to the standard building permit fee, in addition to any time and materials as described in Planning Code, Section 350(c).

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made a part of the official public record and shall be brought to the attention of the Members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton Goodlett Place, San Francisco, CA 94102.

Information relating to the proposed fees are available in the Office of the Clerk of the Board. Agenda information relating to these matters will be available for public review on Friday, October 3, 2014.

  
Angela Calvillo, Clerk of the Board

DATED: September 18, 2014  
PUBLISHED/POSTED: September 22 & 28, 2014.



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SAN FRANCISCO, CA 94102

### COPY OF NOTICE

Notice Type: GPN GOVT PUBLIC NOTICE  
Ad Description 10/6/14 Fee Ads 130788 and 140844

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CNS 2669536

#### NOTICE OF PUBLIC HEARING LAND USE AND ECONOMIC DEVELOPMENT COMMITTEE SAN FRANCISCO BOARD OF SUPERVISORS OCTOBER 6, 2014 - 1:30 PM COMMITTEE RM 263, CITY HALL 1 DR. CARLTON B. GOODLETT PLACE, SF, CA

NOTICE IS HEREBY GIVEN THAT the Land Use and Economic Development Committee will hold public hearings to consider the following proposals and said public hearings will be held as follows, at which time all interested parties may attend and be heard: File No. 130788, 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 study as part of the Formula Retail Conditional Use application; charge administrative fees to pay for staff review time of such studies; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1. File No. 140844 Ordinance amending the Planning Code to amend the definition of Formula Retail to include businesses that have 19 or more outlets worldwide; expand the applicability of Formula Retail controls to other types of uses; require Conditional Use authorization for Formula Retail establishments in the C-3-G district with facades facing Market Street, between 6th Street and the intersection of Market Street, 12th Street and Franklin Street; delete the requirement for Conditional Use authorization when a Formula Retail establishment changes operator but remains the same size and use category; define intensification and abandonment for Formula Retail uses; require Formula Retail uses to comply with performance guidelines; amend the Conditional Use criteria for Large-Scale Retail Uses except for General and Specialty Grocery stores, to require an economic impact study and establish new fees for said study; amend Neighborhood Commercial Districts that required Conditional Use for Financial and Limited Financial Services to principally permit Financial and Limited Financial Services; delete the Conditional Use requirement for Walk-Up Facilities that are not set back three feet; and adopting findings, including environmental findings, Planning Code, Section 302, findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1. If the legislation in File Nos. 130788 and 140844 both pass, new fees for preparation and review of an Economic Impact Study shall be charged to individuals applying for a Conditional Use authorization for a Formula Retail use. The applicant shall bear the cost to the consultant for preparation of the economic impact study and all necessary documents prepared as part of the study. The consultant shall be selected by the Planning Department from a pool of pre-qualified consultants.

The applicant shall also pay a \$3,500 administrative fee to the Planning Department, including any additional time and materials as described in Planning Code, Section 350(c), to compensate City staff for their time reviewing the economic impact study. If the legislation in File No. 140844 passes, a new fee shall be charged to individuals applying for a Conditional Use authorization for a Formula Retail use to provide performance review for Formula Retail uses equivalent to the standard building permit fee, in addition to any time and materials as described in Planning Code, Section 350(c). In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made a part of the official public record and shall be brought to the attention of the Members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton Goodlett Place, San Francisco, CA 94102. Information relating to the proposed fees are available in the Office of the Clerk of the Board. Agenda information relating to these matters will be available for public review on Friday, October 3, 2014.



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Print Form

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.  
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission       Youth Commission       Ethics Commission
- Planning Commission       Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative**

**Sponsor(s):**

Mar

**Subject:**

Expanding Formula Retail Controls

**The text is listed below or attached:**

Please see attached.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

130788