

Amendment of the Whole
June 28, 2006

FILE NO. 060482

ORDINANCE NO.

1 [Formula Retail Use; Public Notice – Western SoMa Planning Area SUD.]

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3 **Ordinance amending the San Francisco Planning Code by adding Section 803.6 to**
4 **designate formula retail as a conditional use in the Western SoMa Planning Area**
5 **Special Use District and by adding Section 803.7 to require public noticing**
6 **requirements for building permit applications in that Special Use District; adopting**
7 **findings including environmental findings and findings of consistency with the General**
8 **Plan and with the Priority Policies of Planning Code Section 101.1.**

9 Note: Additions are *single-underline italics Times New Roman*;
10 deletions are ~~*strikethrough italics Times New Roman*~~.
11 Board amendment additions are double underlined.
12 Board amendment deletions are ~~strikethrough normal~~.

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

13 Section 1. Findings. (a) Pursuant to Planning Code Section 302, this Board of
14 Supervisors finds that this ordinance will serve the public necessity, convenience and welfare
15 for the reasons set forth in Planning Commission Resolution No. 17261, and incorporates
16 those reasons herein by reference. A copy of said Planning Commission resolution is on file
17 with the Clerk of the Board of Supervisors in File No. 060482.

18 (b) The Board of Supervisors finds that this ordinance is consistent with the General
19 Plan and the Priority Policies of Planning Code Section 101.1(b) for the reasons set forth in
20 Planning Commission Resolution No. 17261, and incorporates those reasons herein by
21 reference.

22 (c) The Planning Department has completed environmental review of this ordinance
23 pursuant to the California Environmental Quality Act ("CEQA"), the CEQA Guidelines, and
24 Chapter 31 of the San Francisco Administrative Code. Documentation of that review is on file
25 with the Clerk of the Board of Supervisors in File No. 060482.

1 Section 2. The San Francisco Planning Code is hereby amended by adding Section
2 803.6, to read as follows:

3 SEC. 803.6. Formula Retail Uses in the Western SoMa Planning Area Special Use District.

4 (a) Findings.

5 (1) San Francisco is a city of diverse and distinct neighborhoods identified in large part by
6 the character of their commercial areas.

7 (2) San Francisco needs to protect its vibrant small business sector and create a supportive
8 environment for new small business innovations. One of the eight Priority Policies of the City's
9 General Plan resolves that "existing neighborhood-serving retail uses be preserved and enhanced and
10 future opportunities for resident employment in and ownership of such businesses enhanced."

11 (3) Retail uses are the land uses most critical to the success of the City's commercial
12 districts.

13 (4) Formula retail businesses are increasing in number in San Francisco, as they are in
14 cities and towns across the country.

15 (5) Money earned by independent businesses is more likely to circulate within the local
16 neighborhood and City economy than the money earned by formula retail businesses which often have
17 corporate offices and vendors located outside of San Francisco.

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

22 (7) San Francisco is one of a very few major urban centers in the state in which housing,
23 shops, work places, schools, parks and civic facilities intimately co-exist to create strong identifiable
24 neighborhoods. The neighborhood streets invite walking and bicycling and the City's mix of

1 architecture contributes to a strong sense of neighborhood community within the larger City
2 community.

3 (8) Notwithstanding the marketability of a retailer's goods or services or the visual
4 attractiveness of the storefront, the standardized architecture, color schemes, decor and signage of
5 many formula retail businesses can detract from the distinctive character of certain neighborhood
6 commercial districts.

7 (9) The increase of formula retail businesses in the City's neighborhood commercial areas,
8 if not monitored and regulated, will hamper the City's goal of a diverse retail base with distinct
9 neighborhood retailing personalities comprised of a mix of businesses. Specifically, the unregulated
10 and unmonitored establishment of additional formula retail uses may unduly limit or eliminate business
11 establishment opportunities for smaller or medium-sized businesses, many of which tend to be non-
12 traditional or unique, and unduly skew the mix of businesses towards national retailers in lieu of local
13 or regional retailers, thereby decreasing the diversity of merchandise available to residents and
14 visitors and the diversity of purveyors of merchandise.

15 (b) Formula Retail Uses; Permitted as a Conditional Use. Formula retail uses are
16 permitted in the Western SoMa Planning Area Special Use District only as a conditional use.

17 (c) Formula Retail Use Defined. Formula retail use is hereby defined as a type of retail
18 sales activity or retail sales establishment which, along with eleven or more other retail sales
19 establishments located in the United States, maintains two or more of the following features: a
20 standardized array of merchandise, a standardized façade, a standardized décor and color scheme, a
21 uniform apparel, standardized signage, a trademark or a servicemark.

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

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

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

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

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

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

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

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

18 (9) "Retail sales activity or retail sales establishment" shall include the following uses, as
19 defined in Article 8 of this code: "bar," "drive-up facility," "eating and drinking use," "restaurant, large
20 fast-food," "restaurant, small fast-food," "restaurant, full-service," "sales and services, other retail,"
21 "sales and services, nonretail," "movie theater," "amusement game arcade," and "take-out food."

22 (d) Determination of Formula Retail Use. If the City determines that a building permit
23 application or building permit subject to this section of the Code is for a "formula retail use," the
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1 building permit applicant or holder bears the burden of proving to the City that the proposed or
2 existing use is not a "formula retail use."

3 (e) Permit Application Processing. After the effective date of this ordinance, any building
4 permit application determined by the City to be for a "formula retail use" that does not identify the use
5 as a "formula retail use" is incomplete and cannot be processed until the omission is corrected.

6 ~~(f) Discretionary Review Guidelines. When considering any request for~~
7 ~~discretionary review made pursuant to this subsection, the Planning Commission shall apply~~
8 ~~the guidelines established by or pursuant to Section 703.3(h) of this Code.~~

9 Section 3. The San Francisco Planning Code is hereby amended by adding Section
10 803.7, to read as follows:

11 SEC. 803.7. Permit Review Procedures in the Western SoMa Planning Area Special Use
12 District established pursuant to Section 823 of this Code. All building permit applications for
13 demolition, new construction, alterations which expand the exterior dimensions of a building, or
14 changes in use to a formula retail use as defined in Section 803.6 of this Code, a bar as defined in
15 Section 890.22, a walk-up facility as defined in Section 890.140, other institution as defined in Section
16 890.50, a full-service restaurant as defined in Section 890.92, a large fast-food restaurant as defined in
17 Section 890.91, a small fast-food restaurant as defined in Section 890.90, a massage establishment as
18 defined in Section 890.60, an outdoor activity area as defined in Section 890.71, or an adult or other

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1 entertainment use as defined in Sections 890.36 and 890.37, respectively, shall be subject to the
2 notification and review procedures required by Section 312 of this Code.

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4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

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6 By: _____
7 JUDITH A. BOYAJIAN
8 Deputy City Attorney

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