

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

February 9, 2016

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

Dear Commissioners:

On February 2, 2016, Supervisor Peskin introduced the following proposed legislation:

File No. 160102

Ordinance amending the Planning Code to prohibit formula retail in the Polk Street Neighborhood Commercial District; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings, including findings of public necessity, convenience, and welfare under Planning Code, Section 302, 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 and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in blue ink that reads "Alisa Somera".

By: Alisa Somera, Assistant Clerk
Land Use and Transportation Committee

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

1 [Planning Code - Prohibiting Formula Retail in Polk Street Neighborhood Commercial District]

2
3 **Ordinance amending the Planning Code to prohibit formula retail in the Polk Street**
4 **Neighborhood Commercial District; affirming the Planning Department's determination**
5 **under the California Environmental Quality Act; and making findings, including**
6 **findings of public necessity, convenience, and welfare under Planning Code, Section**
7 **302, and findings of consistency with the General Plan, and the eight priority policies of**
8 **Planning Code, Section 101.1.**

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

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

17 Section 1. Environmental and Planning Code Findings.

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

23 (b) On _____, the Planning Commission, in Resolution No. _____,
24 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
25 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
the Board of Supervisors in File No. _____, and is incorporated herein by reference.

1 (c) On _____, the Planning Commission, in Resolution No. _____,
2 approved this ordinance, recommended it for adoption by the Board of Supervisors, and
3 adopted findings that it will serve the public necessity, convenience, and welfare. Pursuant to
4 Planning Code Section 302, the Board adopts these findings as its own. A copy of said
5 Resolution is on file with the Clerk of the Board of Supervisors in File No. _____, and is
6 incorporated by reference herein.

7 Section 2. Specific Findings.

8 (a) As described more fully in Section 723 of the Planning Code, the Polk Street
9 Neighborhood Commercial District, located in the village-like gulch between Nob and Russian
10 Hills and Pacific Heights, extends for about one mile, and includes a portion of Larkin Street
11 between Post and California Streets.

12 (b) The District's dense mixed-use character consists of buildings with residential
13 units above ground-story commercial use with unique signage and street improvements
14 designed to highlight the pedestrian scale of the corridor, including bulbouts and parklets.

15 (c) The district has a distinctive, active, and continuous commercial frontage along
16 Polk Street, providing convenience goods and services to the residential communities in the
17 Polk Gulch neighborhood and to the residents in Nob and Russian Hills. It has many apparel
18 and specialty boutiques, movie theaters, restaurants, cafes and bars, as well as some
19 automobile uses, which serve a broader trade area. Other non-residential uses include
20 offices, as well as several small schools and churches.

21 (d) Prior to 1970, the area neighborhood was the main gay neighborhood in San
22 Francisco, and several gay, lesbian, and transgender bars and entertainment venues remain
23 historic neighborhood institutions in the district.

24 (e) The district has a significant number of formula retail stores, as that term is defined
25 in Section 303.1 of the Planning Code.

1 (f) The Board of Supervisors finds that formula retail can detract from the distinctive
2 character and aesthetics of the district, as well as discourage the preservation and
3 architecture of one-of-a-kind spaces, and therefore it would be desirable in maintaining the
4 district's distinctive and historic features to prohibit new formula retail from opening in the
5 district.

6 Section 3. The Planning Code is hereby amended by revising Section 303.1, to read
7 as follows:

8 **SEC. 303.1. FORMULA RETAIL USES.**

9 * * * *

10 (f) **Formula Retail Uses Not Permitted.** Formula Retail uses are not permitted in the
11 following zoning districts:

- 12 (1) Hayes-Gough Neighborhood Commercial Transit District;
- 13 (2) North Beach Neighborhood Commercial District;
- 14 (3) Chinatown Visitor Retail District;
- 15 (4) Upper Fillmore District does not permit Formula Retail uses that are also
16 Restaurant or Limited-Restaurant uses as defined in Sections 790.90 and 790.91;
- 17 (5) Broadway Neighborhood Commercial District does not permit Formula
18 Retail uses that are also Restaurant or Limited-Restaurant uses as defined in Sections 790.90
19 and 790.91;
- 20 (6) Mission Street Formula Retail Restaurant Subdistrict does not permit
21 Formula Retail uses that are also Restaurant or Limited-Restaurant uses as defined in
22 Sections 790.90 and 790.91;
- 23 (7) Geary Boulevard Formula Retail Pet Supply Store and Formula Retail
24 Eating and Drinking Subdistrict does not permit Formula Retail uses that are also either a
25 Retail Pet Supply Store or an Eating and Drinking use as set forth in Section 781.4;

1 (8) Taraval Street Restaurant Subdistrict does not permit Formula Retail uses
2 that are also Restaurant or Limited-Restaurant uses as defined in Sections 790.90 and
3 790.91;

4 (9) Chinatown Mixed Use Districts do not permit Formula Retail uses that are
5 also Restaurant or Limited-Restaurant uses as defined in Sections 790.90 and 790.91-; and

6 (10) Polk Street Neighborhood Commercial District.

7 * * * *

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

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

18
19 APPROVED AS TO FORM:
20 DENNIS J. HERRERA, City Attorney

21 By:

22 
23 _____
24 ANDREA RUIZ-ESQUIDE
25 Deputy City Attorney

n:\legana\as2016\1600443\01079041.doc