



SAN FRANCISCO PLANNING DEPARTMENT

June 16, 2016

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

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**Re: Transmittal of Planning Department Case Number 2016-001823PCA:
Prohibiting Formula Retail in the Polk Street NCD
Board File No. 160102
Planning Commission Recommendation: *Disapprove***

Dear Ms. Calvillo and Supervisor Peskin,

On June 2, 2016, the Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed Ordinance that would amend Planning Code Section 303.1 to prohibit formula retail uses in the Polk Street NCD, introduced by Supervisor Peskin. At the hearing the Planning Commission recommended disapproval of the Ordinance. The Planning Commission also added the following thresholds for prohibiting formula retail uses as suggestions for a subsequent ordinance:

- If they are 2,500 square feet in area or larger; or
- If the concentration of formula retail uses as a proportion to all retail uses exceeds a certain percentage; or
- If the vacancy rate in the Polk Street NCD falls below a certain percentage; or
- If the formula retailer has more than 25 locations.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Please find 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 D. Starr", with a long horizontal line extending to the right.

Aaron D. Starr
Manager of Legislative Affairs

cc:

Andrea Ruiz-Esquide, Deputy City Attorney
Sunny Angulo, Aide to Supervisor Peskin
Andrea Ausberry, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19655

HEARING DATE JUNE 2, 2016

Project Name: Prohibiting Formula Retail in the Polk Street Neighborhood
Commercial District

Case Number: 2016-001823PCA [Board File No. 160102]

Initiated by: Supervisor Peskin / Introduced February 2, 2016

Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082

Reviewed by: Aaron Starr, Manager of Legislative Affairs
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RECOMMENDING THAT THE BOARD OF SUPERVISORS DISAPPROVE A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTION 303.1(F) TO PROHIBIT FORMULA RETAIL USES IN THE POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on February 2, 2016 Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 160102, which would amend Section 303.1 of the Planning Code to prohibit formula retail uses in the Polk Street Neighborhood Commercial District;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on June 2, 2016; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c) and 15378; and

WHEREAS, the Planning 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, 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 Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **disapprove** the proposed ordinance.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The existing Polk Street Neighborhood Commercial District (NCD) formula retail controls are inadequate to help preserve its character. At the same time, the proposed prohibition on formula retail uses is also insufficiently nuanced to be beneficial to the Polk Street NCD.
2. The Planning Commission did not find consensus on suggested modifications to the proposed legislation. However, individual Commissioners provided the following suggestions:
 - a. That formula retail uses be prohibited if they are 2,500 square feet in size or greater; or
 - b. That formula retail uses be prohibited if the concentration of formula retail uses as a proportion to all retail uses exceeds a certain percentage; or
 - c. That formula retail uses be prohibited if the vacancy rate in the Polk Street NCD falls below a certain percentage; or
 - d. That formula retail uses be prohibited if the formula retailer has more than 25 locations
3. **General Plan Compliance.** The proposed Ordinance is inconsistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

The proposed Ordinance would prohibit development that would provide substantial net benefits to the Polk Street NCD.

OBJECTIVE 6

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

Policy 6.3

Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

The proposed Ordinance would not help maintain the mixed residential-retail character of the Polk Street NCD as it would prohibit new commercial investment by formula retailers.

4. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are inconsistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance will prevent the establishment of new neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance will not help preserve and enhance existing housing or neighborhood character in the Polk Street NCD.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance will not help increase the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

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

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance will not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired as the Ordinance deals with impeding retail development

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance will not have an adverse effect on City's preparedness against injury and loss of life in an earthquake because the Ordinance is in regard to allowed retail uses in the Polk Street NCD.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance will not have a direct effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from

development;

The proposed Ordinance will not have an adverse effect on the City's parks and open space and their access to sunlight and vistas as the Ordinance concerns the establishment of retail uses.

8. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare do not require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board disapprove the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on June 2, 2016.



Jonas P. Ionin
Commission Secretary

AYES: Commissioners Antonini, Fong, Hillis, Johnson

NOES: Commissioners Moore, Richards, Wu

ABSENT: None

ADOPTED: June 2, 2016



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: JUNE 2, 2016
EXPIRATION DATE: JULY 30, 2016

Project Name: **Prohibiting Formula Retail in the Polk Street Neighborhood Commercial District**

Case Number: **2016-001823PCA [Board File No. 160102]**

Initiated by: Supervisor Peskin / Introduced February 2, 2016

Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082

Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

Recommendation: **Recommend Approval with Modifications**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend Planning Code Section 303.1(f) to include the Polk Street Neighborhood Commercial District (NCD) on the list of zoning districts that prohibit formula retail.

The Way It Is Now:

The Planning Code requires formula retail uses locating in the Polk Street NCD to secure Conditional Use authorization (CU).

The Way It Would Be:

The Planning Code would prohibit formula retail uses from locating in the Polk Street NCD.

BACKGROUND

1600 Jackson Street

Property Description and Current Use

1600 Jackson Street, at the northwest corner of Polk and Jackson Streets, is the location of the former Lombardi Sports store. The improvements on the 22,500 sq. ft. site include a basement level automobile parking area and two floors for commercial use. In all, the improvements measure approximately 59,000 square feet. The site has been vacant for more than one year.

Interest in Future Use of Site

The subsequent use of 1600 Jackson Street is a great concern to the communities that live, recreate and shop in the Polk Street corridor. Staff understands this concern to be, at least in large part, the genesis of the proposed Ordinance.

Over the last 24 months, the Planning Department has received two applications seeking to redevelop or reuse the site. The first was to demolish the existing improvements and replace them with a six story

residential building with ground floor retail and basement parking. This application was withdrawn and the case closed. The second application, which remains active, seeks to reuse the site as a 365 by Whole Foods Market formula retail grocery store. The Planning Department also conducted a Project Review meeting to discuss the possible use of the site as a formula retail use (Target).

As described in the Public Comment Section below, Staff has received a number of email letters focused on the site. Some express the need to institute a prohibition on formula retail uses. Other letters express support for the use of the site as a 365 by Whole Foods Market formula retail grocery store. The proposed Ordinance would greatly influence the possible uses of 1600 Jackson Street site, as well as all other properties in the Polk Street NCD.

Formula Retail Controls in San Francisco

San Francisco has had regulations scrutinizing formula retail uses since 2004.¹ At that time, establishing a formula retail use in most of the City's neighborhood commercial corridors only required neighborhood notification. The Neighborhood Commercial Cluster Districts (NC-1) at Cole and Carl Streets and Parnassus and Stanyan Streets required CU. The Hayes-Gough NCD was the sole corridor with an outright prohibition.

By 2007 the City's formula retail controls were significantly strengthened. The North Beach NCD joined Hayes-Gough as corridors banning formula retail.² When voters approved Proposition G, "The Small Business Protection Act," establishing a formula retail use in any of the City's NCD required CU, if allowed at all.³

Subsequent years saw additional changes to the City's formula retail controls. These were implemented through legislative amendment, Planning Commission policy or Board of Appeals ruling. The changes encompassed areas from the Bayview to Upper Market and the Fillmore to Central Market. Even the Public Works Code was amended to restrict formula retail uses in the public right of way.⁴

Planning Department Study of Formula Retail Controls

The pattern of continually augmenting San Francisco's formula retail controls helped precipitate the Planning Department's 2014 comprehensive review of those controls. As part of this review, the Department held multiple focus groups and commissioned a consultant study to assist in the analysis.

¹ Ordinance Number 62-04;

<https://sfgov.legistar.com/View.ashx?M=F&ID=2577365&GUID=6B0C0778-3AE0-4F2E-B20C-2C67DE0077F8>

² Ordinance Number 65-05;

<https://sfgov.legistar.com/View.ashx?M=F&ID=2577312&GUID=A2169E87-7DA9-4290-98C2-150FBC87AF99>

³ The legal text and arguments in favor and against can be accessed here:

http://sfpl4.sfpl.org/pdf/main/gic/elections/November7_2006.pdf

⁴ Ordinance Number 119-13

<https://sfgov.legistar.com/View.ashx?M=F&ID=2557049&GUID=5250C736-26C0-40EF-B103-4321F058992C>

The focus groups sought, among other things, to discern the principal concerns City residents have with formula retail uses in their neighborhood commercial corridors. The consultant study assessed the role formula retail plays in the City's neighborhoods and the effect the City's formula retail regulations have on NCDs. The study also provided analysis on possible effects of then-proposed changes to the formula retail regulations.

The Department's review culminated in a staff report to the Planning Commission and further refinement of the City's formula retail controls.⁵ The report touched on a wide variety of issues, each informed by an array of sources including public and private studies and articles from popular periodicals. The staff report presented two major findings. First, that the Conditional Use process is working to address residents' concerns about formula retail. Second, adjustments to these controls can be made to better serve residents.

ISSUES AND CONSIDERATIONS

The Polk Street Neighborhood Commercial District

Description and Intentions of the Polk Street NCD

The Polk Street NCD is one of the original 16 named NCDs established in the late 1980's. It spans approximately one mile in a linear, north-south direction and serves the multiple neighborhoods it borders. These include the Polk Gulch, Nob Hill and Russian Hill neighborhoods.

This NCD is intended to provide convenience goods and services. The retail stores providing those goods and services are overwhelmingly found at the street level. Residential uses are typically located in multiple stories above the ground floor. This pattern is in line with the zoning and height controls for the Polk Street NCD. These controls generally allow six story buildings, favor retail and institutional uses located at lower stories, support residential uses at all levels and require off-street parking at minimum amounts.

The February/March 2016 Survey of the Polk Street Neighborhood Commercial District

In late February and early March 2016 Planning Department staff conducted a walking survey of the Polk Street NCD. The aim of the walking survey was to note existing street level retail conditions, including retail types and the number of formula retail establishments. Staff found a total of 336 occupied retail storefronts in the corridor. Of these 336 occupied retail storefronts, eating and drinking establishments comprise the largest percentage of retail establishments. Personal Grooming / Exercise uses also occupy a significant number of storefronts in corridor. (*See Table 1*).

Of the retail use types, formula retail was most common among the financial uses (banks). However their number is greatest in the Other Retail category, which includes pharmacies, vitamin supplement shops, hardware stores, and the like.

⁵ Ordinance Number 235-14;

<https://sfgov.legistar.com/View.ashx?M=F&ID=3395376&GUID=E968AE34-63B8-4B9B-850C-DFAE0F2A9FD8>

TABLE 1: POLK STREET NCD RETAIL COMPOSITION FEBRUARY/MARCH 2016

USE TYPE	FORMULA RETAIL	INDEPENDENT RETAIL	TOTAL	FORMULA RETAIL / TOTAL
Eating & Drinking	6	117	123	5%
General / Specialty Grocery	1	9	10	10%
Financial	3	1	4	75%
Personal Grooming / Exercise	1	61	62	2%
Apparel	2	18	20	10%
Health Service	0	6	6	0%
Other Retail	9	102	111	8%
TOTAL	22	314	336	7%

Planning Commission Consideration of Formula Retail Applications in the Polk Street NCD

Over the last five years the Planning Commission has heard three cases where formula retail establishments sought to locate in the Polk Street NCD. Of these three, the Planning Commission disapproved one. (See Table 2). In comparison, over the same time period the Planning Commission has heard five formula retail cases in the RC-4 district along Van Ness Avenue, six in the Ocean Avenue NCD and seven in Upper Market. The Planning Commission did not disapprove any in the RC-4 or the Ocean Avenue NCD. It disapproved two in the Upper Market.

TABLE 2: FORMULA RETAIL CASES IN THE POLK STREET NCD APR 2011 – APR 2016

CASE NUMBER	BUSINESS	ADDRESS	ACTION	DATE
2011.1067C	Sherwin Williams	1630 California	Disapprove	December 2011
2011.1046C	Trader Joe's + CVS	1401 California	Approve	December 2011
2014.0125C	Nutrishop	1118 Polk	Approve	May 2014

Planning Department Staff is aware of two active cases seeking to establish formula retail uses in the Polk Street NCD. These cases have yet to come before the Planning Commission. The processing of these cases is dependent upon the Board of Supervisors' and Mayor's consideration of the proposed Ordinance.

Housing and Retail

San Francisco is in the midst of a housing shortage. The 2014 Housing Element reports that from 2007 to 2014 the City produced only 58% of its regional fair share.⁶ Production of housing for households with

⁶ 2014 Housing Element

moderate-incomes (80% to 120% of Area Median Income) and below was especially lacking. The City realized approximately 16% of the production goal for housing for moderate-income households and 41% for households with lower incomes.

While all new housing is generally needed, it is preferable if it is located within close proximity to transit and retail amenities. Larger sites that can accommodate numerous units and lower level commercial uses are even better suited. Where such sites are available, it is worthwhile to incentivize their use for these purposes.

2014 Formula Retail Study

As mentioned in the Background Section above, the Department commissioned a consultant to study formula retail uses in the City. In addition to broadly covering the role and effect of formula retail in NCDs, the study also provided specific insights on the topics below:

Formula Retail Concentration

The Study found that formula retail accounts for 12% of all retail establishments in the City. In zoning districts without formula retail controls, formula retail establishments comprise 25% of retail establishments. In contrast, formula retail comprises 10% of retail establishments in zoning districts with formula retail controls. This suggests that existing formula retail controls have tempered the number of approvals in zoning districts that enjoy them.

The study also found that particular retail uses tend to be formula retail. For example, 84% of all banks were formula retail establishments. Conversely, only 11% of restaurants and bars are formula retail establishments. Likewise, the study found that of all “Supermarket and Other Grocery Stores” only 7% were formula retail. This implies that certain retail use types, such as banks, lend themselves toward a high presence of formula retailers.

The study also found that Formula retail uses gravitate toward specific retail spaces. Almost 85% of the City’s formula retailers occupy retail spaces in excess of 3,000 square feet. The national retailers, in particular, favor larger, more prominent locations. This is in contrast to smaller, independent retailers, who tend to locate in smaller and shallower spaces.

Formula Retail and Neighborhood Commercial District Lease Rates

Many, including some letters in the public comment, cite the presence of formula retail as a source of increased retail lease rates. This suggests that severely limiting or prohibiting new formula retail will lower retail lease rates. However, the study found that the retail market is driven by demand for goods and services, as influenced by regional and national economic trends.

In the NCDs studied, there was no clear relation between the approval of a formula retail use and retail lease rates. The study found that retail lease rates generally fell as the national economy dipped into recession. This generally occurred irrespective of the addition of new formula retailers prior to the recession. The study also found that retail lease rates mainly increased as the economy began to improve.

http://www.sf-planning.org/ftp/General_Plan/2014HousingElement-AllParts_ADOPTED_web.pdf

This typically occurred whether a formula retail application was approved, withdrawn or disapproved. The perception that new formula retail uses drive lease rates may be informed by the fact that submissions of formula retail applications are correlated to economic expansions.

Formula Retail as Anchor or Detriment

The health of an NCD often determines whether a new formula retail use is beneficial or harmful to its character. For example, the study found that in less vibrant NCDs a formula retail use can serve as an anchor for revitalization. This may often be the case where there are larger retail spaces, as formula retailers tend to seek spaces in excess of 3,000 square feet. The formula retail use represents a new economic investment, spurring economic activity and attracting new customers to the corridor. This may also assist existing retailers struggling to lure new patrons to these overlooked commercial corridors.

In neighborhood commercial corridors with an established character, the addition of a large national chain may degrade that character. Care must be taken to assure aesthetic compatibility. Proper business signage, adequately transparent storefronts and a general pedestrian orientation is paramount. The balance between independently owned and national retail must also be considered. Further, the study noted that residents in such corridors had concerns about the loss of established retailers providing daily goods and services. In these cases heightened scrutiny of a new formula retail establishment is vital.

The Function of the Conditional Use Authorization Process

At the time of the study, the Planning Commission had approved 75% of all formula retail applications. While this rate appears high, it is worthwhile to note that the CU process serves as a filter for applications. In zoning districts with formula retail controls, the CU process frequently lasts more than six months. This timeframe is affected by a number of factors, including the proposed formula retail use and community stakeholder involvement. This long timeframe and need for community outreach often deters some applicants from submitting an application. Indeed, the study found that in cases where there is community consensus against an application or where significant opposition exists, formula retail applications were often disapproved or withdrawn. Conversely, proposals thought to enjoy some level of community support tend to submit applications. With community support, these applications are often approved.

The role of community input is an important detail to note. The CU process allows community stakeholders to provide the Planning Commission with their insights and input. Given the particularities of each of the City's NCDs, it is vital that communities contribute to the discussion about the composition of their retail corridors. The process also affords the Planning Commission discretion and allows its members to exercise their professional judgement on these cases in light of public testimony. In this way, the land use and zoning process is an informed and participatory one.

IMPLEMENTATION

The Department has determined that this ordinance will not impact our current implementation procedures.

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's proposed recommendation is as follows:

1. Modify the Ordinance to require formula retail uses exceeding 5,000 square feet in size to provide residential uses in a minimum ratio of 3:1.

Specifically, modify Planning Code Section 303.1(f) as such:

(10) Polk Street Neighborhood Commercial District does not permit Formula Retail uses over 5,000 square feet unless the ratio of residential uses on the same lot to the formula retail use is at least 3:1

BASIS FOR RECOMMENDATION

The Department supports the intention of the Ordinance, which is to help preserve the retail character of the Polk Street NCD and, in part, ensure that under developed land is better utilized. However, a blanket prohibition is too blunt of a control. Certain formula retail uses bring value to a neighborhood and existing formula retail controls effectively filter lesser proposals. Instead, the Department believes a modified formula retail regulation can serve multiple policy objectives in the Polk Street NCD.

Recommendation 1: Modify the proposed Ordinance to require formula retail uses exceeding 5,000 square feet in size to provide residential uses on the same lot in a minimum ratio of 3:1.

Staff recommends the proposed modification as means to achieve two policy goals. The first is to carefully manage the number and type of formula retail uses in the Polk Street corridor. The second is to incentivize the use of remaining larger corridor sites for housing. Taken together, this will help new mixed use development fit the existing, character defining pattern that the Polk Street NCD enjoys.

Respect for existing corridor character

The Polk Street NCD, as mentioned above, is characterized by street level retail or institutional uses with residential uses at upper stories. The Polk Street NCD's zoning and height controls also help guide development toward this pattern. The proposed modification will direct formula retail uses in excess of 5,000 square feet to adhere to the NCD's prevailing development pattern. This, in combination with existing design guidelines for residential and formula retail uses, will help any future formula retail uses to be compatible with the NCD's existing character. It also addresses the larger concern about the subsequent use of the 1600 Jackson site.

Formula Retail Concentrations are Similar to Citywide Rates

The figures on formula retail concentration in the Polk Street NCD indicate that it does not have an outsized presence there. Formula retail uses comprise 10% of retail establishments in all zoning districts with formula retail controls. The February/March 2016 survey found that formula retail uses comprise only 7% of retail establishments in the Polk Street NCD. When comparing by specific retail use type, the rate that formula retail uses comprises particular retail use types in the Polk Street NCD generally does not exceed the citywide averages. Taken together this shows that there is not an over concentration of formula retail in the Polk Street NCD, and that some additional formula retail uses would not significantly upset the existing balance with independently owned retail use in the Polk Street NCD.

Formula Retail Uses Can Be Beneficial to Neighborhood Commercial Districts

A new formula retail use can prove beneficial to a neighborhood commercial corridor, depending upon its existing conditions. When a corridor lacks retail serving residents' daily needs, a formula retail use can aptly fill the gap. Even when a healthy balance between formula retail and independently owned establishments exists, the addition of a formula retail use can be advantageous, or in the least, not detrimental. The proposed modification allows for this when the formula retail use is necessary and desirable.

It is also unclear whether formula retail uses raise retail lease rates. As mentioned above, the consultant study did not find a definitive relationship between the approval of a formula retail application and an increase in lease rates. Rather, consumer demand and the business cycle appeared to drive a corridor's lease rates. Given this, it is reasonable to allow community input on the appropriateness of particular formula retail uses.

The Value of the Conditional Use Process

Fundamentally, the Conditional Use process gathers input from concerned stakeholders and professional staff to discern whether a proposal is necessary and desirable. A community's input is indispensable to the process, as it often provides an unequalled familiarity of the context. Likewise, the analysis and discretion of Department Staff and the Planning Commission can help make an informed and nuanced decision.

This mix of information and decision maker discretion is what helps avoid the unintended consequence of systematically prohibiting a beneficial proposal. Community and professional input in concert with the Planning Commission's discretion is what informs a modified and improved proposal and allows it to proceed.

In many NCDs this participatory process also serves as a deterrent to excessive formula retail applications. The consultant study notes that many formula retailers will not submit applications in zoning districts with controls unless they feel confident of success. As cited above, since April 2011 only three Polk Street NCD formula retail applications have come before the Planning Commission. In contrast, other districts have seen twice as many over the same time period. They have also seen far fewer disapproved applications. This supports the notion that the CU process is working to maintain the retail character in the Polk Street NCD.

The Need for Housing near Amenities

Within the context of the current housing crisis, it is advantageous to create incentives and regulations that produce new housing units. This is especially the case on sites that are in close proximity to public transit and retail amenities. In comparison to other neighborhoods in the City, the Polk Street NCD has few larger, non-residential sites ripe for redevelopment. However, it enjoys existing and forthcoming transit improvements as well as a vibrant and extensive neighborhood commercial corridor. The existing zoning and height regulations also promote residential/retail mixed use developments. It is reasonable, then, to direct development on the remaining larger sites in the Polk Street NCD to include housing.

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

PUBLIC COMMENT

As of the date of this report, the Planning Department has received 116 letters from the public regarding the proposed Ordinance. Staff is also aware of an online petition that is also against a prohibition on formula retail uses in the Polk Street NCD. This online petition is signed by approximately 100 individuals. Of all letters, 76 generally support the prohibition of formula retail uses in the Polk Street NCD. Those in support cite the need to protect existing neighborhood character and avoid the increase traffic congestion that larger formula retail uses bring. They also argue that a prohibition would allow smaller, homegrown, independent stores to thrive and would help keep commercial leases low.

Neighborhood organizations that submitted letters in support of the prohibition on formula retail uses include:

- Lower Polk Neighbors
- Middle Polk Neighborhood Association
- Polk District Merchant Association
- North Beach Business Association
- Coalition for San Francisco Neighborhoods
- Telegraph Hill Dwellers
- San Francisco Council of District Merchants Associations
- Cathedral Hill Neighborhood Association
- Pacific Heights Residents Association

Those in opposition to the Ordinance cite a need for increased access to affordable goods, especially groceries. They also cite the need to avoid new regulations that would hinder the leasing of vacant storefronts. Correspondence received in opposition to the Ordinance is largely from individuals. However, the following groups have submitted letters in opposition to the Ordinance:

- 1650 Jackson Condominium Owners Association
- 1645 Pacific Avenue Owners Association
- Jackson Plaza Condominium Association
- Pacific Place Owner's Association

RECOMMENDATION: Recommendation of Approval with Modification
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
Exhibit B: Letters of Support/Opposition
Exhibit C: Board of Supervisors File No. 160102