



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 18843

HEARING DATE: APRIL 11, 2013

Project Name: **Planning Commission Policy:**
Upper Market Formula Retail Concentration

Case Number 2013.0398U

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ADOPTING A POLICY THAT ESTABLISHES A METHOD FOR DETERMINING THE CONCENTRATION OF FORMULA RETAIL AND THE APPROPRIATE LEVEL OF FORMULA RETAIL CONCENTRATION IN THE UPPER MARKET NEIGHBORHOOD; AND ADOPTING PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.1.

PREAMBLE

Whereas, on the Duboce Triangle Neighborhood Associate (hereinafter DTNA) approached Supervisor Weiner and the Planning Department (hereinafter Department) with a proposal to better regulate Formula Retail in the Upper Market Neighborhood; and

Whereas, the Department worked closely with the DTNA and Supervisor Wiener's office to refine DTNAs proposal so that it fit more with current Department practices and within the resources available to the Department; and

Whereas, the Upper Market Neighborhood, which is centered along Market Street from Octavia Boulevard to Castro Street is going through a tremendous period of transformation, with thousands of square feet of retail spaces currently under construction or entitled; and

Whereas, many of these new commercial spaces are located on prominent corners that are typically attractive to Formula Retail establishments; and

Whereas, the Planning Code and General Plan do not establish an appropriate level of Formula Retail concentration for the Upper Market Neighborhood or prescribed a method for determining the concentration of Formula Retail; and

Whereas, the San Francisco Planning Commission (hereinafter "Commission") wants a more systematic and consistent way to evaluate Formula Retail in the Upper Market neighborhood; and

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

Whereas, on April 11, 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

Whereas, the Commission has reviewed the proposed Policy; and

MOVED, that the Commission hereby adopts the proposed Policy attached to this Resolution as Exhibit A.

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 proposed Policy was developed in close partnership with the DTNA. It has the support of DTNA, Supervisor Wiener's office and the Planning Department.
- Upper Market is going through a period of rapid and unprecedented growth, making the need for this Policy even greater. If not addressed head on, the neighborhood could become oversaturated with Formula Retail risking the character and vibrancy of the Upper Market Neighborhood and wasting a unique opportunity.
- Adopting this as a Commission Policy will allow the methodology to be implemented immediately and tested over time.
- How much Formula Retail concentration there should be in a neighborhood is not addressed in the Planning Code or the General Plan. The proposed policy sets a level of concentration based on existing concentrations in the Upper Market neighborhood and can be adjusted to fit other NCD should this policy be adopted in other areas of the City.
- The Planning Code and General Plan do not provide a way to calculate the concentration of Formula Retail. The proposed policy addresses this issue by proving a clear and consistent way to determine concentration that is based on current Department practices and standards.
- Under the proposed Policy, the Department would still evaluate the proposed Formula Retail application based on the other applicable findings in the Planning Code to aid the Commission's deliberation, and the Commission would still retain its discretion to approve or disapprove the use.

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 3

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

Policy 3.4

Assist newly emerging economic activities.

Formula Retail establishments can typically pay more for lease space and commit to longer lease contracts, whereas emerging economic activities typically cannot. Adopting a Policy that is intended to temper the influx of Formula Retail to the Upper Market Neighborhood could help make it easier for locally emerging economic activities to find more affordable spaces to lease.

OBJECTIVE 6

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

Policy 6.2

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

The proposed Policy is intended to create a balance between Formula Retail and locally owned businesses by establishing a concentration threshold for the former. Having a healthy mix of these two types of businesses would promote a vital neighborhood commercial district in the Upper Market Neighborhood, 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:

Formula Retail businesses can have a competitive advantage over independent operators because they are typically better capitalized and can absorb larger startup costs, pay more for lease space,

and commit to longer lease contracts. This can put pressure on existing businesses and potentially price out new startup independent businesses. By adopting this policy, which sets a concentration threshold for Formula Retail in the Upper Market Neighborhood, the Commission intends to help preserve and enhance existing neighborhood-serving retail uses in the Upper Market Neighborhood.

- 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 Policy would have no impact on existing housing. By setting a threshold for Formula Retail in the Upper Market neighborhood, the Planning Commission's intends to conserve and protect neighborhood character by ensuring that an over concentration of Formula Retail doesn't erode existing neighborhood character.

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

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

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

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

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

Preparedness against injury and loss of life in an earthquake is unaffected by the proposed Policy. 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 Policy. Should a proposed use be located within a landmark or historic building, such site would be evaluated under typical Planning Code provisions and comprehensive Planning Department policies.

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

The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed Policy. 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 April 11, 2013.

Jonas P Ionin
Acting Commission Secretary

AYES: Commissioners Antonini, Borden, Fong, Hillis, Moore, Sugaya and Wu

NAYS: none

ABSENT: none

ADOPTED: April 11, 2013

Exhibit A
Proposed Planning Commission Policy:
Determining Formula Retail Concentration in the Upper Market NCD & NCT

For ground floor Formula Retail application in the Upper Market NCD and NCT and properties Zoned NC-3 along Market Street from Church St. to Octavia Blvd., the applicant shall evaluate the concentration of Formula Retail establishments in the immediate vicinity by utilizing the following method. The information provided by the applicant will be verified by the assigned planner.

Defining the Area

Include all parcels that are wholly or partially located within the 300-foot radius map required for Conditional Use application notification and also zoned neighborhood commercial. If analyzing a corner parcel, include all corner parcels at the subject intersection in addition to properties within 300'.

Determining Linear Frontage

For each property, including the subject property, divide the total linear frontage of the lot facing a public right-of-way by the number of store fronts. For example, if a property has 80 feet of street frontage and four store fronts, each store front is considered to have 20 feet of frontage. Separate the Formula Retail store fronts and their total linear frontage from the non-Formula Retail establishments and their linear frontage. Calculate the percentage of the total linear frontage for Formula Retail and Non-formula Retail. ½ of a percentage shall be rounded up.

If the percentage of Formula Retail establishments greater than or equal to 20%, the Planning Department shall recommend disapproval to the Planning Commission, although staff shall evaluate the Formula Retail Conditional Use application against all the criteria in Planning Code Section 303(i)(3) to aid the Commission in its deliberations. If the total linear frontage for Formula Retail establishments is less than 20%, Planning Department staff shall evaluate the Formula Retail Conditional Use application against the criteria in Planning Code Section 303(i)(3) and recommend approval or disapproval accordingly.

Special Lot Situations

- Vacant store fronts are included in the calculation and are counted as Non-formula Retail.
- If the Planning Commission has granted Conditional Use authorization for a Formula Retail establishment that store front is counted as Formula Retail.
- Vacant lots are counted as Non-formula Retail frontage.
- Parking lot frontage is included with the use that it serves.
- All street frontages for corner lots are included in the calculation.
- Residential buildings with no store fronts are excluded from the calculation.
- For through lots, only frontages that contain storefronts are included in the calculations. For example, if a through lot has storefronts on street A but only service doors or garage doors fronting on street B, then only frontage along street A is included in the calculation.
- Second story store fronts are excluded from the calculation. Formula Retail applications that seek approval for a second floor store front won't be evaluated by this method; only the standard criteria found in Section 303 of the Planning Code will apply.

Definition of Formula Retail

Formula Retail is defined in Planning Code Section 703.3. Any nonresidential use on the ground floor not defined as Formula Retail per section 703.3 shall be counted as non-Formula Retail.