

RESOLUTION NO. 138-2006

Adopted October 3, 2006

ADOPTING A FORMULA RETAIL POLICY FOR THOSE PORTIONS OF THE WESTERN ADDITION REDEVELOPMENT PROJECT AREA A-2 DESIGNATED BY THE SAN FRANCISCO ZONING MAP AS PART OF A NEIGHBORHOOD COMMERCIAL ZONING DISTRICT; WESTERN ADDITION REDEVELOPMENT PROJECT AREA A-2

BASIS FOR RESOLUTION

1. On July 19, 2005, the Board of Supervisors of the City and County of San Francisco ("Board of Supervisors") adopted Resolution No. 562-05 urging, among other things, the Redevelopment Agency of the City and County of San Francisco ("Agency") to "control formula retail uses in the Western Addition Redevelopment Project Area A-2."
2. Since 2004, Section 703.3 *et seq.* of the San Francisco Planning Code ("Planning Code") has defined and regulated "formula retail uses" in areas that are zoned as neighborhood commercial districts ("Formula Retail Use Ordinance"). These uses are 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, and either a trademark or a servicemark.
3. If a proposed activity or establishment constitutes a "formula retail use" that will be located in an area zoned as a neighborhood commercial district, the San Francisco Planning Department ("Planning Department") must, upon acceptance of the building permit application for such formula retail use, provide written notice to interested parties, neighborhood organizations, and all owners of properties within 150 feet of the project site and those on the block face across from the proposed site.
4. For thirty days following the date of the written notice, the Planning Department holds the building permit application for a formula retail use to allow review by residents, occupants, owners of neighboring properties and neighborhood groups. Prior to the expiration of this thirty-day period, any member of the public may ask the Planning Commission to exercise its discretionary review powers over the specific building application.
5. In adopting the Formula Retail Use Ordinance, the Board of Supervisors made the following findings, among others, in support: the need for protecting San

Francisco's small business sector and creating a supportive environment for new small business innovations; the increase in formula retail businesses, which tend to have a competitive advantage over independent operators; and the adverse effect of unregulated and unmonitored additional formula retail uses, which "will hamper the City's goal of a diverse retail base with distinct neighborhood retailing personalities comprised of a mix of businesses." Smaller, independent businesses tend to be non-traditional or unique and thus promote the diversity of vendors and of the merchandise available to residents and visitors. Planning Code Section 703.3 (a) (1)-(10).

6. The Redevelopment Plan authorizes the Agency to "review and approve the specific plans, including landscaping plans and sign plans, for all development [in the A-2 Project Area] . . . "The Redevelopment Plan also provides that: "[I]n order to achieve the purposes of the [Redevelopment] Plan, the development and use of land within the Project [Area] shall be in accordance with land use provisions and standards set forth in this Paragraph C." Redevelopment Plan, Section II.C at page 6. Moreover, the Redevelopment Plan states that owners of property in the Project Area may participate in the redevelopment of the area "to the extent compatible with the purposes of the Plan and appropriate redevelopment of the Project [Area]." Redevelopment Plan, Section III. A at page 22.
7. The Zoning Map of the City and County of San Francisco ("Zoning Map") classifies several areas within the A-2 Project Area as part of a neighborhood commercial district, including Fillmore Street between McAllister and Bush Streets, Divisadero Street between Turk and O'Farrell Streets, Franklin Street between O'Farrell and Bush Streets, and Post Street between Webster and Laguna Streets. Unless amended, such Zoning Map classifications and other provisions of the Planning Code will become effective in the A-2 Project Area on January 1, 2009, when the Redevelopment Plan expires.
8. Staff recommends the adoption of a proposed formula retail policy ("Formula Retail Policy") containing requirements similar to those in the Formula Retail Use Ordinance, in order to promote the purposes of the Redevelopment Plan, which include the creation of a satisfying and urbane living environment and enhancing the unique, social, cultural and esthetic qualities of the City.
9. Hence, Agency staff and the Western Addition Citizens Advisory Committee urge the adoption of a Formula Retail Policy that will be effective until January 1, 2009 and provides a public notice and review process for new formula retail uses proposed in those portions of the A-2 Project Area which the Zoning Map designates as part of a neighborhood commercial district.
10. In 2003, the Planning Department conducted environmental review of the Formula Retail Use Ordinance and determined that it was exempt under Section 15061(b) (3) of the Guidelines for the California Environmental Quality Act

("CEQA Guidelines") because it would not have any direct physical environmental effects. Documentation of that review is on file with the Clerk of the Board in File No. 031501.

11. The Agency finds that the adoption and implementation of the proposed Formula Retail Policy will provide a notice and review process for new formula retail uses in those portions of the A-2 Project Area designated by the Zoning Map as neighborhood commercial areas, therefore, the adoption and implementation of the proposed Formula Retail Policy will not have a significant effect on the environment and does not constitute a project as defined by the CEQA Guidelines. 14, CCR 15061(b)(3).

RESOLUTION

ACCORDINGLY, IT IS RESOLVED by the Redevelopment Agency of the City and County of San Francisco that it adopts the Formula Retail Policy substantially in the form attached as Exhibit A for those portions of the Western Addition Redevelopment Project Area A-2 designated by the San Francisco Zoning Map as part of a Neighborhood Commercial zoning district, as illustrated in Exhibit B, which shall take effect on the date this Resolution is adopted and remains in effect until the expiration of the Western Addition A-2 Redevelopment Plan on January 1, 2009; and

BE IT FURTHER RESOLVED that the Executive Director is authorized to administer and implement such Formula Retail Policy in accordance with its terms.

APPROVED AS TO FORM:

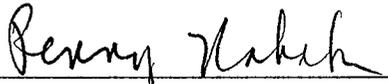

James B. Morales
Agency General Counsel

Exhibit A

REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO

FORMULA RETAIL POLICY FOR THE WESTERN ADDITION REDEVELOPMENT PROJECT AREA A-2

1. Findings.

The San Francisco Redevelopment Agency ("Agency") finds that the regulation of formula retail uses in the Western Addition Redevelopment Project Area A-2 ("Project Area") is consistent with the following purposes of the Western Addition A-2 Redevelopment Plan ("Redevelopment Plan"): to "guid[e] development toward the production of a satisfying and urbane living and working environment preserving and enhancing the unique social, cultural and esthetic qualities of the City." Redevelopment Plan, Section II. A. 3. at page 5. Accordingly, the Agency hereby establishes a formula retail policy ("Formula Retail Policy" or "Policy") consistent with the City's formula retail regulations in the San Francisco Planning Code ("Planning Code"). Section 703.3 *et seq.*

2. Effective Date, Applicability and Term.

This Policy becomes effective for all Project Area properties that have an underlying designation in the Zoning Map of the City and County of San Francisco as a neighborhood commercial district ("Commercial Use Districts") on and after October 3, 2006, the date of the Agency approval of this Policy pursuant to Resolution No.138, 2006 (the "Effective Date"). This Policy will apply to all owner participation agreements ("OPA") and site and building permits within the Project Area and will become part of the Redevelopment Plan requirements with which the development authorized by these agreements and permits must comply and will remain in effect until the expiration of the Redevelopment Plan on January 1, 2009.

3. Definition of Formula Retail Use.

Section 703.3 of the Planning Code provides a Formula Retail Use definition on which this Policy will rely. Formula Retail Use 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, a standardized signage, and either a trademark or a servicemark.

3.1 Standardized array of merchandise means 50% or more of in-stock merchandise from a single distributor bearing uniform markings.

3.2 Trademark means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.

3.3 Servicemark means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.

3.4 Décor means the style of interior finishings, which may include but is not limited to, style of furniture, wall coverings or permanent fixtures.

3.5 Color Scheme means a selection of colors used throughout, such as on the furnishings, permanent fixtures, and wall coverings, or as used on the façade.

3.6 Façade means the face or front of a building, including awnings, looking onto a street or an open space.

3.7 Uniform Apparel means standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hats, and pins (other than name tags) as well as standardized colors of clothing.

3.8 Signage is defined under Section II. C. 9 of the Redevelopment Plan.

3.9 "Retail sales activity or retail sales establishment" means the following uses that are allowed by the Redevelopment Plan: "shopping and service establishments," "specialized uses, including restaurants, relating to the cultural tradition of the neighborhood," "retail stores," "eating and drinking establishments," "personal service establishments," and other similar uses.

4. Neighborhood Notification Process.

4.1. Application Review for Compliance and Notification. After the effective date of this Policy, any proposed owner participation agreement ("OPA"), site permit application or building permit application for a use that the Redevelopment Plan permits in the Commercial Use Districts and that is also a Formula Retail Use, as defined in this Policy, shall be subject to the neighborhood commercial notification procedures described below. To facilitate the notification process, the project sponsor must complete a formula retail notification form that includes all the pertinent information required for public notification as detailed in Section 4.3 of this Policy.

4.2. Notification Posting and Mailing Requirements. Upon receipt and determination that a proposed OPA or application received from the

Department of Building Inspection for demolition, new construction, tenant improvements or change in use includes a Formula Retail Use as defined by Section 3 above, the Agency shall cause a written notice describing the proposal to be sent in the manner described below in Section 4.3. Written notice shall be mailed to the Western Addition A-2 Citizens Advisory Committee ("WACAC"), any interested parties, and all property owners, and, to the extent practical, occupants, of properties in the notification area, which shall be all properties within 150 feet of the subject lot in the same Assessor's Block and on the block face across from the subject lot. When the subject lot is a corner lot, the notification area shall also include all properties on both block faces across from the subject lot, and the corner property diagonally across the street. The names and addresses listed on the latest Citywide Assessor's roll shall be used for noticing.

4.3. Notification Contents. The notices shall include a 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 describe this Policy's review process and shall set forth the mailing date of the notice and the expiration date of the notification period.

4.4. Notification Period. All proposed OPAs and applications shall be held (i.e., not approved by the Agency) for a period of 30 calendar days from the date of the mailed notice to allow review by residents, occupants, owners of neighboring properties and neighborhood groups. If the 30th day falls on a weekend or a holiday, the notice period will be extended to the next business day.

5. Public Hearing Process.

5.1. Public Hearing Request. A written request for the Agency Commission to hold a public hearing regarding the proposed application must be received by the Agency no later than 5:00 p.m. of the last day of the notification period.

5.2. Schedule of Public Hearing. The Executive Director shall set a time for a public hearing of the Agency Commission within a reasonable period. Posted notice of the public hearing shall be made as provided for all Agency Commission meetings.

5.3. Public Hearing Guidelines. The Agency Commission shall determine whether the proposed Formula Retail Use is consistent with the purposes of the Redevelopment Plan. In particular, the Agency Commission shall determine whether the proposed Formula Retail Use promotes the Redevelopment

Plan's purpose of promoting a satisfying and urbane living and working environment that preserves and enhances the unique social, cultural, and esthetic qualities of the City. The Agency Commission may also consider the following factors:

(1) Existing concentrations of formula retail uses within the neighborhood commercial district.

(2) Availability of other similar retail uses within the neighborhood commercial district.

(3) Compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the neighborhood commercial district.

(4) Existing retail vacancy rates within the neighborhood commercial district.

(5) Existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the neighborhood commercial district.

6. Implementation.

The Executive Director is authorized to administer, interpret and carry out the provisions of this Formula Retail Policy and shall also periodically report on the administration of this Policy to the Western Addition Citizens Advisory Committee ("WACAC") and to the Agency Commission.

Exhibit B

