

Mill Valley Chamber “Formula” Business Panel

November 5, 2019

Background Information

Panel: Mayor Joe Burns, City of Sausalito; Juli Vieira, CEO and President, Sausalito Chamber of Commerce; Patrick Kelly, Planning Director, City of Mill Valley; Jonathan Plotzker-Kelly, Officer of the [Valencia Corridor Merchants Association](#).

Question: Should Mill Valley manage “Formula” businesses and if so, how?

Background Information:

A number of California communities have wrestled with/adopted restrictions on so-called “Formula” or “Chain” businesses, including Sausalito, San Francisco, Sebastopol, Calistoga, Malibu, Palo Alto, Ukiah and Venice Beach. We share the following information on some of these cities for our discussion.

Issues Raised in Communities:

1. What fears drive restrictions? (rent pressure, mix of businesses, community character, resident/visitor serving balance)
2. Intended and Unintended Impacts of restrictions? (community character, business mix, vacancies, legal action, costs to applicants, etc.)
3. How to define a Formula Business? (revenue, # of locations, standardized features, National vs. Bay Area origin)
4. Which “formula” business categories to include/exclude? (restaurants, retail, banks, gas stations, grocery stores, postal services, professional services etc)
5. Which geographies/districts to include/exclude? (In MV: Downtown, Miller Avenue, Alto Plaza, Redwood Hwy, and Strawberry, Tam Junction through the County)
6. How to regulate? (public hearings, conditional use permit, staff level approval)
7. Other tools available to preserve distinctive community character? (signage, lighting, noise, building appearance requirements etc.)
8. Impact of online retail trends? (“Showcasing” phenomenon; large companies opening small stores—eg. Tesla, Amazon)

Mill Valley

- Regulates commercial applications through a combination of General Plan, use restrictions as well as signage, lighting, noise, accessibility, parking, and exterior/interior building requirements.
- For retail locations less than 1,500 sq ft, only requires Conditional Use Permit if there is a “change of use” (eg. Retail to restaurant)
- No explicit “formula” restrictions.
- Requires CUP for new ground floor professional offices downtown

- **Downtown** includes following businesses with multiple locations: Peets Coffee, Equator Coffee, Margaret O’Leary, Eileen Fisher, Postal Annex, Compass Real Estate, Sotheby’s Real Estate, Urban Remedy, Bank of Marin, West America Bank, Bank of America. Previously: Banana Republic, Smith and Hawken, Baskin Robbins. **Miller Avenue** includes following businesses with multiple locations: Safeway, Wells Fargo, Super Duper, Whole Foods, Juice Girl, Starbucks; **Alto Plaza** includes following businesses with multiple locations: Vitality Bowl; Whole Foods, Rite Aid, CVS, Postal Annex.

Sausalito

- Adopted Formula Retail Ordinance 10.44.240
- Requires a Conditional Use permit to open or expand any formula retail establishment in the City.
- Defines “Formula Retail” as “a type of retail sales activity or retail sales establishment, including food service, which is required to maintain any of the following: standardized (“formula”) array of services and/or merchandise, trademark, logo, service mark, symbol, sign, décor, architecture, layout, uniform, or similar standardized feature.”
- Exempts “Service stations.”
- Requires Findings for CUP approval of “Formula Retail”:
 - Compatible with surrounding uses
 - Will not result in over concentration of formula establishments
 - Will promote diversity and variety to assure balanced mix of resident and visitor serving businesses
 - Will contribute to an appropriate balance of local, regional or national-based businesses in community
 - Will be mutually beneficial to and enhance economic health of surrounding uses in the district
 - Will contribute to an appropriate balance of small, medium and large businesses
 - Use and design is consistent with unique historic character of Sausalito and will preserve the *distinctive* (italics added) visual appearance and shopping experience of Sausalito for its residents and visitors

Sebastopol

- Defines “Formula” as 25+ establishments in the US with “substantially similar” features, products, signage and other characteristics
- Prohibits formula hotel, motel, restaurants and ground floor offices in Downtown, except for tax preparation, banks and credit unions
- Requires a Formula Business Use Permit for all other Downtown formula
- Allows formula businesses <10,000 square feet in other areas without Formula Use Permit.
- Claims process takes 8-12 weeks.

Calistoga

- Prohibits Formula Restaurants and Visitor Accommodations since 1996
- Requires a Special Permit for all other Formula Businesses
- Defines “Formula” as having standard characteristics such as signage, uniforms, physical layout etc.
- Special Permits issued must be consistent with General Plan

San Francisco:

- Formula businesses require Conditional Use Permits in all SF Neighborhood Commercial Districts but not in Downtown core and tourist areas.
- North Beach, Chinatown and Hayes Valley ban “Formula Retail” defined as more than 11 locations globally. (Note: North Beach had 20% vacancies in 2018 according to SF Chronicle)
- 2004 Ordinance added formula businesses to list of uses that require “neighborhood notification”. Nearby neighbors had option of requesting that the applicant undergo a review by the Planning Commission. If no review were requested, the use would be approved, provided it met other aspects of city zoning policy. This was changed in Nov, 2006 to require CUP for formula retail.
- An approved Formula CUP transfers with the land, with some restrictions.

Carmel by the Sea:

- First town in country to enact a formula restaurant ban.
- Defines formula restaurant as one “required by contractual or other arrangements to offer standardized menus, ingredients, food preparation, employee uniforms, interior decor, signage or exterior design,” or “adopts a name, appearance or food presentation format which causes it to be substantially identical to another restaurant regardless of ownership or location.”

Malibu (Courts involved)

- Courts overturned voter-approved formula restrictions because CUP’s didn’t go with the land and they singled out specific businesses (vs categories of business)
- New 2018 Ordinance retains size and clustering restrictions, but replaces CUP process, allowing Planning Director to issue a “Formula Retail Clearance”.
- Formula defined as more than 10 stores worldwide with standardized products/features
- Exempts grocery, drug stores, gas stations, banks, real estate and medical offices, movie theatres, postal services.

Additional Information:

- Institute for Local Reliance website: Formula Business Restrictions

- SF Chronicle: 7/7/19 “Chain Store Bans in San Francisco Leave more Shops Empty Critics Say”
[https://www.sfchronicle.com/business/article/Chain-store-bans-in-San-Francisco-leave-more-14074807.php?utm_campaign=CMS%20Sharing%20Tools%20\(Premium\)&utm_source=share-by-email&utm_medium=email](https://www.sfchronicle.com/business/article/Chain-store-bans-in-San-Francisco-leave-more-14074807.php?utm_campaign=CMS%20Sharing%20Tools%20(Premium)&utm_source=share-by-email&utm_medium=email)
- Mendocino County Grand Jury 2016-2017 on Formula Business Restrictions
<https://www.mendocinocounty.org/home/showdocument?id=9311>
- Doing Business in Mill Valley.
<http://www.cityofmillvalley.org/business/doingbusiness.htm>
- Chain Store Limit Adopted for California Avenue, Palo Alto
<https://paloaltoonline.com/news/print/2015/09/21/chain-store-limit-adopted-for-california-avenue>