
MEMORANDUM

DATE: April 13, 2007

TO: Council Members

FROM: Council Member Jill Love

SUBJECT: Legislative Action – request to create a “formula free business” and “form based” commercial zoning classification or regulations that may be applied to small-scale, unique commercial areas within the City

CC: Mayor Ross C. Anderson, Sam Guevara, DJ Baxter, Lyn Creswell, Alison McFarlane, Edward Butterfield, Ed Rutan, Lynn Pace, Louis Zunguze, Chris Shoop, George Shaw, Orion Goff, Cheri Coffey, Doug Wheelwright, Larry Butcher, Joel Paterson, Craig Spangenberg, Kevin LoPiccolo, Valda Tarbet, Jan Aramaki, Marge Harvey, Sylvia Jones, Lehua Weaver, Cindy Rockwood, Russell Weeks, Jennifer Bruno, Barry Esham, Michael Stott, Gwen Springmeyer

I would appreciate the Council’s support for a Legislative Action requesting that the Administration develop a “formula free business” and “form based” commercial zoning classification to be applied to small-scale, unique commercial areas within the City. I am aware of a recent trend where some cities have taken proactive steps by establishing formula free/form based business zoning regulations to support and strengthen local businesses and preserve the unique character of the community. A major objective in implementing this type of zoning regulation is to establish a more equitable playing field for locally-owned and operated businesses to compete in the market place.

Potential areas that could be considered in Salt Lake City include 1500 East and 1500 South, 900 East and 900 South, 1300 South and 1700 East, 2100 South and 2100 East, the Kmart/WalMart property at 2705 Parley’s Way and the Sugar House Business District. Mayor Anderson has mentioned application of this type of zoning along 300 South. Depending upon the outcome of initial efforts, locations in the Avenues, Capitol Hill, RosePark/Faripark, Poplar Grove/Glendale, and People’s Freeway communities could be considered in the future.

Formula businesses, generally known as “chain stores”, include retail stores, restaurants, hotels and other establishments that are required by contract to adopt standardized services, methods of operation, décor, uniforms, and architecture including interior and exterior design, signage or other features virtually identical to businesses located in other communities or nationwide. Formula restaurants include businesses that are devoted to the preparation and offering of food and beverages for sale to the public for consumption either on or off the premises and which is required by contractual or other arrangements to offer any of the following: standardized menus, ingredients, food preparation, décor, uniforms, architecture including interior and exterior design, signage or other similar standardized features. Typically movie theaters, hotels, motels, grocery stores and automobile service stations are excluded from formula business regulations.

Form based zoning regulations typically address building size, design, scale and massing, traffic, parking, and commercial district character through community design guidelines. In some cases, a maximum overall district size is established for the commercial zoning classification.

The intent would not be to preclude a formula business or chain store from locating in a specific location but to require the business to establish a unique establishment that does not conform according to a centralized formula. The scale and design of improvements to existing development is an important factor in the overall aesthetic character of certain commercial areas. Refinements in the Zoning Ordinance would ensure that new development is in scale and consistent with the surrounding neighborhood. I believe that regulating formula businesses is necessary to preserve the unique and historic character of smaller commercial areas in the City.

An article in the March 2003 Zoning News entitled *Combating 'Sameness' with a Formula Business Ordinance* written by Stephen Svete, AICP, quotes the following statistics from Stacy Mitchell, a researcher for the Minneapolis-based Institute for Local Self-Reliance (ILSR) and the author of *The Hometown Advantage*. "According to Mitchell, more than 13,000 local pharmacies have closed their doors since 1990. As of 2002, independent bookstores accounted for less than 15 percent of book sales, a decline from 58 percent in 1972."

Information obtained from the American Planning Association Planning Advisory Service includes the following examples of formula free/form based businesses zoning regulations and cities that have currently implemented them.

- Examples of formula free/form based business zoning regulations include a variety of options:
 - A. Use of special use permits or conditional use with specific criteria and a public process for new and the expansion of existing businesses.
 - B. Limiting the number of formula businesses allowed in a district or citywide.
 - C. Total prohibition of formula businesses citywide.
 - D. Regulations applied to a specific geographic area through use of an overlay or creation of a specific zoning classification.
 - E. Expedited permit processes for non-formula businesses.
 - F. Limiting the total size of buildings, lots or the zoning district.
 - G. Assessing community impacts both locally and regionally.
 - H. Establishing design guidelines that allow for formula businesses as long as they meet scale, character, etc. of the area.
- Examples of cities that have established formula free/form based business zoning regulations include:
 - A. Bainbridge Island, Washington – prohibits formula take-out food restaurants in all zones
 - B. Sanibel, Florida – prohibits formula restaurants
 - C. Port Jefferson, New York – prohibits formula fast food restaurants from the historic commercial and waterfront districts
 - D. Arcata, California – limits the number of formula restaurants
 - E. California:
 - 1. Calistoga – prohibits formula restaurants and visitor accommodations and requires that other formula businesses undergo review and apply for a special use permit
 - 2. Carmel-by-the-Sea – prohibits formula fast food, drive-in and restaurants in the city
 - 3. Coronado – limits both formula retail and restaurant businesses - regulates the number, location and operation of formula fast food restaurants, requires formula retail businesses obtain a special use permit
 - 4. Pacific Grove – prohibits formula fast food/take-out restaurants

5. San Francisco – formula businesses require neighborhood notification and review, public hearing, prohibited in certain areas, use of conditional use in other instances
 - North Beach Neighborhood Commercial District – does not permit retail coffee stores (coffeehouses) without conditional use authorization
6. Sausalito – formula retail businesses (new and expansion of existing businesses) require conditional use process
7. Solvang – prohibits formula restaurants

I would like to emphasize that the intent is to preserve the unique character of smaller, distinct commercial areas. I believe this action would assist in maintaining the long-term economic health of the City as a whole through promoting a balanced mix of local, regional and national-based businesses and small and medium sized businesses. I would appreciate the support of Council Members in asking the Administration to develop formula free and form based business zoning regulations and provide the Council with options or recommendations.

The result I would like to see is an evaluation, analysis and recommendations that address at a minimum:

- A. Potential legal issues. (Please note - Coronado's formula retail ordinance was upheld by a California Appeals Court decision in June 2003)
- B. Zoning regulations.
- C. Master plan amendments, if necessary.
- D. Other issues that may be identified by the Council or the Administration.

Thank you for your consideration of this Legislative Action request.