

25 % Restaurant Concentration Limitation: Background

Zoning Commission Direction

- Is 25 % the right number?
- How does one measure the 25 % / establish their rights?
- Identify other tools that would achieve the same goal, but in a simplified manner

History

- Created in 1989 based on draft regulations of the City of San Francisco
- Neighborhood commercial overlay provisions also included: promotion of pedestrian oriented retail in use permissions; prohibition of driveways
- Not intended to be an extremely fine-grained standard
- Intention was for a tool which is easy for DCRA to administer

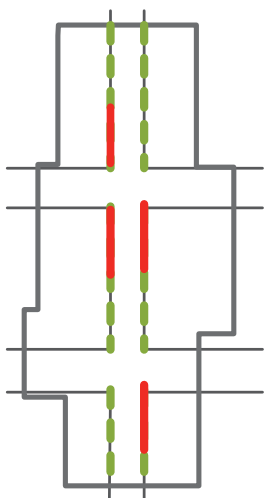
Retail Working Group

- Applicants near the edge of a threshold - key consideration
- Restrictions should not apply to existing businesses wanting to expand
- Review of the use restrictions should be performed to evaluate impact

Lessons Learned

- There needs to be a baseline established for assessment
- The definition of targeted uses needs to be clear
- The definition of the measurement method must be clear
- Vesting of rights must be acknowledged
- Resources are essential to implementation and enforcement

Option 1: Existing Approach



How it works:

- Applicable frontage defined and measured for baseline
- Defined uses are identified (restaurants and eating establishments)
- Linear frontage of defined use is measured to determine concentration
- New applicants may occupy space where full concentration has not been reached

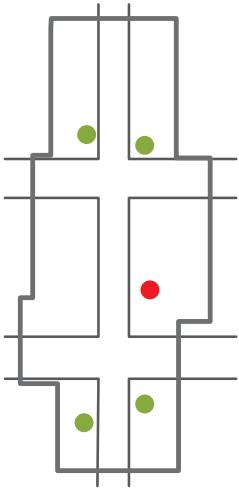
Advantages

- Enables local control
- Permits use with limitations
- Enables close proximity of subject use

Challenges:

- Requires real-time information management
- Requires additional staffing resources to administer properly

Option 2: Limitation of Total Occupancies



Application:

- Berkley, CA
- Use type: restaurants and eating establishments

How it works:

- Limits maximum number of locations within a given area
- No more than total quantity permitted

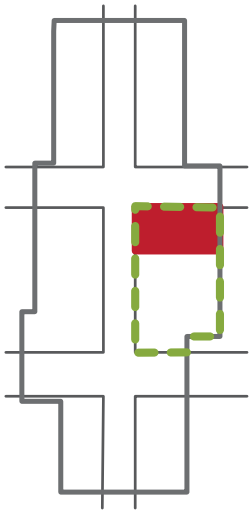
Advantages

- Existing building form helps
- Enables close proximity of uses
- Very specific
- Each defined area sets limit

Challenges:

- Requires good information management
- Doesn't get as specific on overall size or space dedicated to restaurants
- Doesn't control as effectively for new development

Option 3: Building Area Limitation



Application:

- District of Columbia: Downtown Development Overlay
- Restricts banks, financial institutions and office uses

How it works:

- Limits maximum percentage of ground floor that may be occupied by particular uses
- Measured relative to size of building (ground floor)
- Depending on the size of buildings, limitation effectively applies relative to a block/square

Point of interest:

- Similar to restaurant limitation – except scale

Advantages

- Easy to measure/administer
- Established practice
- No information management

Challenges:

- No practical application in small scale areas
- Currently applies to floor area – not frontage

Option 4: Distance Separation Requirements

Application:

- City of Oakland, CA
- Restricts liquor licenses – including restaurant licenses

How it works:

- All locations of regulated uses are inventoried
- New locations not permitted within a specific distance of the regulated use

Point of interest:

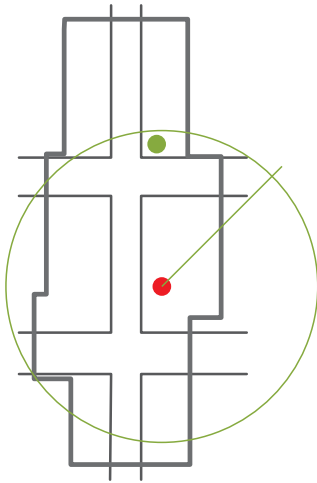
- Determination of allowance can be made immediately

Advantages:

- Easy to measure/administer (with necessary information)
- Prevents concentration of regulated uses

Challenges:

- Prohibits proximity of regulated uses, where desired
- Hard to determine the appropriate distance
- Requires good information management



Option 5: Average Concentration Per Capita

Application:

- State of California
- Liquor licenses – including restaurant licenses

How it works:

- All locations of regulated uses are inventoried
- Measured based on census boundary
- New locations not permitted where average concentration per capita is exceeded

Points of interest:

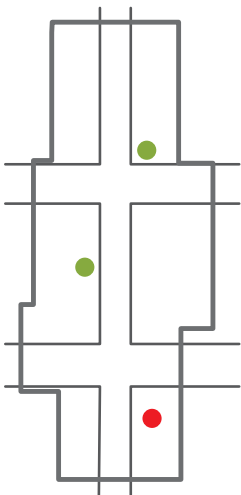
- Application of standard sometimes conflicts with local goals

Advantages:

- Easy to measure/administer (with necessary information)
- Prevents over-concentration of regulated uses
- Allows close proximity of subject use in certain situations

Challenges:

- Requires good information management
- No local control



2 Location/1000 Persons

Regulating to Prevent Over-concentration of Permitted Uses (I.1)

Discussion Questions:

- What size area (e.g., block, ¼ mile) should we be trying to protect and why?
- Should the 25 % standard serve as an absolute maximum or as a guide?
- Proper management of this type of an enforcement tool would require additional resources in terms of staff and information management improvements. Do you think the continued use of this regulation warrants this type of investment?

Review of Options:

- Can you identify additional advantages or challenges regarding the options presented? (Please identify the option by number.)
- What additional information is needed to address this issue?
- Are there options we've missed?

Regulating to Facilitate Locally Suited Uses (G.1)

Why?

- Need regulatory mechanisms that facilitate small scale office space and other locally suited uses, such as businesses involved in arts and design and other creative industries

How is it done now?

§ 1904.2 - Uptown Arts Overlay – Legitimate Theater

- Provide 3 to 1 floor area bonus

§ 1702.3 - Downtown Development Overlay – Child Development Center (CDC):

- CDC counts as 1.5 times actual floor area towards residential req.

§ 1321.4 - H Street Overlay – Grocery Store

- Additional non-residential FAR permitted if grocery store built in square 776

§ 1101.4 - Hotel-Residential Overlay – Hotels

- Hotels permitted as a matter-of-right where they otherwise might only be permitted as special exception uses

§ 801.5 -CM Districts – Permission of Artists Live/Work Studios

- Apartment integrated with studio permitted as matter of right

Regulating to Facilitate Office Space and Other Locally Suited Uses

Options:

1. Permit on ground floor (with appropriate design)

2. Adjust FAR to permit greater amount of non-residential use (e.g., permit on all floors)

3. Require minimum FAR/floor space to be provided for desired locally suited non-retail uses

4. Grant bonus FAR for desired locally suited non-retail uses

5. Enable discretionary approvals (BZA, PUDs) to reserve a percentage of total space for provision of affordable and/or locally suited non-retail uses

Regulating to Facilitate Office Space and Other Locally Suited Uses

Discussion Questions:

- Should we be calling out the desired uses identified (small office, arts and creative industry type uses.) Why?
- Should we require or simply permit uses we would like to encourage? Why?
- What additional information is needed to address this issue?
- Are there any other zoning tools that you think might be useful?