

**TOWN OF SAN ANSELMO**  
**STAFF REPORT**  
**September 7, 2018**

For the Meeting of September 11, 2017

**TO:** Economic Development Committee

**FROM:** Elise Semonian, Planning Director

**SUBJECT:** Filling Commercial Vacancies

**RECOMMENDATION**

That the Committee review the staff report and request additional information from staff on any item for future discussion.

**BACKGROUND AND DISCUSSION**

See attached article, “Fed Up With Vacant Storefronts, Residents Force Cities To Punish Retail Landlords” provided by Brian Colbert, Town Council.

The Economic Development Committee (EDC) received a staff report and presentation from staff on strategies other jurisdictions use to deal with vacancies on February 14, 2017. The Town does not have control over some factors that influence vacancies, such as national economic and employment conditions, or rental rates set by property owners. However, the Town can take actions like those in the Economic Development Committee Plan to make the Town more appealing as a place of business, which could stimulate demand for commercial rentals and reduce vacancies.

A list of known commercial vacancies is attached.

The following are some other actions the Town has considered and could consider:

1. **Window screening ordinance** – would not fill vacancies but could improve the appearance of vacant storefronts.
  - Require graphic or artistic screening of vacant storefronts.
  - Some communities limit covering of vacant storefronts (must allow view of interior).

*The EDC recommended the Town Council consider a window screening ordinance in 2017. The Planning Commission and Town Council considered a draft ordinance, but it was not adopted. Concerns were raised that free speech laws preclude the Town from regulating the content of the screening. Existing sign regulations allow limited window screening.*

2. **Require registration of vacant commercial spaces and charge a fee or tax - require owners to actively advertise property to avoid it.** Staff has observed that property owners that actively seek tenants fill their vacancies quickly. Therefore, it may help to encourage owners to advertise vacancies with a registry and tax or fee. Requirements for property maintenance can

be included in the ordinance.

- Registration and Fee - The Town cannot charge fees that exceed the cost of providing services. Therefore, any fee may be relatively small and may not discourage vacancies.
- Tax - Requires voter approval. At tax would involve costs to the Town to place it on the ballot.

**3. Eliminate 1,200 sq. ft. Use Permit Requirement** The Town requires Planning Commission design review and a use permit for a “change of occupancy” for a space 1,200 square feet or larger, even if the use is ordinarily permitted. The Town put the rule in place to provide an opportunity to review formula retail businesses. This requirement increases the time and expense for new businesses that wish to locate in Town. The user permit process adds uncertainty and at least one-month delay to starting a new business. If the Town eliminates this requirement, then many permitted businesses could open in vacant spaces with just a business license. However, the Town would not have any review of the businesses and some formula retailers could open in the Town with no review.

**4. Amend Zoning Regulations Regarding Parking** Many downtown commercial spaces do not have any parking. A variance is required in order to expand an existing use or increase the intensity of a use without providing required parking. As a result, uses in many downtown spaces cannot expand or change to a business that would draw additional customers without going through a public hearing for a parking variance. The Town could consider changing the regulation to allow sites with nonconforming parking to intensify uses without providing parking. However, there are ongoing complaints about lack of parking in the downtown area.

**5. Abate Prohibited Uses and Require Open Business Hours for Retail** There are several vacant storefront spaces that are not advertised for lease. A few storefront businesses have very limited and “by appointment” hours. These vacancies reduce foot traffic to other businesses and impact the perceived vitality of the business district.

- Staff could abate businesses with “storage” use. Storage uses could be considered prohibited under the Town’s permissive zoning rules (since storage is not listed as a permitted use). Town could require only permitted uses or properties must be actively advertised.
- Businesses that significantly change approved hours of operation (always closed or “by appointment only”) could be considered in violation of their use permit, if the business has a use permit with hours of operation.
- Council could amend zoning code to require storefront retail businesses to be open to public during certain hours and not by appointment only.

**6. Other Ideas**

- Invite owners of vacant or “dead” storefronts to attend EDC meeting and share concerns.

Respectfully submitted,



Elise Semonian Planning Director

<i>APN</i>	<i> zoning Distri</i>	<i> Property Owner</i>	<i> Address</i>	<i> Prior Use</i>	<i> Reason for Vacancy</i>	<i> Area (sq. ft.)</i>	<i> \$ Sq. Ft. Month</i>	<i> Lease Type</i>	<i> Date of Information</i>	<i> Column1</i>
006-091-39	C-L	Monfredini Properties	754 Sir Francis Drake Blvd.	TCBY	Have approval to build 12 apartments				2/9/2017	
006-083-04	C-L	Parmar	745 Sir Francis Drake Blvd.	735 sq. ft. streetfront shop	Owner not interested in renting space				2/9/2017	
007-212-26	C-2	625 SA Ave. LLC	625 San Anselmo Avenue	Bakery	Under construction	5,186		\$36.00/SF/Yr	9/7/2018	
006-251-02	C-2	Flood	312 Sir Francis Drake Blvd.	Country Store	May have sold	2,993	\$1.75		2/9/2017	
006-251-10	C-3	Bolds	40 (?) Greenfield Avenue	"Greenfield Suites"	Several small offices available			\$477/mo, \$422/mo, \$457/mo	9/7/2018	
006-251-10	C-3	Bolds	42 Greenfield Avenue	United Studios of Self Defense		1,800	\$2.00	\$3,600 - plus 3 parking spaces at \$75 each, for total of \$3,825	9/7/2018	
006-103-04	C-2	County Flood Control	800 San Anselmo Avenue	The Great Acorn	Purchased by County for Flood Control		N/A		2/9/2017	
007-302-17	C-3	Humphrey's TR	8 Bolinas Avenue	Laundry	Toxic clean up	1,749		\$27.00/SF/Yr	9/7/2018	
006-241-63	C-3	Perry	100 Sir Francis Drake Blvd.	Union Bank		2,184		\$43.92/SF/Yr	9/7/2018	
006-091-09	C-3	Dill	520 Red Hill Avenue		Not listed for lease, unknown use				2/9/2017	
006-251-27	C-2	Macdonald	330F Sir Francis Drake, 2nd Floor			700		\$27.00/SF/Yr	9/7/2018	
006-251-27	C-2	Macdonald	328 Sir Francis Drake Blvd., 1st Floor			2,462		\$27.00/SF/Yr	9/7/2018	
006-251-27	C-2	Macdonald	330-E Sir Francis Drake Blvd., 2rd Floor Suite			1,179		\$27.00/SF/Yr	9/7/2018	
006-251-27	C-2	Macdonald	330-I Sir Francis Drake Blvd., 2rd Floor Suite			843		\$27.00/SF/Yr	9/7/2018	
006-251-27	C-2	Macdonald	330-G Sir Francis Drake Blvd., 2rd Floor Suite			852		\$27.00/SF/Yr	9/7/2018	
007-254-05	C-2	Leswing	330 San Anselmo Avenue, 2nd floor office			1,200	\$2.50		12/5/2017	
007-254-01	C-2	GKS Properties	368 San Anselmo Avenue	law office (?)		1,120	\$3.00	\$36/SF/Yr plus \$73.20/mo flood insurance	9/7/2018	
007-253-01	C-2	Wells Fargo Bank	404 San Anselmo Avenue	law office						
006-082-40	C-L	Arana	805 Sir Francis Drake Blvd.	Fast Frame, framing store		1,564	\$2.05	\$24.60/sq. ft./yr.	11/1/2017	

# Fed Up With Vacant Storefronts, Residents Force Cities To Punish Retail Landlords

August 12, 2018 | By Cameron Sperance and Joseph Pimentel

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Coast to coast, bustling retail meccas used to embody a decidedly American pastime: shop till you drop. But empty storefronts across the U.S. have cropped up in places that go far beyond the “retail apocalypse” that has battered suburban malls — and some municipalities are fed up.

From retail corridors nestled in some of New York’s trendiest neighborhoods to wealthy bedroom communities just outside of Boston, vacancy signage is becoming more common than glitzy placards announcing a big sale.



Local governments, wary of landlords who choose to keep their properties empty — sometimes for months and years in the hopes of landing a deep-pocketed tenant — are now responding by exacting financial penalties against these proprietors.

“There was uproar from residents over what these [landlords] were doing and how they were getting away with murder,” said Ali Carter, the economic development coordinator for Arlington, Massachusetts. “Residents just see a vacant storefront and wish it was a coffee shop or bookstore. They’re peeved.”

Arlington began its measure in early 2017. It requires landlords to register with the city and charges them \$400 annually for each vacant storefront. When the fees were first levied, there were 17 empty

storefronts in Arlington Center. Only six remained by the end of the year.

Larger cities, like New York and Boston, are mulling similar measures. Retail vacancies in Manhattan's **West Village** neighborhood were up to 11.3% in June — and some parts of **SoHo** have even hit 20%. In Boston, vacancy rates on the city's high street of shopping, **Newbury Street**, were **around 10%** at the end of 2017. A retail vacancy rate of 5% is generally accepted as the industry standard for a healthy market, according to brokers.

But landlords and developers suggest vacancy fees are not the best solution.

"It's forcing capitulation, and it's the government injecting itself into the marketplace to get a result they don't understand," **Fisher Bros.** partner **Winston Fisher** said.

Fisher, whose family-run company is one of the largest developers in New York, and others suggest more market-driven solutions, such as pop-up retailers or different leasing agreements, to fill those empty spaces may be better for the long-term support of retail in a community. But even as landlords explore such alternatives, several cities are moving forward with vacancy fees.

## Taxation Until Reactivation



Other cities are hoping to replicate Arlington's visible success. Carter has been called to testify on the city's measure in municipalities across the country. She said, however, each region has to tailor its vacancy regulation to fit market conditions.

"Whatever sort of solution they come up with has to be tailored to their community," she said. "For the 700 or so businesses in our town just outside of Boston, this is not Greenwich Village. It's a totally different scenario."

New York City **Mayor Bill de Blasio** has proposed a fee or tax to penalize landlords with vacant retail space. Other city leaders are advocating a vacancy tax on commercial strips.

In San Francisco, neighborhood commercial districts such as the Castro and the **Mission District** are seeing an increase in vacancy rates, according to a February report by the San Francisco Office of Economic and Workforce Development. Sales tax revenue slowed between 2015 and 2016 and the demand for **ground-floor retail space has declined**.

In response, Supervisors Aaron Peskin and Jane Kim are leading the fight for a vacancy tax.

Kim told **hyperlocal news site Hoodline** the Mayor's Office of Economic Development and small business commission should do more to fill vacant spaces. She would consider a vacancy tax "to encourage landlords to rent out these spaces."

Peskin and his staff told *Bisnow* he is working on a draft to include a vacancy tax on a future ballot.

Boston City Councilor Matt O'Malley is pursuing vacancy penalties in his city, inspired by Arlington.

Cities see storefront vacancies as a missed opportunity to generate sales tax, which pays for city services, said Lee & Associates Pasadena Founding Principal Dan Bacani, who once served as an economic development consultant for the city of Arcadia, California.

Arcadia, about a 17-mile drive northeast of downtown Los Angeles, is not proposing a vacancy tax but, like many cities across the nation, is grappling with how to deal with empty storefronts.

"Some cities have poor opinions of landlords because the space is vacant," Bacani said. "But implementing a tax will only have a negative effect and further hurt relationships."

## **A Changing Retail Game Needs A New Set Of Rules**



While critics chide landlords for holding out for high-paying tenants, building owners are typically tied to deals made with investors when retail was performing better than it is today.

“The larger idea to get the spaces populated with vibrant uses is a good idea,” **CBRE** Global President of Retail **Anthony Buono** said. “I’m not sure taxing is such a great way to incentivize them because they may not be able to perform.”

The U.S. retail sector suffered 3.8M SF of negative absorption in Q2, its worst quarter in nine years, **according to Reis Inc.** But the solution is not as simple as just backfilling space with eager tenants at a reduced rent.

“What we see in New York is the rents pretty much peaked in 2015 and 2016,” Buono said. “There were many people who acquired those properties at those peak rents. What has happened is tenants have left or wanted to get out of their spaces or haven’t renewed. It’s now 2018, and the market is decidedly different in terms of valuations.”

In San Francisco, the **3.2% retail vacancy rate at the close of 2017** was a slight improvement from Q3 but an increase from the 2.4% seen at the end of 2016, according to Cushman & Wakefield data. Though the vacancy rate seems low, most commercial real estate tracking firms only concentrate on the city’s big shopping districts like **Union Square** and downtown San Francisco, not other neighborhood commercial districts such as Mission Street, **Ocean Avenue** and Calle 24. Those neighborhoods are seeing a 10% to 14% vacancy rate, according to the the San Francisco Office of Economic and Workforce Development report.

City officials need to understand that retail is going through part of a normal cycle, Cushman & Wakefield Vice Chairman Kazuko Morgan said.

“Everyone is always focusing on the negative, negative, negative,” said Morgan, who is based in LA and brokers deals in several of the most popular shopping districts from **Rodeo Drive** and **Melrose Avenue** in Los Angeles to Union Square in San Francisco. “A lot of the closures are

the tenants who have been there 20, 30 or 40 years that have cycled out. So it's a natural end of an era for a brand."

## Landlords Look Elsewhere For A Fix



With so much brick-and-mortar contraction, landlords are looking to alternatives to generate foot traffic. Some say better zoning could be a real shot in the arm to land more long-term tenants in cities' biggest shopping corridors.

"All landlords have different opinions as to why there are vacancies," Boston-based C. Talanian Realty Co. Director of Business Development Chris Talanian said. "What we can agree on is the city needs to take a hard look at the zoning process. If you make it easier for businesses to open up in the **Back Bay**, there will be more businesses opening up in the Back Bay."

The Talanian family owns and manages one of the largest real estate portfolios along the Boston retail mecca of **Newbury Street**. While still a popular destination, Newbury Street has lost some longtime tenants, and landlords have looked to maintain foot traffic by introducing more pop-up stores as well as activities like Open Newbury, sporadic weekends in the summer that close the road to car traffic and turn the corridor into a giant block party.

While he says retail generally trends upward, Talanian said City Hall could help Newbury by streamlining some of the zoning processes required to open a venue in the city's Back Bay neighborhood. Special permits are required to open a store, even if there is already another retail outlet in a building. This can drive businesses away, and Talanian said overcoming the challenge won't be easy.

"I've been talking about this until I'm blue in the face," he said. "Nobody wants to take it on because it means taking on the neighborhood."

Many landlords pursue quick fixes to vacant storefronts in the form of pop-up stores. Online retailers like **Warby Parker** have begun to expand into brick-and-mortar stores with long-term leases. Smaller brands

looking to follow suit are doing so with less of a commitment in the form of pop-up stores with leases lasting months instead of years.

“When these digitally native brands become successful or get that mojo going, they really need to be in brick-and-mortar to have a viable brand,” Buono said. “Then, they end up in real estate, and real estate is expensive compared to Instagram and social media. There’s sticker shock with leases, capital improvements and everything else. For that reason, that’s why a lot of these brands turn to pop-ups that turn into longer-term stores.”

## Changing Focus



Beyond online retailers launching pop-ups, traditional retailers also are changing focus. On Melrose Place, **Nordstrom**, which is known to occupy an average of 140K SF of retail space at malls, introduced **Nordstrom Local**, a 3K SF concept store. The store provides a more personalized and intimate shopping experience and a much smaller footprint.

Nike introduced its new **Nike Live** concept store down the block on Melrose Avenue. The store brings together digital elements for a personalized physical shopping experience for its consumers.

“People have so many choices now, you have to have a reason to get people inside the stores,” said Morgan, who was one of the brokers that represented the landlord in the Nike deal. “There are certain things you can’t buy online. You can’t buy an experience. You can’t go to Disneyland online.”

Other landlords find solutions in repositioning properties. Along Santa Monica’s **Third Street Promenade**, where more than 11 million visitors come each year, many of the retail storefronts that once lined the popular outdoor pedestrian mall have become creative offices or mixed-use properties.

Such repositioning can require new conversations about what is wanted out of a property.

Lee & Associates' Bacani said cities need to partner with tenants. Recently, he was involved in a deal in which a local church was planning to occupy a vacant retail space in downtown Monrovia, California. City officials were hesitant at first because churches don't generate sales tax.

Bacani said he suggested the church open a coffee shop and an independent bookstore. Those could generate sales tax while the church services could be held in the back of the property.

Though the deal never materialized, Bacani said "the point is, we have to come up with creative concepts to fill these vacant storefronts that benefit the tenant and the city."

While landlords grapple with the best path forward for solving the problem of empty storefronts, Talanian sees the current scenario as more a shifting period than the retail apocalypse touted in headlines. He has had positive feedback from tenants who ran pop-ups from his company's buildings on Newbury Street and were interested in inking longer-term leases.

He has noticed more stores opening along the corridor in recent months that make him optimistic about the retail hub's future and sees them as proof a vacancy fee isn't needed to bring more tenants in.

"It's always been cyclical upward, and it will continue. We're just in a shift period," he said. "It's the natural cycle of retail, and a number of things can be at play. Is it tough zoning? Price point? It's a lot of factors, and there's not one silver bullet."

**CORRECTION, AUG. 13, 1:52 P.M. PT:** *A previous version of this story misspelled the name of Cushman & Wakefield Vice Chairman Kazuko Morgan. The story has been updated.*

See Also: [Clicks-And-Bricks Comes Of Age, Physical Stores Gain Ground](#)

Related Topics: [CBRE](#), [Newbury Street](#), [Rodeo Drive](#), [Melrose Avenue](#), [SoHo NYC](#), [retail apocalypse](#)