



# SAN FRANCISCO PLANNING DEPARTMENT

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1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

## Planning Commission Motion No. 18498

HEARING DATE: DECEMBER 1, 2011

*Date:* November 17, 2011  
*Case No.:* **2011.0966C**  
*Project Address:* **1509 SLOAT BOULEVARD**  
*Zoning:* NC-S (Neighborhood Commercial Shopping Center) District  
 Lakeshore Special Use District  
 26-40-X Height and Bulk District  
*Block/Lot:* 7255/004  
*Project Sponsor:* Chris Konecny  
 Peet's Coffee & Tea  
 1400 Park Avenue  
 Emeryville, CA 94608  
*Staff Contact:* Michael Smith – (415) 558.6322  
[michael.e.smith@sfgov.org](mailto:michael.e.smith@sfgov.org)

**ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 703.4 AND 303 OF THE PLANNING CODE TO ESTABLISH A NEW FORMULA RETAIL COFFEE SHOP (D.B.A. PEET'S COFFEE & TEA) IN THE 900 SQUARE-FOOT TENANT SPACE OCCUPIED BY TULLY'S COFFEE WITHIN THE LAKESHORE PLAZA SHOPPING CENTER, LOCATED WITHIN A NC-S (NEIGHBORHOOD, COMMERCIAL, SHOPPING CENTER) DISTRICT, THE LAKESHORE PLAZA SPECIAL USE DISTRICT AND A 26-40-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On September 1, 2011, Chris Konecny of Peet's Coffee & Tea (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Section(s) 703.4 and 303 to establish a formula retail coffee shop (d.b.a. Peet's Coffee & Tea) within the 900 square-foot tenant space occupied by Tully's Coffee in the Lakeshore Plaza Shopping Center located within a NC-S (Neighborhood, Commercial, Shopping Center) District, the Lakeshore Plaza Special Use District, and a 26-40-X Height and Bulk District.

On December 1, 2011, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2011.0966C.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

**MOVED**, that the Commission hereby authorizes the Conditional Use requested in Application No. 2011.0966C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

## **FINDINGS**

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description.** The project site is located at 1501-1599 Sloat Boulevard within the Lakeshore Plaza Shopping Center, south side of the street between Everglade and Clearfield Drives in NC-S (Neighborhood, Commercial, Shopping Center) District, the Lakeshore Plaza SUD (Special Use District), and a 26-40-X Height and Bulk District.

The project site is a single nine-acre parcel, bounded by Sloat Boulevard, Ocean Avenue, Clearfield Drive, and Everglade Drive that is occupied by an approximately 220,000-square-foot, auto oriented, two-story, commercial shopping center comprised of three buildings surrounding a large surface parking lot. The shopping center provides a variety of goods and services to the Lakeshore Acres, Crestlake, and Merced Manor neighborhoods. The shopping center is anchored by "Lucky" supermarket and includes many other national retailers. The subject tenant space is approximately 900 square-feet and located near the northeast corner of the shopping center between "Nubi Yogurt" and "King of Thai Noodles". The address is 1509 Sloat Blvd. and it is currently occupied by "Tully's Coffee", the only coffee shop within the shopping center.

3. **Surrounding Neighborhood.** The neighborhood surrounding the shopping center is characterized by mostly mid-century, detached, two-story, single-family dwellings with large front setbacks. The streets are wide to facilitate vehicular movement and aligned in a grid. The street grid becomes curvilinear as it nears Lake Merced. Sloat Boulevard is the primary east/west arterial street in the neighborhood.

4. **Project Description.** The applicant proposes to retain the coffee shop use and change from one formula retail tenant "Tully's Coffee" to another "Peet's Coffee & Tea". The project includes minor tenant improvements. The proposed operation would have 10-12 employees.
5. **Public Comment.** The Department has not received public comments regarding the proposed project.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Parking Requirement.** Section 151 requires retail stores to provide one parking space for every 500 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.

*The project is part of a Planned Unit Development (PUD) which was authorized in 1988. The PUD authorization set forth the parking requirement for the shopping center based upon a specific mix of uses. The restaurant would replace an existing restaurant to maintain the balance of uses that was authorized by the PUD.*

- B. **Loading.** Section 152 requires off-street freight loading for uses above a certain size. Eating Retail uses up to 10,000 square feet in gross floor area are not required to provide off-street freight loading.

*The project is part of a Planned Unit Development (PUD) which was authorized in 1988. The PUD authorization set forth the freight loading requirements for the shopping center based upon a specific mix of uses. The restaurant would replace an existing restaurant to maintain the balance of uses that was authorized by the PUD.*

- C. **Use Size.** Section 715.21 establishes size limits on nonresidential uses in the NC-S District. Within the District, conditional use authorization is required for any nonresidential use that exceeds 6,000 square feet.

*At 1,600 square feet, the Project does not require Conditional Use authorization for use size.*

- D. **Hours of Operation.** Pursuant to Section 780.27 of the Code, the principally permitted hours of operation within the Lakeshore Plaza SUD are from 6 a.m. to 11 p.m.

- E. **NC-S (Neighborhood Commercial Shopping Center) District.** Section 713.1 of the Code defines NC-S Districts as areas that are intended to serve as small shopping centers or supermarket sites which provide retail goods and services for primarily car-oriented shoppers. They commonly contain at least one anchor store or supermarket, and some districts also have small medical office buildings. The range of services offered at their retail outlets usually is intended to serve the immediate

and nearby neighborhoods. These districts encompass some of the most recent (post-1945) retail development in San Francisco's neighborhoods and serve as an alternative to the linear shopping street.

Shopping centers and supermarket sites contain mostly one-story buildings which are removed from the street edge and set in a parking lot. Outdoor pedestrian activity consists primarily of trips between the parking lot and the stores on-site. Ground and second stories are devoted to retail sales and some personal services and offices.

The NC-S standards and use provisions allow for medium-size commercial uses in low-scale buildings. Rear yards are not required for new development. Most neighborhood-serving retail businesses are permitted at the first and second stories, but limitations apply to fast-food restaurants and take-out food uses. Some auto uses are permitted at the first story. Limited storage and administrative service activities are permitted with some restrictions.

Housing development in new buildings is permitted. Existing residential units are protected by limitations on demolitions and prohibitions of upper-story conversions.

- F. **Retail coffee stores.** Section 790.102 of the Planning Code defines a retail coffee store as a:
- (1) A retail drinking use which provides ready-to-drink coffee and/or other nonalcoholic beverages for consumption on or off the premises, which may or may not provide seating. Its intended design is not to serve prepared ready-to-eat food for consumption on or off the premises, except where a conditional use is granted for an exception in the West Portal NCD pursuant to the "Specific Provisions for the West Portal District." Such use exhibits the following characteristics:
    - (A) Contains no more than 15 seats with no more than 400 square feet of floor area devoted to seating,
    - (B) A limited menu of beverages prepared on the premises and able to be quickly prepared for consumption on or off the premises,
    - (C) Beverages served in disposable or nondisposable containers for consumption on or off the premises,
    - (D) Beverages are ordered and served at a customer service counter,
    - (E) Beverages are paid for prior to consumption,
    - (F) Public service area, including queuing areas and service counters, which counters are designed specifically for the sale and distribution of beverages;

- (G) Beverages are available upon a short waiting time,
- (H) Equipment to prepare beverages for consumption,
- (I) Limited amount of nonprepackaged food goods may be served, such as pastries or similar goods,
- (J) No on-site food preparation, and no equipment to cook or reheat food or prepare meals other than that connected to beverage preparation, except where a conditional use is granted for an exception in the West Portal NCD pursuant to the "Specific Provisions for the West Portal District."
- (K) Coffee beans, tea, syrups, herbs and other beverage-based products and equipment to make and/or reconstitute beverages or consume coffee, tea and/or other beverages may be sold.

It may include any use permitted for specialty grocery, as defined in Section 790.102(b), but if so, such use shall not include accessory take-out food activity, as described in Section 703.2(b)(1)(C) of this Code, except to the extent permitted by this Subsection 790.102(n). It is distinct and separate from a small self-service or large fast-food restaurant, as defined in Section 790.90 and 790.91 of this Code, or a full-service restaurant as defined in Section 790.92 of this Code.

(2) It shall be conducted in accordance with the following conditions:

- (A) All debris boxes shall be kept in enclosed structures,
- (B) The operator shall be responsible for cleaning the sidewalk in front of or abutting the building to maintain the sidewalk free of paper or other litter during its business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code,
- (C) Noise and odors shall be contained within the premises so as not to be a nuisance to nearby residents or neighbors.

7. **Planning Code Section 303(c)** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

*The project is necessary and desirable because it maintains the balance of commercial uses with the shopping center by replacing one coffee shop with another coffee shop. There is no other coffee shop within the shopping center.*

B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

*The size and shape of the site and the size, shape and arrangement of the shopping center will not be altered as part of this project. The proposed work will not affect the building envelope.*

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

*The Project will not affect public transit or overburden the existing supply of parking in the neighborhood. The Project is not intended to be a destination use but one that is meant to serve the needs of local residents who visit the shopping center for other goods and services. The general neighborhood is auto-oriented and the shopping center is well served with off-street parking in response.*

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

*The Project will not produce noxious or offensive emissions related to noise, glare and dust.*

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

*The project would not alter the sites landscaping, open spaces, parking and loading areas, service areas, and lighting. Any new signage will be required to comply with the requirements of the Planning Code.*

C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

*The Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.*

D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

*The proposed project is consistent with the stated purpose of the NC-S District in that the intended use is located at the ground floor, will provide a compatible convenience service for the immediately surrounding neighborhoods during daytime hours, and is consistent with the limitations on certain uses within the Lakeshore Plaza SUD.*

8. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

## **NEIGHBORHOOD COMMERCE**

### **Objectives and Policies**

#### **OBJECTIVE 1:**

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

#### **Policy 1.1:**

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development that has substantial undesirable consequences that cannot be mitigated.

#### **Policy 1.2:**

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

#### **Policy 1.3:**

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

*The proposed development will provide desirable goods and services to the neighborhood and will provide resident employment opportunities to those in the community. The conditions of approval will ensure that the use meets minimum, reasonable performance standards. Further, the Project Site is located within a Neighborhood Commercial District and is thus consistent with activities in the commercial land use plan.*

#### **OBJECTIVE 2:**

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

#### **Policy 2.1:**

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

*The Project will retain an existing commercial activity and will enhance the diverse economic base of the City.*

**OBJECTIVE 6:**

**MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.**

**Policy 6.1:**

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

*No commercial tenant would be displaced and the project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.*

9. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

*The proposal would replace a formula-retail use with another formula-retail use and thus it would not alter the balance of formula-retail uses within the shopping center. The proposed alterations are within the existing building footprint.*

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

*The Project would not impact the character or diversity of the neighborhood.*

- C. That the City's supply of affordable housing be preserved and enhanced,

*The Project would not have any impact on the City's supply of affordable housing.*

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

*The Project would not adversely impact public transit or place a burden on the existing supply of parking in the neighborhood. The Project Site is well-served by off-street parking.*

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.



*The Project will not displace any service or industry establishment. The project will not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses will not be affected by this project.*

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*The Project is designed and will be constructed to conform to the structural and seismic safety requirements of the City Building Code. This proposal will not impact the property's ability to withstand an earthquake.*

- G. That landmarks and historic buildings be preserved.

*The existing building is not a landmark and it is not historically rated.*

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

*The project will have no negative impact on existing parks and open spaces. The Project does not have an impact on open spaces.*

10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
11. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

**DECISION**

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2011.0966C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated August 8, 2011, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

**APPEAL AND EFFECTIVE DATE OF MOTION:** Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 18498. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on December 1, 2011.

Linda D. Avery  
Commission Secretary

AYES: Commissioners Sugaya, Fong, Antonini, Miguel, Olague, Borden, and Moore

NAYES: None

ABSENT: None

ADOPTED: December 1, 2011

## **EXHIBIT A**

### **AUTHORIZATION**

This authorization is for a conditional use to allow a formula retail coffee shop (d.b.a. **Peet's Coffee & Tea**) located at 1509 Sloat Boulevard within the Lakeshore Plaza Shopping Center, Block 7255, Lot 004] pursuant to Planning Code Sections 703.4 and 303 within a NC-S District, the Lakeshore Plaza Special Use District and a **26-40-X** Height and Bulk District; in general conformance with plans, dated **August 8, 2011**, and stamped "EXHIBIT B" included in the docket for Case No. **2011.0966C** and subject to conditions of approval reviewed and approved by the Commission on **December 1, 2011** under Motion No **18498**. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

### **RECORDATION OF CONDITIONS OF APPROVAL**

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on **December 1, 2011** under Motion No **18498**.

### **PRINTING OF CONDITIONS OF APPROVAL ON PLANS**

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **18498** shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

### **SEVERABILITY**

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

### **CHANGES AND MODIFICATIONS**

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

## Conditions of Approval, Compliance, Monitoring, and Reporting

### PERFORMANCE

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Conditional Use authorization is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

**Extension.** This authorization may be extended at the discretion of the Zoning Administrator only where failure to issue a permit by the Department of Building Inspection to perform said tenant improvements is caused by a delay by a local, State or Federal agency or by any appeal of the issuance of such permit(s).

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org).*

### DESIGN

2. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the architectural addenda. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org).*

### MONITORING

3. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org).*

## OPERATION

4. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the tenant space and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org/>*

5. **Seating.** Seating in the coffee shop shall not exceed 15 seats with no more than 400 square feet of floor area devoted to seating.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

6. **Food Preparation.** No on-site food preparation, and no equipment to cook or reheat food or prepare meals other than that connected to beverage preparation shall be allowed on site.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

7. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## MONITORING - AFTER ENTITLEMENT

8. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

9. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*