



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|--|--|
| <input type="checkbox"/> Inclusionary Housing (Sec. 315) | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 313) | <input type="checkbox"/> Child Care Requirement (Sec. 314) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 139) | <input type="checkbox"/> Other |

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. 18960

HEARING DATE: SEPTEMBER 12, 2013

Date: September 5, 2013
Case No.: **2013.0128C**
Project Address: **2460 Lombard Street**
(aka 2444 Lombard Street)
Zoning: NC-3 (Moderate Scale Neighborhood Commercial District)
40-X Height and Bulk District
Block/Lot: 0936/014
Project Sponsor: Pet Food Express and Pets Unlimited
Represented by Jim Moore
5340 Lawton Avenue
Oakland, CA 94618
Staff Contact: Sara Vellve – (415) 558 - 6263
sara.vellve@sfgov.org

ADOPTING FINDINGS RELATING TO THE DISAPPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303 & 703.3 OF THE PLANNING CODE TO ALLOW A FORMULA RETAIL USE (DBA PET FOOD EXPRESS) IN AN NC-3 (NEIGHBORHOOD COMMERCIAL, MODERATE SCALE) DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On February 5, 2013 Jim Moore (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Section(s) 703.3 and 303 to allow a formula retail use (d.b.a. Pet Food Express) within the NC-3 (Moderate Scale Neighborhood Commercial) District and a 40-X Height and Bulk District.

On August 8, 2013, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0128C. After considering the facts of the case and hearing public testimony, the Planning Commission voted 6-1 to adopt a Motion of Intent to disapprove the request for Conditional Use authorization. At that time the hearing was continued to September 12, 2013 so that a draft motion of disapproval could be prepared for the Commission’s consideration.

On September 12, 2013, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0128C.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption. The Commission has reviewed and concurs with said determination.

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 disapproves the Conditional Use Authorization requested in Application No. 2013.0128C.

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 and Present Use.** The 22,032 square-foot project site is located on the north side of Lombard Street between Divisadero Street to the west and Scott Street to the east, in San Francisco's Marina District. The project site contains an approximately 7,000 square-foot, single-story commercial building that was previously occupied by a Blockbuster Video Store and Bank of America, but which is currently vacant. The subject parcel is an L-shaped lot with the main frontage (151') on Lombard Street and an additional frontage (22.5') on Divisadero Street that is used for vehicular access. The building is located on the eastern side of the lot with a 22 parking space parking lot to the west of the building. Two spaces are used by Zip Car. The site is accessed by a wide curb cut on Lombard Street and a narrow curb cut on Divisadero Street.
3. **Surrounding Properties and Neighborhood.** The NC-3 District in which Lombard Street is located extends approximately 12 blocks from Broderick Street in the west to Franklin Street in the east. NC-3 Districts are intended in most cases to offer a wide variety of comparison and specialty goods and services to a population greater than the immediate neighborhood, additionally providing convenience goods and services to the surrounding neighborhoods. The Lombard Street NC-3 District contains a mix of uses, but is generally dominated by tourist motels on larger lots, large and small restaurants (some Formula Retail), a range of personal and medical services, a US Post Office in the ground floor of a 4-story parking garage, real estate and financial services offices, and other small neighborhood-serving retail outlets. Buildings on Lombard Street range from two-story residential buildings on 25-foot wide lots (some with ground floor commercial, others with garage openings), to larger mixed use buildings on wider lots, to very wide lots that contain motels with wide curb cuts and no meaningful ground-floor commercial space. The land use development pattern of Lombard Street has left it with gaps in the

commercial street front and very little visual cohesiveness as a residential street, mixed-use street or linear commercial street. Lombard Street is Route 101 leading from the Golden Gate Bridge into the City and acts as a gateway to San Francisco, and is a major automobile thoroughfare..

One block to the north is Chestnut Street, which is zoned NC-2 (Neighborhood Commercial, Small-Scale) and extends approximately five blocks between Divisadero and Fillmore Streets. Chestnut Street is a vibrant mixed-use street known as a destination neighborhood for its wide mix of retail offerings, neighborhood services and restaurants. Many lots on Chestnut Street contain traditional mixed-use buildings with ground floor commercial spaces with generous storefront window systems. There are few residential buildings with garage entrances facing Chestnut Street. Building heights are generally uniform from two to four stories. Overall, the land use development pattern of Chestnut Street has created a friendly and visually cohesive neighborhood commercial district.

Two blocks south and three blocks east of the subject site is the Union Street NCD. This NCD extends approximately seven blocks from Steiner Street in the west to approximately Franklin Street in the east. While the built environment of Union Street is not as uniform as Chestnut Street, this NC district is also known as a destination neighborhood for its mix of retail offerings, neighborhood services and restaurants. Like Chestnut Street, the land use development pattern of Union Street has created a neighborhood that draws patrons from the neighborhood and broader community to contribute to San Francisco's economy.

4. **Project Description.** The proposal is to establish a Pet Food Express pet supply store that includes a cat adoption center and self-service pet wash. The cat adoption center would be operated by Pets Unlimited, and would be considered an accessory use due to the area of the adoption center. Pet Food Express does not sell animals for profit. Pet Food Express provides a large range of pet food and supply products for dogs, cats, birds, reptiles and small animals.

The subject building is approximately 7,000 square feet with an overall sales area of approximately 5,400 square feet. The cat adoption area would occupy approximately 660 square feet and the self-service wash area would occupy approximately 400 square feet of the total sales floor. The balance of the space would be used for display, stock area and a back office. Pet Food Express is considered Formula Retail, as were the Blockbuster Video and Bank of America that formerly occupied the site. Pet Food Express is a locally-owned chain with approximately 50 locations located throughout the Bay Area. Currently Pet Food Express has three other locations in San Francisco, one in Stonestown Mall, one on Market Street and Duboce Avenue, and one on California Street at Presidio Avenue.

Pet Food Express has provided information to document that they are actively involved in San Francisco's pet rescue and adoption community, help to raise funds for the protection of San Francisco's police dogs, and provide a means for corporate volunteers to help out in the pet community.

Pets Unlimited is a nonprofit organization providing pet adoption and local 24-hour emergency hospital care for animals located at 2343 Fillmore Street. Pets Unlimited is collaborating with Pet Food Express to provide cat adoption services at the subject location.

Minor exterior alterations to the existing building are proposed to increase the amount of storefront windows facing Lombard Street.

5. **Public Comment.** Totals in the table below represent an approximation of public comment received by the Department by 3 p.m. on Wednesday, July 31, 2013. Signatures were not checked for duplication. All public comment is available in the case docket.

POPULATION	SUPPORT	OPPOSE
Residents	140	850
Merchants	40	1
Merchant Associations	4	4
Other Associations	5	-
Petition	-	2,700
Totals	190	3,555

- Merchant Associations and organizations in opposition to the project include: Marina Community Association, North Beach Business Association, Marina Merchants Association, Cow Hollow Neighbors and Merchants
 - Merchant Associations and organizations in support of the project include: Lombard Business Merchant Association, San Francisco Chamber of Commerce, Greater Geary Boulevard Merchants and Property Owners Association, Sacramento Street Merchants Association
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. **Use.** Planning Code Section 713.40 permits Other Retail Sales and Services uses on the ground floor in NC-3 Districts.

The proposed use is considered an "Other Retail Sales and Service" use as defined by Planning Code Section 790.102. The proposed use would be located on the ground floor in an NC-3 district; it is principally permitted in this use district.

- B. **Hours of Operation.** Planning Code Section 713.27 states that permitted hours of operation for NC-3 districts is 6:00 a.m. to 2:00 a.m.

The proposed project's hours of operation are between 9:00 a.m. and 7:00 p.m., which is within the permitted hours of operation.

- C. **Parking.** Planning Section 151 of the Planning Code requires one off-street parking space for each 500 square feet of occupied floor area, where the occupied floor area exceeds 2,000 square feet.

The proposed use will have approximately 7,170 sq. ft., which requires 14 parking spaces per Section 151 of the Planning Code. The subject site already contains 22 parking spaces and the proposed project proposes retaining all of those parking spaces.

- D. **Formula Retail.** Planning Code Section 703.3 defines a formula retail use as a type of retail sales activity or retail sales establishment which, along with eleven or more other retail sales establishments located in the United States, maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark. Businesses that are determined to be formula retail uses require Conditional Use Authorization to be established in NC-3 Zoning Districts.

The proposed use meets at least four of the above criteria in addition to having 34 other locations in the United States. The proposed use is considered a formula retail use; as such, the project sponsor has applied for Conditional Use authorization to establish a formula retail use in a Neighborhood Commercial District.

- E. **Loading.** Planning Code Section 152 does not require on-site loading spaces where the gross floor area of the proposed retail use is less than 100,000 sq. ft.:

The proposal does not include an on-site loading space and none are required.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does not 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 proposed formula retail use will not provide a development that is necessary or desirable at this location. On July 1, 2010, the Planning Commission approved Conditional Use Authorization 2010.0357C for Pet Food Express to locate at 3150 California Street. This location is approximately one mile from the Lombard Street location. The Commission found that the California Street location adequately serves the Cow Hollow, Marina, Union Street, and the portion of Lombard Street zoned NC-3. Further, the proposed use is not consistent with the general trend of Lombard Street, which the Commission sees as transitioning from an auto-oriented regional-serving neighborhood to a more

pedestrian-oriented locally-serving neighborhood. In addition, there are three specialty pet food and supply stores Chestnut and Union Streets, and approximately 14 other retail stores that offer pet food and supplies in that same area. In making this finding, the Commission finds that it only pertains to the proposed business at 2460 Lombard Street and not to Pet Food Express itself.

- 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 proposal includes moving into an existing building with only minor cosmetic changes. While the proposal would make few changes to the existing site and structures, the Commission expressed a desire for the site to be used for a denser, less auto-oriented, mixed use development on the site. The Commission believes the site is underutilized as much of the area is dedicated to surface parking, and the current building is only one story in height. The Planning Code would permit a mixed-use development of up to 40 feet in height with a continuous building frontage to promote a stronger street frontage. The site contains a second driveway with egress to Divisadero Street that could provide vehicular access for below-grade parking.

- 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 proposed pet food and supply store would occupy a space last used as a video store. As both are retail uses with similar traffic patterns, there should be no change in impact to traffic patterns for persons or vehicles or the type and volume of traffic. Loading can be accomplished on-site rather than on Lombard Street. Access to off-street parking is available from both Lombard and Divisadero Streets. The site is well served by MUNI lines 28, 30, 43, 76.

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

The proposed use would not emit noxious or offensive emission such as noise, glare, dust, or odor.

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

The existing parking lot already includes mature trees and planted areas and the proposal includes maintaining these areas. Street trees exist along Lombard Street in front of the property.

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

The Planning Commission found that the proposed Formula Retail use was not necessary and desirable at the proposed location, and was not consistent with the General Plan for the reasons stated below.

8. **Planning Code Section 303(i)** establishes criteria for the Planning Commission to consider when reviewing applications for Formula Retail Uses. On balance, the project does not comply with said criteria in that:

- A. The existing concentrations of formula retail uses within the Neighborhood Commercial District.

According to the Project Sponsor and a windshield study conducted by staff, there are approximately eight operating Formula Retail establishments within the 12 linear blocks that encompass the NC-3 District along Lombard Street. These formula retail uses include restaurants, a Walgreens, a Verizon Store a credit union and various other commercial outlets.

Planning Department staff found three formula retail uses within the immediate vicinity of the site. Walgreens is located on Lombard Street at Divisadero Street, and We Olive and Lucky Brand Jeans are located on Chestnut Street west of Scott Street.

In comparison, based on a windshield study by the Project Sponsor and staff, there are approximately 28 Formula Retail outlets in the four blocks of Chestnut Street between Divisadero and Fillmore Streets, which include The Gap, Gap Kids, Gap Body, Urban Outfitters, Benefit and Pottery Barn and three commercial banks. Union Street between Steiner and Gough Streets contains approximately 16 Formula Retail outlets in six blocks, including Z Gallery, Nine West, Lululemon and Sephora. These two commercial streets are considered destinations with the existing mix of retail ownership format. The Formula Retail outlets in these two destination neighborhoods co-exist with small independent stores in a much smaller linear shopping area.

- B. The availability of other similar retail uses within the Neighborhood Commercial District.

Currently there are at least three other specialty pet food/supply retail uses in the Marina, Cow Hollow and the portion of Lombard Street zoned NC-3 that provide similar products. Those include Catnip and Bones at 2220 Chestnut Street (approximately 2 blocks from the subject site), Animal Connection II at 2415 Chestnut Street (1 block from the subject site) and Moulin Pooch at 1750 Union Street. Within a two-mile radius of the proposed location there are a number of specialty pet supply stores and groomers providing similar goods and services. There are approximately 14 retail outlets that provide similar products that are not considered specialty stores. In addition, Pet Food Express operates a store at 3150 California Street, within approximately one mile of the Lombard Street location, which serves the subject neighborhoods. Based on the existing number of specialty pet food/supply stores in the overall area, the Planning Commission found that increasing the number of such retail outlets would create an overconcentration of similar retail uses in the area.

- C. The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the Neighborhood Commercial District.

The project sponsor does not propose alterations to the building that would change the architectural and aesthetic character of the Neighborhood Commercial District. While the proposal would make few changes to the existing site and structures, the Commission expressed a desire for the site to be used for a denser, less auto-oriented, mixed use development on the site. The Commission believes the site is underutilized as much of the area is dedicated to surface parking, and the current building is only one story in height. The Planning Code would permit a mixed-use development of up to 40 feet in height with commercial frontage to promote a stronger street frontage. The site contains a second driveway with egress to Divisadero that could provide vehicular access for below-grade parking.

- D. The existing retail vacancy rates within the Neighborhood Commercial District.

According to the Project Sponsor and based on a windshield survey by staff, there are approximately 12 vacancies in the 12 linear blocks that comprise the NC-3 District along Lombard Street. The windshield survey was based on properties that had lease signs in the windows and appeared to be vacant. It is possible that some of these properties are now leased. There are two mixed-use developments currently under review (providing 900 sf and ± 2,500 sf) and approximately three smaller commercial sites where it appears that tenant improvements are underway. The vacancy rates are low.

- E. The existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the Neighborhood Commercial District.

Lombard Street provides a mix of Citywide and neighborhood-serving retail uses through service stations, fast food and walk-up restaurants, financial and real estate services, and a variety of offerings in retail and personal services. The Planning Commission found that increasing the number of Citywide –serving retail uses would create an imbalance, particularly since Pet Food Express was granted Conditional Use authorization for a location at 3150 California Street which is approximately one mile from the subject site. The California Street store is in operation.

9. **General Plan Compliance.** The Project, on balance, is not 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.

The proposed Formula Retail use providing specialty pet food/supplies would not have a substantial net benefit as similar products are offered through existing stores in the neighborhood. Use of the premises to sell duplicative products could lead to an overconcentration of such goods in the neighborhood. It would also prevent the premises from being used to provide goods and/or services that are not already abundant in the area. In addition, Pet Food Express operates a store at 3150 California Street, within approximately one mile of the Lombard Street site, which serves the subject neighborhood. Alternatively, the Commission also encourages study of the site as a possible mixed-use development with ground-floor commercial and residential above, with below-grade parking that would create a strong commercial presence and increase the residential density. Such a development could provide more benefit to the neighborhood by potentially increasing the number of units and accommodating a greater mix of uses.

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.

On July 1, 2010, the Commission approved a Conditional Use authorization for Pet Food Express to occupy a building at 3150 California Street, which is approximately one mile from the subject site. Based on the proximity of the two Pet Food Express locations, and the number of other specialty pet food/supply stores, and other stores that provide similar pet products in the area, the Commission found that approving the site for another similar use would constitute an over-concentration of retail outlets that provide pet food and supply products. The Commission found that using the site for a use that provides products already widely available in the neighborhood would not maintain and enhance a sound and diverse economic base.

10. **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 not 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 Project will not immediately displace any neighborhood serving retail uses; however, the Commission found that additional retail outlets providing pet food/supplies would lead to an overconcentration of retail outlets providing those products in this area, and could detrimentally affect the opportunities for a broader mix of businesses in the area.

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

The proposal will not have any effect on existing housing. The proposed Pet Food Express would lead to an overconcentration of retail outlets that provide pet food/supplies, which would not preserve the cultural and economic diversity of our neighborhoods by preventing the premises from being used to provide goods and/or services that are not readily available in the area. The Commission expressed a desire for the site to be occupied by a use that does not duplicate goods and services already widely available in the neighborhood, has a lower reliance on automobiles, and is more pedestrian and neighborhood friendly.

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

The project does not propose to remove any housing.

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

The Project is to convert a vacant retail video store to a retail pet food/supply store and the existing 22 parking spaces will be retained. Therefore, the proposal would not impede MUNI transit service or overburden our streets or neighborhood 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 is a retail establishment in a Neighborhood Commercial District. It is not a commercial office development that will displace industrial or service sector jobs.

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

Alterations to the building must comply with applicable building codes as implemented by the Department of Building Inspection.

- G. That landmarks and historic buildings be preserved.

A landmark or historic building does not occupy the Project site.

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

The project does not involve a building height of 40 feet or more.

11. The Project is not consistent with and would not promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would not contribute to the character and stability of the neighborhood and would not constitute a beneficial development for the reasons stated in this Motion.
12. For the foregoing reasons, the Commission hereby finds that approval of the Conditional Use authorization would not 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 **DISAPPROVES Conditional Use Application No. 2013.0128C.**

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. 18960. 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 September 12, 2013.

Jonas P. Ionin
Acting Commission Secretary

AYES: Fong, Wu, Borden, Hillis, Moore, Sugaya

NAYS: Antonini

ABSENT:

ADOPTED: September 12, 2013