



SAN FRANCISCO PLANNING DEPARTMENT

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| <input type="checkbox"/> Inclusionary Housing (Sec. 315) | <input type="checkbox"/> First Source Hiring (Admin. Code) |
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Planning Commission Motion No. 18061

HEARING DATE: MARCH 25, 2010

Date: March 29, 2010
Case No.: **2010.0031C**
Project Address: **1928 FILLMORE STREET**
Zoning: Upper Fillmore Street Neighborhood Commercial District (NCD)
40-X Height and Bulk District
Block/Lot: 0660/021
Project Sponsors: Jace Levinson and Kim Ngo (agents)
Jace Architecture
18 De Boom Street
San Francisco, CA 94107
Caroline Krogn-Jensen and Soren Krogn-Jensen (applicants)
101 Townsend Street
San Francisco, CA 94107
Staff Contact: Sharon M. Young – (415) 558-6346
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 703.4, 303(c), AND 303(i) TO ALLOW THE ESTABLISHMENT OF A FORMULA RETAIL USE (DBA BoConcept, A CONTEMPORARY DESIGN FURNITURE AND ACCESSORIES STORE) AT 1928 FILLMORE STREET WITHIN THE UPPER FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On January 19, 2010, Jace Levinson acting agent on behalf of Caroline Krogn-Jensen and Soren Krogn-Jensen (hereinafter "Project Sponsor") made an application for Conditional Use authorization for the property at **1928 Fillmore Street, Lot 021 in Assessor's Block 0660** (hereinafter "Subject Property"), to establish a Formula Retail Use within the Upper Fillmore Street Neighborhood Commercial District and a 40-X Height and Bulk District, in general conformity with plans dated January 19, 2010 and labeled "Exhibit B" (hereinafter "Project").

The proposal is to convert a vacant retail sales establishment (previously occupied by “Aveda”) to another retail sales establishment (dba BoConcept, a contemporary design furniture and accessories store). The proposed retail store, with approximately 2,300 square feet in floor area, is considered a Formula Retail Use under Section 703.3 of the Planning Code.

On **March 25, 2010**, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on **Conditional Use Application No. 2010.0031C**. Under Sections 703.4, 303(c), and 303(i) of the Planning Code, Conditional Use authorization is required to establish a Formula Retail Use in the Upper Fillmore Street NCD and a 40-X Height and Bulk District.

Pursuant to the Guidelines of the State Secretary of Resources for the implementation of the California Environmental Quality Act (hereinafter “CEQA”), the Planning Department of the City and County of San Francisco (hereinafter “Department”) determined that the proposed Conditional Use Application was categorically exempt from the environmental review process under Class 1(a) of the State CEQA Guidelines, Section 15301, pursuant to Title 14 of the California Administrative Code. 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 authorizes the Conditional Use requested in Application No. 2010.0031C, subject to the conditions contained in “EXHIBIT A” of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the recitals 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 at 1928 Fillmore Street is located on the northeast corner of Fillmore and Wilmot Streets; Assessor’s Block 0660; Lot 021. It is located within the Upper Fillmore Street NCD and a 40-X Height and Bulk District. The subject lot is approximately 2,235 square-feet (27.50 feet wide by 81.25 feet deep) in size and is occupied by a one-story commercial building built in 1922. The existing building is not listed in the Planning Department’s 1976 Architectural Survey or the National and California Registers as having architectural significance.
3. **Surrounding Neighborhood.** The surrounding development consists of a variety of commercial and mixed-use buildings mostly featuring residential uses above ground-floor commercial establishments. The scale of development in the area consists of a mix of low-and mid-rise buildings (one- to three-story structures), some of which were built in the early 1900s. Generally, the commercial establishments characterizing this portion of Fillmore Street include a mixture of

restaurants, apparel/accessory stores and specialty shops, and medical and personal service establishments. Some of the existing commercial establishments on the subject and opposite blocks include Johnny Rockets, Calvin Tran Boutique, a psychotherapy office, Fillmore Hardware, Woodhouse Fish Co, Fraiche Yogurt, Linco & Co, New Asian Style contemporary collection specialty store, Makuya Sushi restaurant, a nail salon, Bead & Shells, Sterling Bank & Trust, Crossroads Trading Co., Zinc Details Design store, DZ specialty store, Invision Optometry, Perfect Cleaners, SPQR restaurant, Design Within Reach, Florio Café restaurant, Ruby Living Design, Osaka restaurant, Paper Source, and Shu Yemura cosmetic store. The surrounding zoning is primarily Upper Fillmore Street NCD, RH-2 (Residential, House, Two-Family) District, NC-3 (Moderate-Scale Neighborhood Commercial) District, and RM-1 (Residential, Mixed, Low-Density) District zoning.

4. **Project Description.** Conditional Use authorization is required to allow a formula retail use in the Upper Fillmore Street NCD pursuant to Sections 703.4, 303(c), and 303(i) of the Planning Code. The proposal is to convert a vacant 2,234 square foot retail space (previously occupied by “Aveda”) to another retail sales establishment (dba BoConcept, a contemporary design furniture and accessories store). The proposed retail furniture and accessories store is considered a Formula Retail Use under Section 703.3 of the Planning Code. The proposal will involve interior and exterior tenant improvements to the existing commercial space.

‘BoConcept’ is an international furniture retailer founded in 1993 by Soren and Caroline Krogh-Jensen, who currently reside in San Francisco’s South of Market area (SOMA). There are currently 246 stores worldwide in North America, Central America, Europe, South America, Africa, Middle East, Asia, and Oceania; there are 22 stores in the United States. In California, there are currently three stores in San Diego, Santa Monica, and San Francisco (SOMA) at 101 Townsend Street. The subject proposal is to allow the establishment of the second BoConcept store in San Francisco at the project site. The hours of operation of the proposed BoConcept store are 10 a.m. to 7 p.m. Monday through Saturday, and 11 a.m. to 6 p.m. on Sunday. Section 718.27 of the Planning Code allows the proposed retail store to operate between 6 a.m. until 2 a.m. as of right and requires Conditional Use authorization to operate between the hours of 2 a.m. and 6 a.m.

5. **Issues and Other Considerations.**

- According to the project’s agents, the blend of furnishings available at the proposed BoConcept store would be best described as mid-range contemporary design that serves a broad array of tastes and budgets. The furniture is stylish and attractive within a reasonable price point. It is not signature furniture designed and manufactured by star designers and available in limited production at the highest end pricing, nor is it IKEA-like mass-produced and extremely inexpensive in order to appeal to the broadest demographic and therefore attracting large crowds of people. In this sense, the products at this BoConcept store will appeal to the range of homes within the Pacific Heights/Lower Pacific Heights neighborhood, as well as the City at large, but will not attract a mass audience with the traffic and other congestion problems that often accompany such a retailer. The existing San Francisco BoConcept store has been in

operation for the last two years and has prospered in the SOMA area, settling in nicely as part of a design community that includes these other furniture retailers: K&D Design, Ligne Roset, Jesse SF, and Limn. In a similar manner, the proposed San Francisco (Upper Fillmore Street NCD) store will become an integral component of a retail mix that currently includes several design-oriented stores (Design Within Reach, Zinc Details, The Shade Store, Ruby, Jonathan Adler, and Duxiana) encompassing furniture, home accessories, lighting, and bedding.

- After conducting a site survey of the Upper Fillmore Street NCD (covering six blocks of Fillmore Street between Clay and Sutter Streets), the agents have indicated that the majority of the commercial establishments within the surrounding neighborhood appear to be independently owned rather than formula retail uses. Based upon this survey, 19 of the approximately 103 commercial establishments within the Upper Fillmore Street NCD appear to be formula retail uses: Noah's Bagels, L'Occitane, The Coffee Bean and Tea Leaf, Peet's Coffee, Benefit, Papyrus, Vitamin Express, MAC cosmetics, Walgreens, Starbucks, Eileen Fisher, Marc by Marc Jacobs, Jurilique, Jet Mail, Pure Beauty, Wells Fargo, Ralph Lauren, Johnny Rockets, and Sterling Bank. The Planning Department has reviewed the agents' survey, and approximately two dozen of commercial establishments (25%) within the Upper Fillmore Street NCD appear to be formula retail uses because Supercuts, Pure Beauty, Tully's Coffee, UPS store, La Salsa, Betsey Johnson, Design Within Reach, Crossroads Trading Co., and Jonathan Adler may qualify formula retail uses; Jet Mail and Vitamin Express do not appear to qualify as formula retail uses; and Wells Fargo Bank and Sterling Bank are considered financial service uses rather than retail uses which do not qualify as formula retail uses. ['Black Fleece', located at 2223 Fillmore Street, is also a formula retail use recently approved with Conditional Use authorization by the Planning Commission in December 2009 under Case No. 2009.1007C.]
- The agents indicated that the applicants are committed to being good neighbors and contributing to the general well-being of San Francisco. In the past, the applicants have directly supported the local art community by inviting artists to show their work for fixed periods of time at their (SOMA store) showroom. They also intend to hire their employees locally, become members of the Fillmore Street Merchants Association, and make local charitable contributions on a regular basis to the Scandinavian School of San Francisco and the American Institute of Architects.

6. **Public Comment.** As of March 25, 2010, the Department has not received any letters or phone calls in opposition to the project. The project sponsors have contacted the Pacific Heights Residents Association (PHRA) and indicated that they have received positive feedback in regards to their proposed project and have submitted a letter of support from the PHRA. The project sponsors have also conducted community outreach efforts by meeting with Thomas Reynolds of the Fillmore Street Merchants Association and some other merchants within Upper Fillmore Street NCD who, according to the project sponsors, are supportive of the proposed project.

7. **Use District.** For the purposes of this action, the project site is within the Upper Fillmore Street Neighborhood Commercial District (NCD). The Upper Fillmore Street NCD is situated in the south-central portion of Pacific Heights. It runs north-south along Fillmore Street from Jackson to Bush and extends west one block along California and Pine Streets. This medium-scaled, multi-purpose commercial district provides convenience goods to its immediate neighborhood as well as comparison shopping goods and services on a specialized basis to a wider trade area. Commercial businesses are active during both day and evening and include a number of bars, restaurants, specialty groceries, and specialty clothing stores.

8. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Section 101.1(b)** establishes eight priority planning policies and requires the review of permits that authorize changes of use for consistency with said policies:
 - (1) That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced.

The proposed Project will preserve and enhance the District's existing commercial uses by establishing a new retail store use (which will sell furniture and accessories) that is complimentary to the existing mix of commercial establishments within the immediate neighborhood. The proposed Project will provide job opportunities to the City by employing approximately 2-3 people.
 - (2) That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

The proposed Project will preserve and enhance the cultural and economic diversity of the neighborhood by allowing a new business in the area. Existing housing will not be affected by the proposed Project.
 - (3) That the City's supply of affordable housing be preserved and enhanced.

No housing exists at the Site.
 - (4) That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The proposed Project would not significantly increase the automobile traffic congestion and parking problems in the neighborhood. The proposal is a neighborhood-serving use which residents can access by walking or taking public transit.
 - (5) 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.

There is no commercial office development associated with the proposed Project and there would be no displacement of any existing industrial or service businesses in the area.

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

The proposed Project will comply with all applicable earthquake safety standards and built to the current standards of the California Building Code.

- (7) That landmark and historic buildings be preserved.

The proposed Project does not affect any landmarks or historic buildings.

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

The proposed Project does not affect any city-owned park or open space.

- B. **Section 121.2 and 718.21** requires Conditional Use authorization for non-residential use exceeding 2,500 square feet; as defined by Planning Code Section 790.130 in the Upper Fillmore Street NCD.

The proposed Project will occupy an existing vacant retail space less than 2,500 square feet. No additional square footage is proposed by the Project.

- C. **Section 145.1** requires that NC Districts containing specific uses, including retail stores, have at least ½ the total width of the new or altered structure at the commercial street frontage devoted to entrances to commercially used space, windows or display space at the pedestrian eye-level. Such windows shall use clear, un-tinted glass, except for decorative or architectural accent. Any decorative railings or decorated grille work, other than wire mesh, which is placed in front or behind such windows, shall be at least 75 percent open to perpendicular view and no more than six feet in height above grade.

The subject commercial space has approximately 27'6" of frontage on Fillmore Street with the majority of the glass frontage devoted to either the entrance or window space. The proposal will include modifications to enlarge the existing windows of the commercial frontage. The windows will be clear and unobstructed.

- D. **Section 151** requires off-street parking for every 200 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet. **Section 152** requires one off-street loading space for retail stores between 10,001 and 60,000 gross square feet.

The subject commercial space, with approximately 2,300 square feet in floor area, does not require any off-street or loading parking spaces.

- E. **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:

- (1) 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 Project will occupy a vacant retail space previously occupied by Aveda (a cosmetics and accessories store). The proposed Project will be compatible with the neighborhood, as it will sell retail goods (i.e. furniture and accessories) which will be complimentary to the existing mix of commercial establishments within the immediate neighborhood. The agents have indicated that there will be interior and exterior tenant improvements to the existing commercial space. The scope of the remodel will include new display cases, lighting, and floor finishes; minimal resizing of the existing windows in order to lower the sill height (no change in window width); the removal of three 1'-10" x 1'-4" clearstory windows currently located about 12 feet above the sidewalk level; and the removal of the existing exit door (north elevation) and demolition of a portion of the wall to create a new exit alcove. There will be no changes to the existing building envelope.

- (2) 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:

- (A) 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, and the arrangement of the structures on the site are adequate for the Project. There will be no physical expansion of the existing building or retail commercial space.

- (B) 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;

Existing traffic patterns will not be significantly affected by the proposed Project. Public transit that is in close proximity to the proposed BoConcept store includes Muni Lines 3 and 22 within walking distance of the Project Site. There is on-street parking in front of the subject property and in the surrounding neighborhood. The project sponsor has indicated that the only deliveries to the proposed BoConcept store would be via UPS/FedEx deliveries of small accessory-like items before 7 a.m., Monday through Friday.

- (C) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

No noxious or offensive emissions such as glare, dust, or odor are expected to be produced by the proposed Project.

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

The existing building occupies the entire site; no landscaping is provided on site. There will be no addition of parking spaces, loading facilities, open space or service areas. All Project signage and projections will be consistent with the controls of the Planning Code.

- (3) 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.

- (4) 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 Upper Fillmore Street NCD in that the intended use is a neighborhood-serving business.

- F. **Sections 303(i) and 703.4** require Conditional Use authorization for the establishment of a formula retail use in Neighborhood Commercial Districts. The Planning Commission shall consider the following criteria set forth in **Section 303(i)** in addition to the criteria set forth in Section 303(c):

- (1) The existing concentrations of formula retail uses within the Neighborhood Commercial District;

After conducting a site survey of the Upper Fillmore Street NCD (covering six blocks of Fillmore Street between Clay and Sutter Streets), the agents have indicated that the majority of the commercial establishments within the surrounding neighborhood appear to be independently owned rather than formula retail uses. Based upon this survey, 19 of the approximately 103 commercial establishments within the Upper Fillmore Street NCD appear to be formula retail uses: Noah's Bagels, L'Occitane, The Coffee Bean and Tea Leaf, Peet's Coffee, Benefit, Papyrus, Vitamin Express, MAC cosmetics, Walgreens, Starbucks, Eileen Fisher, Marc by Marc Jacobs, Jurilique, Jet Mail, Pure Beauty, Wells Fargo, Ralph Lauren, Johnny Rockets, and Sterling Bank. The Planning Department has reviewed the agents' survey, and approximately two dozen of commercial establishments (25%) within the Upper Fillmore Street NCD appear to be formula retail uses because Supercuts, Pure Beauty, Tully's Coffee, UPS store, La Salsa, Betsey Johnson, Design

Within Reach, Crossroads Trading Co., and Jonathan Adler may qualify formula retail uses; Jet Mail and Vitamin Express do not appear to qualify as formula retail uses; and Wells Fargo Bank and Sterling Bank are considered financial service uses rather than retail uses which do not qualify as formula retail uses. ['Black Fleece', located at 2223 Fillmore Street, is also a formula retail use recently approved with Conditional Use authorization by the Planning Commission in December 2009 under Case No. 2009.1007C.]

- (2) The availability of other similar retail uses within the Neighborhood Commercial District;

The agents have indicated that there are five other existing retail stores within the Upper Fillmore Street NCD which will sell similar goods (i.e. furnishings such as sofas, chairs dining tables, beds, and dressers) as the proposed BoConcept store: Design Within Reach, Ruby, Zinc Details, Duxiana, and Jonathan Adler.

- (3) The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the Neighborhood Commercial District;

The Project will not involve significant modifications to the building's existing architectural and aesthetic character. There will be no expansion of the existing building envelope.

- (4) The existing retail vacancy rates within the Neighborhood Commercial District;

According to the agents, there are currently five vacant commercial spaces with the Upper Fillmore Street NCD.

- (5) The existing mix of City-serving retail uses and neighborhood-serving retail uses within the Neighborhood Commercial District;

The agents have indicated that the proposed BoConcept furniture and accessories store will compliment the mix of goods and services currently available within the Upper Fillmore Street NCD. It will also contribute to the economic vitality of the neighborhood, as well as the City at large since Fillmore Street serves as a major shopping destination in San Francisco. Based on their survey of commercial establishments within the Upper Fillmore Street NCD, the agents have indicated that approximately 30 of these commercial establishments are either restaurants, or focus on the sale of specific gourmet items such as olive oil, coffee, and pastry. There were a few other commercial establishments which include dry cleaning stores, laundry, shoe repair, and tailors.

- G. **Section 718.1** sets forth provisions applicable in the Upper Fillmore Street Neighborhood Commercial Zoning District. The Upper Fillmore Street District controls are designed to protect the existing building scale and promote new mixed-use development which is in character with adjacent buildings. Building standards regulate large lot and use development and protect rear yards above the ground story and at residential levels. Most commercial

uses are permitted at the first two stories of new buildings. Special controls are designed to preserve the existing equilibrium of neighborhood-serving convenience and specialty commercial uses. In order to maintain convenience stores and protect adjacent livability, additional eating and drinking establishments are prohibited and ground-story entertainment and financial service uses are limited. In order to promote continuous retail frontage, drive-up and most automobile uses are prohibited. Housing development in new buildings is encouraged above the second story. Existing residential units are protected by limitations on demolitions and upper-story conversions.

- H. **Section 718.40** permits “other retail sales and services” establishments, such as BoConcept, on the first and second stories.
- I. **Section 703.3** defines a Formula Retail Use as a type of retail sales activity or retail sales establishment which has eleven or more retail establishments located in the United States and maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized décor and color scheme, a uniform apparel, standardized signage, and a trademark or service mark. The proposal is to allow for the establishment of a second BoConcept store in San Francisco. There is an existing San Francisco store location at 101 Townsend Street. According to the project sponsor, there are 246 stores worldwide (including 22 stores in the United States with two of these stores in California).
- J. **Section 703.4** states that a Conditional Use authorization is required for a formula retail use, as defined by Planning Code Section 703.3, in any of the City’s Neighborhood Commercial Districts.

The proposed Project (dba BoConcept) is a formula retail use, and intends to occupy existing vacant retail space, formerly occupied by Aveda.

- K. **Section 718.27** allows hours of operation from 6 a.m. until 2 a.m. as of right and requires Conditional Use authorization to operate between the hours of 2 a.m. and 6 a.m.

The hours of operation of the proposed BoConcept store are 10 a.m. to 7 p.m. Monday through Saturday, and 11 a.m. to 6 p.m. on Sunday.

- L. **Section 718.40** allows a furniture and accessories store under “Other Retail Sales and Services” as defined by Planning Code Section 790.102 in the Upper Fillmore Street NCD.

The proposed Project (dba BoConcept) will occupy an existing vacant retail space.

- M. **Signage.** Any proposed signage will be subject to the review and approval of the Planning Department and must comply with Article 6 of the Planning Code.

9. **General Plan Compliance.** The Project is consistent with the Objectives and Policies of the General Plan in that:

COMMERCE AND INDUSTRY ELEMENT

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 6:

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

Policy 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.

The proposed Project would renovate and upgrade an existing vacant retail space for another retail use. The proposed BoConcept store would be compatible with the type of uses characterizing this portion of the Upper Fillmore Street NCD which include a mixture of restaurants, apparel/accessory stores and specialty shops, and medical and personal service establishments.

Policy 3:

Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of affordable housing and the needed expansion of commercial activity.

Approval of the proposed Project would be consistent with the mixed commercial-residential character of the Upper Fillmore Street NCD. The proposed Project would not adversely impact any affordable housing resources in the neighborhood.

Policy 4:

Encourage the location of neighborhood shopping areas throughout the city so that essential retail goods and personal services are accessible to all residents.

The proposed Project will provide retail goods and services (i.e. selling furniture and accessory items) and is accessible to all residents with this portion of the Upper Fillmore Street NCD.

Policy 9:

Regulate uses so that traffic impacts and parking problems are minimized.

The Project does not adversely impact public transit or place a burden on the existing supply of parking in the neighborhood. Many patrons are able to walk from their residences or places of employment, and the project is well served by public transportation. There is on-street parking on the subject block and in the surrounding neighborhood.

URBAN DESIGN ELEMENT

CITY PATTERN

Objectives and Policies

OBJECTIVE 1:

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE AND A MEANS OF ORIENTATION.

Policy 3:

Recognize that buildings, when seen together, produce a total effect that characterizes the City and its districts.

The Project's design preserves the neighborhood since the exterior tenant improvements will not involve modifications to the building's original detailing or materiality.

NEIGHBORHOOD ENVIRONMENT

Objectives and Policies

OBJECTIVE 4:

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

Policy 15:

Protect the livability and character of residential properties from the intrusion of incompatible new buildings.

The Project will improve the neighborhood environment by increasing safety during both the daytime and nighttime through the occupancy of the space, which has been designed to provide a transparent storefront.

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. 2010.0031C** subject to the following conditions attached hereto as "EXHIBIT A" 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. 18061. 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 March 25, 2010.

Linda Avery
Commission Secretary

AYES: Commissioners: Miguel, Borden, Lee, Moore, Sugaya, & Antonini

NAYS: None

ABSENT: None

ADOPTED: March 25, 2010

Exhibit A

Conditions of Approval

APPROVED USE CONDITIONS

1. Pursuant to Sections 703.4, 303(c), and 303(i) of the Planning Code, this Conditional Use approval is to allow the establishment of a Formula Retail Use in the Upper Fillmore Street NCD and a 40-X Height and Bulk District, in general conformity with Plans on file with the Department in the docket for **Case No. 2010.0031C** (labeled EXHIBIT B), reviewed and approved by the Planning Commission on March 25, 2010 under Motion No. 18061.
2. The proposal is to convert a vacant retail sales establishment (previously occupied by "Aveda") to another retail sales establishment (dba BoConcept, a contemporary design furniture and accessories store). The proposed retail store, with approximately 2,300 square feet in floor area, is considered a Formula Retail Use under Section 703.3 of the Planning Code. The proposal will involve interior and exterior tenant improvements to the existing commercial space. There will be no expansion of the existing building envelope.
3. Building area and massing authorized herein is limited to that described on the plans labeled EXHIBIT B. The Applicant shall advise the Planning Department staff of any changes or modifications to the Project, which would result in any deviation from the plans (labeled EXHIBIT B), as approved in this Motion.
4. The proposed hours of operation are 10 a.m. to 7 p.m. Monday through Saturday, and 11 a.m. to 6 p.m. on Sunday. Section 718.27 of the Planning Code allows the proposed retail store to operate between 6 a.m. until 2 a.m. as of right and requires Conditional Use authorization to operate between the hours of 2 a.m. and 6 a.m.
5. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed. All Project lighting shall be directed onto the Project Site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to surrounding residents and businesses. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.
6. The Applicants shall maintain the entrance to the Project Site and all sidewalks abutting the subject property in a clean and attractive manner.
7. Street-facing windows shall not be blocked by displays or other obstacles in order to allow for visual connection between the street and the store interior.

STANDARD CONDITIONS

8. VALIDITY, EXPIRATION, AND EXTENSION

This Conditional Use approval is **valid for three years** from the effective date of the Motion No. 18061 authorizing the proposed formula retail use and shall automatically expire on March 25, 2013. This authorization is just an approval of the proposed use and is NOT a permit to implement

the approved use. This authorization and right vested by virtue of this action shall be deemed void and cancelled if a Building Permit from the Department of Building Inspection to implement the approved use has not been obtained prior to the expiration of this Conditional Use approval. The validity of this Conditional Use approval may be extended at the discretion of the Zoning Administrator only if the failure to issue a Building Permit by the Department of Building Inspection is delayed by the city, state, or federal agency or by appeal of the issuance of such Building Permit. However, the extension must be requested prior to the expiration of this Conditional Use approval.

9. MAJOR AND MINOR CHANGES AND MODIFICATIONS OF CONDITIONS

Minor changes to the approved plans may be approved administratively by the Zoning Administrator. Major changes and modifications of conditions shall be subject to review and approval by the Planning Commission requiring a new Conditional Use approval or amendment to this Conditional Use approval as determined by the Zoning Administrator. Such changes must be requested prior to the expiration of this Conditional Use approval.

10. RECORDING OF CONDITIONS OF APPROVAL

Prior to the issuance of a Building Permit Application for the proposed formula retail use, the project sponsor or the responsible party shall record a Notice of Special Restrictions as approved by the Zoning Administrator in the Official Records of the Recorder of City and County of San Francisco for the premises (Assessor's 0660, Lot 021), which notice shall state that the proposed use has been authorized by Motion No. 18061 and is subject to the conditions of approval of this Motion.

11. BUILDING PERMIT TO IMPLEMENT THE APPROVED PROJECT

A Building Permit from the Department of Building Inspection must be obtained to implement the approved use within three years from the effective date of Motion No. 18061 approving the proposed formula retail use. The Building Permit Application shall include plans in conformance with the plans on file with the Department in the docket for **2010.0031C** (labeled EXHIBIT B), reviewed and approved by the Planning Commission on March 25, 2010 under the **Motion No. 18061**. The plans are required to record the approved use of the premises even if there is no new construction or minor interior changes. The conditions of approval shall be reproduced on the Index Sheet of the plans submitted with the Building Permit Application. The Index Sheet of the plans shall reference to this Conditional Use Authorization and any subsequent amendments or modifications.

The project shall also comply with all other applicable city codes as required by other city departments. Additionally, no change in the character of occupancy or change to a different group of occupancy as described under the Building Code shall be made without first obtaining a Certificate of Occupancy from the Department of Building Inspection and approval from Planning and other city departments as necessary.

12. COMPLETION OF BUILDING PERMIT

The completion of Building Permit with a final inspection and/or issuance of a Certificate of Final Completion and Certificate of Occupancy from the Department of Building Inspection for the approved use under this project shall be deemed acceptance and agreement to fully comply with all of the conditions of approval of this Conditional Use approval. The project sponsor or the responsible party must ensure that the Building Permit Application has attained a 'complete' stage within the time frame required by the Department of Building Inspection. If the Building Permit is allowed to expire for more than one year, the renewal of such Building Permit thereafter will be subject to review by the Planning Department. Prior to filing of a renewal of the expired permit, the project sponsor or the responsible party shall notify the Planning Department.

13. REPORTING

The Project Sponsor or the subsequent responsible party for the project shall submit to the Zoning Administrator two copies of a written report describing the status of compliance with the conditions of approval contained within the Motion No. 18061 within six months from the date of implementation of the proposed use. Thereafter, the submittal of the report shall be on an annual basis. This requirement shall lapse when the Zoning Administrator determines that all the conditions of approval have been satisfied or that the report is no longer required for other reasons.

14. REVOCATION

During the Building Permit Application process phase of the project, the Zoning Administrator may place an order to stop work, suspend, or revoke a Building Permit if the proposal carried out on the site is not in conformance with the plans approved under this Conditional Use approval and subsequent Building Permit. The Zoning Administrator may also recommend the Planning Commission to consider revocation of this Conditional Use approval in a public hearing for non-compliance with any of the conditions of approval.

15. ENFORCEMENT

After commencement of the approved use, violation of any of the planning conditions of approval contained in the Motion No. 18061 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, whichever applicable for each day a violation continues or is allowed to continue. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

16. MONITORING

If the project requires monitoring of the conditions of approval contained in Exhibit A of Motion No. 18061, the project sponsor or the subsequent responsible parties for the project shall pay fees as

established under Planning Code Section 351(e)(1) and work with the Planning Department to ensure compliance.

17. NEIGHBORHOOD CONCERNS

The Project Sponsor shall appoint a Community Liaison Officer to address issues of concern to neighbors related to the operation of this Project. The Project Sponsor shall report the name and telephone number of this Officer to the Zoning Administrator and the neighborhood for reference. The Project Sponsor shall keep the above parties apprised should a different staff liaison be designated.

18. SEVERABILITY

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 of the remaining provisions, clauses, sentences, or sections of these conditions. It is hereby declared to be the intent of the Planning Commission that these conditions of approval would have been adopted had such invalid sentence, clause, or section or part thereof not been included herein.