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## Planning Commission Final Motion No. 17578

HEARING DATES: FEBRUARY 14, 2008 AND APRIL 10, 2008

*Hearing Date:* April 10, 2008  
*Case No.:* **2007.1095C**  
*Project Address:* **2040 FILLMORE STREET**  
*Zoning:* Upper Fillmore Street Neighborhood Commercial District (NCD)  
 40-X Height and Bulk District  
*Block/Lot:* 0653/022  
*Project Sponsor:* Patrick Otellini for John Heist (Polo Ralph Lauren)  
 A.R. Sanchez-Corea & Associates, Inc.  
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**ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION UNDER PLANNING CODE SECTIONS 703.4, 303(C), and 303(I) OF THE PLANNING CODE TO ALLOW THE ESTABLISHMENT OF A “FORMULA RETAIL USE” AT 2040 FILLMORE STREET (DBA RALPH LAUREN, AN APPAREL AND ACCESSORIES STORE) ON ASSESSOR’S BLOCK 0653, LOT 022 WITHIN THE UPPER FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT (NCD) AND A 40-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On September 19, 2007, Patrick Otellini of A.R.Sanchez-Corea & Associates, Inc., acting agent on behalf of John Heist of Polo Ralph Lauren (hereinafter “Project Sponsor”) made an application for Conditional Use authorization on the property at **2040 Fillmore Street, Lot 0653 in Assessor’s Block 022** (hereinafter “Property”), to establish a Formula Retail Use located on the ground floor of a three-story residential and commercial building within the Upper Fillmore Street Neighborhood Commercial Zoning District and a 40-X Height and Bulk District, in general conformity with plans dated November 21, 2007 and labeled “Exhibit B” (hereinafter “Project”).

The proposal is to convert a vacant retail sales establishment (previously occupied by Smith & Hawken) to another retail sales establishment (dba Ralph Lauren, an apparel and accessories store). The proposed retail store, with approximately 3,500 square feet of floor area which is comprised of the sales and back-of-house areas, is considered a Formula Retail Use under Section 703.3 of the Planning Code.

On **February 14, 2008 and April 10, 2008**, the San Francisco Planning Commission (hereinafter "Commission") conducted duly noticed public hearings at regularly scheduled meetings on **Conditional Use Application No. 2007.1095C**. 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 Neighborhood Commercial Zoning District and a 40-X Height and Bulk District.

The proposed Conditional Use application was determined by the San Francisco Planning Department (hereinafter "Department") to be Categorically Exempt from the environmental review process 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.

## **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 is on the east side of Fillmore Street between California and Pine Streets, Assessor's Block 0653, Lot 022. It is located within the Upper Fillmore Street Neighborhood Commercial District (NCD) and a 40-X Height and Bulk District. The subject lot is 5,000 square feet (50 feet wide by 100 feet deep) in size and is occupied by a three-story residential and commercial building built in 1900. 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), most 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, along with a bar, coffee house, bakery, and laundromat. The surrounding zoning is primarily Upper Fillmore Street NCD and RH-2 (Residential, House, Two-Family) District zoning. There are approximately 24 existing commercial establishments located along this blockface and the opposite blockface. Some of these commercial establishments include Royal Ground Coffee, Wash n Royal, Elizabeth Charles, Mrs. Dewson's Hats, Physiotherapy Associates, 10 International Orange, Harry's Bar, Grove, Paolo, La Salsa, Her, The Elite Café, Vitamin Express, La Boulange, MIO, The Victorian House, Betsy Johnson, My Boudoir, Walter Adams, Teresa Lam O.D., Tango Gelato, MAC Cosmetics, Access Chiropractic, and 2001 Thai Stick. The majority of these commercial establishments are independently owned rather than formula retail uses. On the subject and opposite blocks, the existing commercial establishments which would

appear to qualify as formula retail uses include MAC Cosmetics (a cosmetics store at 2011 Fillmore Street), Betsey Johnson (a clothing and accessories store at 2031 Fillmore Street), and La Salsa (a restaurant at 2401 California Street).

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 proposed project is to renovate a vacant commercial space, previously occupied by Smith & Hawken, for occupancy by Ralph Lauren. Ralph Lauren is an apparel and accessories store which was established in 1967. Ralph Lauren offers classic American style clothing for men, women, and children that typically include polos, oxfords, rugby shirts, cashmere, chinos, tees, and other accessory items. There are currently 58 other Ralph Lauren stores in the United States; of which, there are 10 stores in California within the cities of San Francisco (Crocker Galleria - 90 Post Street), Beverly Hills, Burlingame, Costa Mesa, La Jolla, Malibu, Palm Desert, Palo Alto, and Sacramento. There are also a number of stores outside the United States in Europe (countries of Belgium, Deutschland, Espana, France Italia, Netherlands, Russia, and United Kingdom), Asia-Pacific (countries of Australia, Japan, Korea, and New Zealand), and Latin America (countries of Chile, Panama, and Venezuela). There are 12 Rugby stores (a new apparel store concept of Ralph Lauren featuring casual and suit dressing, marketed for males and females between the ages of 18-28) in the United States; there is one Rugby store in San Francisco located at 2071 Union Street, which was authorized as a conditional use to establish a formula retail use by the Planning Commission on April 26, 2007 under Case No. 2007.0126C (Motion No. 17423).

The proposal will involve tenant improvements to the existing commercial space with new partitions and merchandise display areas, and exterior modifications to the storefront with new windows, doors, and a change in signage. There will be no expansion of the existing building envelope. The proposed hours of operation are 10 a.m. to 7 p.m., seven days a week. Pursuant to Section 718.27 of the Planning Code, the proposed retail store is allowed to operate between the hours of 6 a.m. until 2 a.m. as of right. The store will employ approximately 9 people, with 4-5 employees working in the store during normal business hours.

5. **Issues and Other Considerations.**

- The proposed project will allow for the establishment of a third Ralph Lauren store located in San Francisco.
- The majority of the commercial establishments in the Upper Fillmore Street NCD are independently owned rather than formula retail uses. At the initial February 14 Planning Commission hearing, the project sponsor indicated that there were over 100 retail, service, and restaurant businesses within the Upper Fillmore Street NCD, of which approximately 15 commercial establishments would appear to qualify as formula retail uses. After conducting a more comprehensive survey of the number and mix of commercial establishments in the Upper Fillmore Street NCD after the February 14 Planning Commission hearing, the project sponsor indicated that there were actually 136 commercial establishments, of which, 21 (or 15.4%) would qualify as formula retail uses. These businesses, which are interspersed throughout this portion of the Upper Fillmore

Street NCD include Benefit, Betsey Johnson, Crepevine, Design Within Reach, Eileen Fisher, Jurlique, Kiehl's, La Salsa, L'Occitane, MAC Cosmetics, Marc Jacobs, Noah's Bagels, Papyrus, Pete's Coffee, Pure Beauty, Rachel Ashwell / Shabby Chic, Royal Ground, Simon Pearce, Starbucks Coffee, the UPS Store, and Tully's Coffee.

- There are a few vacant commercial retail spaces located in the Upper Fillmore Street NCD. At the February 14 Planning Commission hearing, the project sponsor indicated there was one vacant commercial retail space within this portion of the Upper Fillmore Street NCD located at 2028 Fillmore Street, directly south of the project site. After conducting a more comprehensive survey of the number and mix of commercial establishments in the Upper Fillmore Street NCD after the February 14 Planning Commission hearing, the project sponsor indicated there were actually four vacant commercial retail spaces located in the Upper Fillmore Street NCD at 1940 Fillmore Street, 2028 Fillmore Street, 2040 Fillmore Street, and 2241 Fillmore Street.
- The project sponsor has indicated that the proposed Ralph Lauren store on Fillmore Street will recreate a neighborhood shop from the turn of the century when this area was developing. The storefront is traditional in design, inspired by original local shop fronts, setting an intimate scale and feeling in the interior. The interior continues this concept creating a vintage dry goods store atmosphere, using California Victorian detailing. Vintage wood flooring, painted millwork details, antique fixtures and lighting enhance the build-out. The proposed Ralph Lauren store will follow the company's other small scale, intimate stores created in West Greenwich Village of New York City, East Hampton Long Island, and Nantucket, Massachusetts in which all of these shops are based on local vernacular architecture to enhance their streets and neighborhoods.
- Public transit that is in close proximity to the proposed retail store includes Muni Lines 3 and 22 located at a bus stop on the corner of Pine and Fillmore Streets. There is on-street parking in front of the subject property and in the surrounding neighborhood.
- On February 14, 2008, following public testimony, the Planning Commission closed the public hearing and approved (+6 to -1) a motion of intent to disapprove the proposed project and subsequently continued the public hearing to the March 6 Planning Commission for final action.
- At the March 6 Planning Commission hearing, the project sponsor requested that the case be continued to allow additional time to meet with neighborhood groups and other interested parties, and to engage in additional community outreach efforts. The Planning Commission continued the case to April 3.
- At the April 3 Planning Commission hearing, the project sponsor and the Pacific Heights Residents Association (with support from the Fillmore Street Merchants Association) requested that final action on the proposed project be continued one week to the April 10 Planning Commission hearing to allow for additional time to conclude discussions. The Planning Commission continued the case to April 10. Generally, the ensuing discussions

6. **Public Comment.** As of February 5, 2008, the Planning Department had been contacted by two members of the Pacific Heights Residents Association requesting information on the project. The Planning Department also received one letter from the Fillmore Street Merchants Association in opposition to the project. The letter indicated that there has been no outreach from the project sponsor to neighborhood groups and that Upper Fillmore Street has managed in large measure to maintain its individual character, despite the proliferation of chain stores, and that the distinctiveness of the neighborhood would be diminished by allowing additional chain stores. In response, the project sponsor requested that the project be continued from being heard at the January 31 Planning Commission hearing to allow for additional time to meet with neighborhood groups to discuss their concerns. The project sponsor met with the Pacific Heights Residents Association on February 4, 2008 and met with the Fillmore Street Merchants Association on the evening of February 7, 2008. During public testimony at the February 14 Planning Commission hearing, four representatives from the Fillmore Street Merchants Association and the Pacific Heights Residents Association indicated their opposition to the project. There was one resident and three other interested parties who also testified at the hearing in opposition to the project. Generally, the public testimony in opposition expressed concerns that the approval of the proposed project would negatively impact the unique character of the Upper Fillmore Street NCD, that the influx of formula retail commercial establishments would inhibit local business

entrepreneurship by driving up commercial rental rates in the area, the proposed formula retail store would negatively impact existing independent businesses by competing with other existing apparel and accessory stores within the immediate area, and that independently-owned businesses rather than formula retail businesses are typically more engaged with the local community. Subsequent to the February 14 Planning Commission hearing, the Planning Department received two phone calls from a neighbor and a business owner (with a commercial establishment on the subject block) in support of the project, indicating their preference for a high end retailer such as Ralph Lauren to occupy the project site to encourage more business activity within the immediate area, and to express their concerns that the disapproval of the project would result in a vacant commercial space on the subject block which could be unoccupied for a prolonged period of time. At the April 10 Planning Commission hearing, a member of the Pacific Heights Residents Association (also representing the Fillmore Street Merchants Association at the public hearing) indicated his organization's support of the proposed project, contingent upon the project sponsor's good faith efforts in following through with the agreements discussed prior to the hearing. At the April 10 Planning Commission hearing, the project sponsor stated that they had conducted extensive community outreach efforts which involved contacting over 450 residential and commercial establishments and speaking to over 150 individuals in the Fillmore Street neighborhood. From these efforts, the project sponsor received ten letters in support of the proposed project from residents and local business owners in the area.

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.

*At the February 14 Planning Commission hearing, there was public testimony from local residents and business owners which indicated their preference for the project site to be occupied by an independently owned business. One of their concerns was that the proposed formula retail store would negatively impact existing independent businesses by competing with other existing apparel and accessory stores within the immediate area. However, at the April 10 Planning Commission hearing and in a brief letter, the project sponsor indicated that the proposed formula retail store would not compete with other*

*existing apparel and accessory stores within the immediate area as most of the existing apparel stores were marketed for women rather than both men's and women's traditional clothing. It is noted that the proposed Project will provide new job opportunities to the City by employing approximately nine people.*

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

*At the February 14 Planning Commission hearing, there was public testimony from local residents, business owners, and neighborhood groups indicating their concerns that the approval of the proposed project would negatively impact the unique and distinguishing characteristics of the Upper Fillmore Street NCD. However, at the April 10 Planning Commission hearing and in a brief letter, the project sponsor satisfactorily demonstrated, by gaining the support of the proposed Project from the Pacific Heights Residents Association, the Fillmore Street Merchants Association, and other interested parties through their extensive community outreach efforts that the proposed Project would not negatively impact the unique and distinguishing characteristics of the Upper Fillmore Street NCD. Existing housing would not be affected by the Project since none exists at the project site.*

- (3) That the City's supply of affordable housing be preserved and enhanced.

*The proposed Project will not displace any affordable housing.*

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

*The proposed Project will not impede MUNI service or overburden streets or neighborhood parking since another retail use is proposed to replace the former retail use at the project site.*

- (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 will 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 will not affect any city-owned park or open space.*

B. **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 Smith & Hawken (a garden furniture and accessories store). The proposed Project will be compatible with the neighborhood, as it will sell retail goods (i.e. clothing and accessories) similar to other commercial establishments within the Upper Fillmore NCD. The proposed Project will sell both men and women's clothing and accessories, which will serve the needs in the community, as there are few existing apparel stores marketed for men's clothing and accessories in the Fillmore Street NCD. The proposed Project will also provide for a new retail use which will allow for a third Ralph Lauren store (including Rugby) located in the city of San Francisco and the thirteenth Ralph Lauren store located in the State of California. There will be tenant improvements made to the existing commercial space with new partitions and merchandise display areas, and exterior modifications to the storefront with new windows, doors, and a change in signage. No changes will be made 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 proposed 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;

*Although existing traffic patterns would not be significantly affected by the proposed Project, during public testimony at the February 14 Planning Commission, the Pacific Heights Residents Association expressed concerns regarding traffic impacts from freight loading/deliveries (made multiple times during the week) to the proposed store during business hours. In response, the project sponsor indicated that arrangements would be made to have their stock replenishment deliveries made before 7 a.m. Public transit that is in close*



*proximity to the proposed Ralph Lauren store includes Muni Lines 3 and 22. There is on-street parking in front of the subject property and in the surrounding neighborhood.*

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

*There will be no noxious or offensive dust or odor associated with 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, like some buildings on the block, occupies most of 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 proposed 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 NCD in that the intended use is a neighborhood-serving business and a business which would serve a wider trade area. At the February 14 Planning Commission hearing, the project sponsor did not satisfactorily demonstrate that the proposed retail store, a formula retail use, would not significantly affect the existing and unique character of the neighborhood. However, subsequent to the February 14 Planning Commission hearing, the project sponsor (by providing additional information on the proposed Project, conducting additional community outreach efforts, and gaining the support of the Fillmore Street Merchants Association and the Pacific Heights Residents Association) satisfactorily demonstrated that the proposed retail store would provide a development that is in conformity with the purpose of the Upper Fillmore Street NCD.*

- C. **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;

*In the initial assessment of the proposed Project, it had been noted that during the February 14 Planning Commission hearing there were over 100 retail, service, and restaurant businesses within the Upper Fillmore Street NCD, of which, approximately 15 would appear to qualify as formula retail uses. However, during public testimony at the April 10 Planning Commission hearing, the project sponsor provided more detailed information and thorough survey on the number and mix of existing retail, service, and restaurant businesses within the Upper Fillmore Street NCD. In the project sponsor's brief letter, it was stated that there were 136 stores in the 16 blocks of the Upper Fillmore Street NCD. Of those 136 stores, only 21 (or 15.4%) could be currently classified as formula retail. The stores include Benefit, Betsey Johnson, Crepevine, Design Within Reach, Eileen Fisher, Jurlique, Kiehl's, La Salsa, L'Occitane, MAC, Marc Jacobs, Noah's Bagels, Papyrus, Pete's Coffee, Pure Beauty, Rachel Ashwell/Shabby Chic, Royal Ground, Simon Pearce, Starbucks Coffee, The UPS Store, and Tully's Coffee. These businesses are interspersed with independently owned businesses throughout this portion of the Upper Fillmore Street NCD.*

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

*The project sponsor has indicated and Planning Department staff has confirmed that there are other similar retail businesses that sell apparel and accessory items within the Upper Fillmore Street NCD, which is characterized primarily with high end fashion retailers. There are approximately 30 other existing apparel and/or accessory stores within the Upper Fillmore Street NCD. In addition, the project sponsor has indicated that the proposed Project would complement the existing character of the Upper Fillmore Street NCD, as there are only three other nationally branded clothing stores in the district, compared to that of many others that are independent merchants. Furthermore, the project sponsor has indicated that the proposed formula retail store would sell both men's and women's clothing, as most of the existing apparel stores in the Upper Fillmore Street NCD only sell women's clothing.*

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

*The proposed Project is designed to retain the building's existing architectural and aesthetic character. There will be no expansion to the existing building envelope. The project sponsor has indicated and Planning Department staff agrees that the addition of this Ralph Lauren store would physically blend in with the nature of retailers along the Upper Fillmore Street NCD. The new ground floor storefront will feature a centered entrance vestibule open to both sides of the store to encourage foot traffic from Fillmore Street and add a sense of connection from the inside of the store to the street. In addition,*

*the street-facing windows will not be blocked by displays or other obstacles in order to allow for a visual connection between the street and the store interior. The project sponsor has indicated that the proposed Project is designed with an emphasis in complementing and celebrating the neighborhood's heritage, giving it a unique presence on the street, as opposed to utilizing the type of cookie-cutter or "kit of parts" look that many large formula retailers typically build.*

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

*In the initial assessment of the proposed Project, it had been noted that during the February 14 Planning Commission hearing, according to the project sponsor and confirmed by staff, there was only one known vacant commercial space (located within several blocks of the project site. However, during public testimony at the April 10 Planning Commission hearing and in a brief letter, the project sponsor provided more accurate information on the current vacancy rates within the Fillmore Street NCD, stating that there were four known vacant commercial spaces located at 1940 Fillmore Street, 2028 Fillmore Street, 2040 Fillmore Street, and 2241 Fillmore Street. To address the concerns stated during public testimony made during the February 14 Planning Commission hearing that the influx of formula retail commercial establishments would inhibit local business entrepreneurship by driving up commercial rental rates in the area, the project sponsor indicated that Ralph Lauren would be paying the same rent that Smith & Hawken had previously negotiated with the property owner with moderate increases over the life of the 10-year lease agreement (which entails options to extend).*

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

*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) mostly built in the 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, along with a bar, coffee house, bakery, and laundromat.*

- D. **Section 718.1** sets forth provisions applicable in the Upper Fillmore Street Neighborhood Commercial Zoning District. The Upper Fillmore 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.

- E. **Section 718.40** permits “other retail sales and services” establishments, such as Ralph Lauren, on the first story.
  - F. **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 the establishment of a third Ralph Lauren store in San Francisco.
  - G. **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 Ralph Lauren store’s proposed hours of operation are 10 a.m. to 7 p.m., seven days a week.
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 Ralph Lauren 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, along with a bar, coffee house, bakery, and laundromat.*

**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 apparel 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 proposed Project would not adversely impact public transit or place a burden on the existing supply of parking in the neighborhood. Many patrons would be able to walk from their residences or places of employment, and the project is well served by public transportation (Muni Lines 3 and 22 located on the corner of Pine and Fillmore Streets). There is on-street parking in front of the subject property 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 would preserve the neighborhood character by minimizing facade and exterior changes.*

**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 proposed Project would 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 very transparent storefront.*

10. The General Plan provides guidelines for neighborhood commerce which state that the essential character of neighborhood commercial districts should be maintained by encouraging and protecting uses which provide necessary goods and services to the surrounding neighborhoods and which are compatible in scale or type with the district in which they are to be located. Often, a district's character is defined by certain established businesses which have been serving the neighborhood residents and businesses for an extensive period. Loss of such businesses could undermine that district's distinctive character.  
The use should contribute to the variety of uses in the district and avoid an undesirable concentration of one type of use in a certain location. In low-intensity districts, a balanced mix of various neighborhood-serving uses, with no concentration of a particular use, is desirable. In higher-intensity districts with a special orientation to one type of use (such as antique stores), clustering of such specialty uses may be appropriate. However, one type of use should not occupy an entire block frontage.
11. 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.
12. 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. 2007.1095C** 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. 17578. 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 April 10, 2008.

Linda Avery  
Commission Secretary

AYES: Antonini, S. Lee, W. Lee, Moore, Olague, Sugaya

NAYS: None

ABSENT: None

ADOPTED: April 10, 2008

# Exhibit A

## Conditions of Approval

### GENERAL CONDITIONS:

#### A. The Approved Project

- (1) This approval is to convert a vacant retail sales establishment (previously occupied by Smith & Hawken) for occupancy by another retail sales establishment (dba Ralph Lauren, an apparel and accessories store), within the Upper Fillmore Street Neighborhood Commercial Zoning District and a 40-X Height and Bulk District, in general conformity with Plans on file with the Department in the docket for **Case No. 2007.1095C** (labeled EXHIBIT B), reviewed and approved by the Commission on **April 10, 2008**.
- (2) 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.
- (3) This Conditional Use approval is to allow a formula retail use pursuant to Sections 303(c), 303(i) and 703.4 of the Planning Code.

#### B. Operation

- (1) The proposed hours of operation are 10 a.m. to 7 p.m., seven days a week. 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.
- (2) The Project shall be subject to the requirements of the First Source Hiring Program as they apply to permits for commercial activity (Section 83.4(d) of the Administrative Code), and the Project Sponsor shall comply with the requirements of this Program as to all on-going employment required for the Project, but shall not be required to comply as to construction activities. Prior to the issuance of any building permit to construct, the Project Sponsor shall have a First Source Hiring Employment Program approved by the First Source Hiring Administrator, and evidenced in writing, incorporating the provisions of this condition of approval only.
- (3) The Applicant shall maintain the entrance to the Project Site and all sidewalks abutting the subject property in a clean and attractive manner.

#### C. Design/Visual Quality



- (1) Street-facing windows shall not be blocked by displays or other obstacles (exceeding a height of approximately 3 feet) in order to allow for a visual connection between the sidewalk and the store's interior.
- (2) Highly reflective glass or mirror glass shall not be used on any area of the proposed Project.

**D. Signage**

- (1) All Project signage shall be consistent with the controls of Article 6 of the Planning Code. Project signage shall be reviewed and approved by the Planning Department.

**E. Construction Time**

- (1) To the extent possible, construction hours will be from 7:00 a.m. to 5:00 p.m., Monday through Friday.

**F. Freight Loading/Deliveries**

- (1) To the extent possible, freight loading/deliveries to the Project Site shall be made prior to 10:00 a.m. The project sponsor has indicated that arrangements would be made to limit stock replenishing deliveries to the proposed retail store before 7 a.m. to help reduce potential traffic impacts from freight loading/deliveries (made multiple times during the week) to the store during business hours.

**G. Lighting**

- (1) 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.

**H. Performance**

- (1) The Applicant shall obtain a building permit for this Project within three (3) years from the date of this Conditional Use authorization or the approval by the San Francisco Board of Supervisors, and construction shall thereafter be pursued diligently to completion or the said authorization/approval shall be deemed null and void.
- (2) This authorization may be extended at the discretion of the Zoning Administrator only where the failure to issue a building or site permit to construct the Project is delayed by a City agency or a state agency, or by legal challenges.
- (3) The Applicant shall appoint a community liaison officer to deal with issues of concern to neighbors related to the operation of this Project, and to meet with the neighbors on a regular basis until construction is completed. The name and telephone number of the community liaison shall be reported to the Zoning Administrator.
- (4) Should implementation of this Project result in complaints from neighborhood residents and/or businesses, which are not resolved by the Applicant and are subsequently reported to the Zoning Administrator and found to be in violation of the Planning Code and/or specific conditions of approval as set forth in this Exhibit A of this Motion, the Zoning Administrator shall report such complaints to the Planning Commission, which

may thereafter hold a public hearing on the matter in accordance with the hearing notification and conduct procedures set forth in Section 174, 306.3 and 306.4 of the Code to consider revocation of this Conditional Use Authorization.

- (5) Should the monitoring of Conditions of Approval contained in Exhibit A of this Motion be required, the Applicant or successors shall pay fees as established in Planning Code Section 351(e)(1).
- (6) Failure to comply with any of the Conditions of Approval shall constitute a violation of the Planning Code or any other provisions of the Planning Code may be subject to abatement procedures and fines of up to five-hundred dollars (\$500.00) a day in accordance with Planning Code Section 176.
- (7) Prior to the issuance of a Building or Site Permit, the Zoning Administrator shall approve and order the recordation of a notice in the Official Records with the Office of the Recorder of the City and County of San Francisco, which notice shall state that construction of the project has been authorized by and is subject to the conditions of this Motion. From time to time, after the recordation of such notice, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied.