



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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- Jobs Housing Linkage Program (Sec. 313)
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## Planning Commission Motion No. 17670

HEARING DATE: AUGUST 8, 2008

*Date:* August 8, 2008  
*Case No.:* **2008.0282C**  
*Project Address:* **331 CLEMENT STREET**  
*Zoning:* Inner Clement Street Neighborhood Commercial District (NCD)  
 40-X Height and Bulk District  
*Block/Lot:* 1436/043  
*Project Sponsor:* Victor Wu  
 331 Clement Street  
 San Francisco, CA 94118  
*Staff Contact:* Sharon M. Young – (415) 558-6346  
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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 LEGALIZE THE ESTABLISHMENT OF A “FORMULA RETAIL USE” AT 331 CLEMENT STREET (DBA SWEET DELIGHT CAFÉ, A RESTAURANT WHICH IS CURRENTLY OPERATING AS A FORMULA RETAIL USE SPECIFICALLY AS A ‘QUICKLY’ ASIAN FUSION STYLE CAFÉ FRANCHISE) ON ASSESSOR’S BLOCK 1436, LOT 043 WITHIN THE INNER CLEMENT STREET NEIGHBORHOOD COMMERCIAL DISTRICT (NCD) AND A 40-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On March 5, 2008, Victor Wu (hereinafter “Project Sponsor”) made an application for Conditional Use authorization on the property at **331 Clement Street, Lot 1436 in Assessor’s Block 043** (hereinafter “Property”), to establish a Formula Retail Use located on the ground floor of a two-story residential and commercial building within the Inner Clement Street Neighborhood Commercial Zoning District and a 40-X Height and Bulk District, in general conformity with plans dated June 22, 2008 and labeled “Exhibit B” (hereinafter “Project”).

The proposal is to legalize the establishment of an existing restaurant, dba Sweet Delight Café, which is currently operating as a formula retail use consistent with that of a ‘Quickly’ Asian fusion style café franchise selling a large variety of beverages, snacks, and desserts. The existing restaurant, with

approximately 1,150 square feet of floor area, is considered a Formula Retail Use under Section 703.3 of the Planning Code.

On **August 8, 2008**, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on **Conditional Use Application No. 2008.0282C**. 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 Inner Clement 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.

**MOVED**, that the Commission hereby authorizes the Conditional Use requested in Application No. 2008.0282C, 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 is on the south side of Clement Street between 4<sup>th</sup> and 5<sup>th</sup> Avenues, Assessor's Block 1436, Lot 043. It is located within the Inner Clement Neighborhood Commercial District (NCD) and a 40-X Height and Bulk District. The subject lot is 2,500 square feet (25 feet wide by 100 feet deep) in size and is occupied by a two-story residential and commercial building built in 1908. The existing building is not listed in the Planning Department's 1976 Architectural Survey or the National or California Registers as having architectural significance. However, the existing building is listed in the San Francisco Architectural Heritage Survey as having architectural significance and is included within the Inner Richmond Information Survey area.
3. **Surrounding Neighborhood.** The Project Site is located within the Inner Richmond Neighborhood. The surrounding development consists of a variety of commercial and mixed-use buildings mostly featuring residential uses above ground-floor commercial establishments within the Inner Clement NCD. The scale of development in the area consists primarily of two-story structures and a few three-story structures. The Inner Clement NCD is located on Clement Street between Arguello Boulevard and Funston Avenue in the eastern portion of the Richmond

District. Generally, the commercial establishments characterizing this portion of Clement Street include a mix of restaurants, specialty groceries, variety merchandise stores, and personal service establishments. There are approximately 21 commercial establishments located along this blockface and the opposite blockface. Some of these commercial establishments include Washington Mutual, Burma Superstar restaurant, a variety merchandise store, Cheung Hing Chinese Deli & Meats, Home Hardware, T&L Market, Java Source Coffee House, Troya restaurant, Tofu House restaurant, Trend 2000 hair salon, Blue Danube Coffee House, Yeung Wai Keung Herbalist Consulting Center, Mai's Vietnamese Restaurant, Chung Chuo City Inc. herbal shop, Genki Crepes & Mini Mart, Lee Hou restaurant, China First restaurant, King of Thai Noodle restaurant, Fune Ya restaurant, and Hong Kong Nova hair salon. The majority of the commercial establishments on the subject and opposite block face are independently owned rather than formula retail uses. There do not appear to be any other commercial establishments on the subject and opposite blockfaces that would qualify as formula retail uses as defined in the Planning Code. (Washington Mutual at 301 Clement Street is considered a financial service use rather than a retail use.) On 4<sup>th</sup> and 5<sup>th</sup> Avenues running east and west of the project site, a few apartment houses exist among predominantly one-to-three family residential buildings within an RM-1 (Residential, Mixed Districts, Low Density) Zoning District.

4. **Project Description.** Conditional Use authorization is required to allow a formula retail use in the Inner Clement Street NCD pursuant to Sections 703.4, 303(c), and 303(i) of the Planning Code. The proposal is to legalize the establishment of an existing restaurant, dba Sweet Delight Café, which is currently operating as a formula retail use, specifically as a 'Quickly' Asian fusion style café franchise selling a wide variety of beverages, snacks, and desserts. The 1,150 square foot restaurant consists of a kitchen, service area, storage room, restroom, and dining area with seating for 36 persons. Since this is a legalization, the proposal will not involve tenant improvements to the existing commercial space or an expansion to the existing building envelope. The hours of operation of the restaurant are 11 a.m. to midnight Sunday through Thursday and 11 a.m. to 2 a.m. Friday and Saturday. The restaurant currently employs approximately 15 people, with 2-3 employees at a time working in the restaurant during normal business hours.

'Quickly' is a large tapioca milk tea restaurant franchise founded by Nancy Yang in Taiwan in 1996 and was first franchised in 1998. There are currently 56 Quickly restaurants in the United States; of which, there are 52 restaurants in California, two restaurants in New York, one restaurant in Hawaii, and one restaurant in Georgia. Within the San Francisco Bay Area region, there are 13 Quickly restaurants in San Francisco and 25 Quickly restaurants in the cities of Alameda, Berkeley, Burlingame, Castro Valley, Cupertino, Daly City, Dublin, Foster City, Fremont, Gilroy, Hayward, Millbrae, Milpitas, Oakland, Pleasant Hill, Sacramento, San Bruno, San Jose, San Mateo, Santa Clara, South San Francisco, and Sunnyvale. There are also a number of Quickly restaurants outside the United States in the countries of Africa, Asia, Europe, and other parts of North America.

5. **Issues and Other Considerations.**

- The proposed project will allow for the continuation of an existing self-service restaurant use on the Project Site. The commercial tenant space was previously occupied by a retail bakery, dba Sweet Delight Bakery, which had been in operation at the Project Site since 1977.
- On July 12, 2007, the Planning Department's Enforcement Planner sent a Notice of Violation (NOV) notifying the property owner that the operation of the restaurant dba as Sweet Delight Café was consistent with that of a 'Quickly' formula retail use and would require Conditional Use authorization from the Planning Commission. On May 10, 2007, the Planning Department had issued approval for a health permit referral for the continuation of the operation of the self-service restaurant dba Sweet Delight Café with a change in ownership. (There was no information on the health permit referral which made reference that the restaurant was associated with the 'Quickly' corporation.) Based on a site visit by the Planning Department's Enforcement Planner on June 27, 2007, it was determined that the current operation of the restaurant was consistent with that of a 'Quickly' franchise. The project sponsor had filed an appeal of the NOV with the Board of Appeals but later withdrew his request in order to file a Conditional Use application for the proposed project.
- There are approximately 200 retail, service, and restaurant businesses within the Inner Clement NCD. The majority of these commercial establishments are independently owned rather than formula retail uses. Of these businesses, the project sponsor has indicated that after completing a site survey of the surrounding neighborhood (which includes the Inner Clement Street NCD, parts of the 4000 block of Geary Boulevard, and 300 block of 7<sup>th</sup> Avenue) there are approximately 21 businesses that appear to qualify as formula retail uses. These businesses include Wireless Land T-Mobile (210 Clement Street), Green Apple Book & Music (520 Clement Street), Wireless Image Verizon (544 Clement Street), AAA (599 Clement Street), JVD Global Western Union (658 Clement Street), Cable Car Western Union (841 Clement Street), Radio Shack (701 Clement Street), Eva's Hawaiian Café L&L Hawaiian BBQ (731 Clement Street), Walgreens (745 Clement Street), See's Candies (754 Clement Street), 7-Eleven (900 Clement Street), All Star Donut (901 Clement Street), Impact Communication AT&T (918 Clement Street), ACE Hardware (1019 Clement Street), Office Max (3700 Geary Boulevard), Burger King (3900 Geary Boulevard), KFC (4150 Geary Boulevard), Jack In The Box (4649 Geary Boulevard), Sleep Train Mattress Center (4801 Geary Boulevard), and Smart & Final (350 - 7<sup>th</sup> Avenue). On the subject and opposite blocks, there do not appear to be any other existing commercial establishments that would be considered formula retail uses.
- According to the project sponsor and confirmed by staff, there are approximately 16 vacant commercial retail spaces within the Inner Clement NCD and within the surrounding neighborhood on the 3900 - 4800 block of Geary Boulevard. These vacant commercial spaces are located at 115 Clement Street, 212 Clement Street, 219 Clement Street, 244 Clement Street, 248 Clement Street, 391 Clement Street, 509 Clement Street, 511 Clement Street, 554 Clement Street, 626 Clement Street, 1033 Clement Street, 3900

- The project sponsor has indicated that the existing restaurant use features healthy drinks, snacks, rice box, and dessert (i.e. nonfat frozen yogurt) which enrich the community's health awareness; furthermore, Quickly is the first tapioca chain restaurant in the country that uses soy creamer instead of half & half milk or canned evaporated milk in making smoothies and coffees, and uses fewer preservatives in their tapioca balls. In addition, the project sponsor has indicated that the restaurant offers a safe and friendly environment for teenagers to spend time in, offers products for consumption at affordable prices, and has positively served the community by providing a 10% discount to patrons toward any drink purchase for the purpose of any school-related fundraising events.
  - Public transit that is in close proximity to the restaurant includes Muni Line 2-Clement Street (on the corner of 6<sup>th</sup> Avenue and Clement Street) within walking distance of the project site. There is on-street parking in front of the subject property and in the surrounding neighborhood.
6. **Public Comment.** As of July 30, 2008, the Planning Department has received one phone call requesting additional information on the project. The Planning Department has received a petition from the project sponsor with 86 signatures (comprised of local store/restaurant owners within the immediate area and patrons who live within and outside the City) in support of the proposed project indicating that the Sweet Delight product and look are consistent with the character of the Inner Clement Street NCD and the restaurant's presence benefits the neighborhood as a whole. At the August 8 Planning Commission hearing, the project sponsor submitted a petition with additional signatures from approximately 50 store owners within the Inner Clement Street NCD, 500 individuals, and a representative from the Clement Street Merchants Association in support of the proposed project.
7. **Use District.** For the purposes of this action, the project site is within the Inner Clement Street Neighborhood Commercial District (NCD). The Inner Clement Street NCD is located on Clement Street between Arguello Boulevard and Funston Avenue in the eastern portion of the Richmond District. The district provides a wide selection of convenience goods and services for the residents of the Inner Richmond neighborhood. Inner Clement Street has one of the greatest concentrations of restaurants of any commercial district in San Francisco, drawing customers from throughout the City and region. There are also a significant number of professional, realty, and business offices as well as financial institutions. The pleasant pedestrian character of the district is derived from the intensely active retail frontage on Clement Street.
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 continue to preserve and enhance the existing neighborhood-serving retail uses by occupying a commercial tenant space on the Project Site to serve the needs of residents through the sale of beverages, snacks, and desserts. The proposed Project currently provides job opportunities to the City by employing 15 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 the retention of an existing business in the area. Existing housing will not be affected by the Project.*

- (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 restaurant is proposed to replace the former restaurant 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 significantly 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 allow for the retention and continuation of an existing self-service restaurant use on the Project Site. (The majority of the existing restaurants on the subject and opposite blocks are full-service restaurants.) The proposed Project is necessary and desirable because it occupies what would likely be an otherwise vacant commercial space on the subject block. According to the project sponsor's survey of the Inner Clement NCD, which occupies a 12-block area along Clement Street, there are currently 11 vacant commercial spaces located within the 100 - 600 block of Clement Street.*

- (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;

*Existing traffic patterns will not be significantly affected by the proposed Project. Public transit that is in close proximity to the restaurant includes Muni Line 2-Clement within walking distance of the Project Site. 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. The project sponsor has indicated that their employees are to turn down in-store music after 10 p.m. to lower noise levels for surrounding neighbors.*

- (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 a majority of the 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 Inner Clement NCD in that the intended use is a neighborhood-serving business and a business which would serve a wider trade area.*

- 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;

*There are approximately 200 retail, service, and restaurant businesses within the Inner Clement NCD. Of these businesses, the project sponsor has indicated that after completing a site survey of the surrounding neighborhood (which includes the Inner Clement Street NCD, parts of the 4000 block of Geary Boulevard, and 300 block of 7<sup>th</sup> Avenue) there are approximately 21 businesses that may appear to qualify as formula retail uses. Planning Department staff has reviewed the project sponsor's survey of commercial establishments and determined that approximately 13 businesses appear to qualify as formula retail uses within the Inner Clement Street NCD. These businesses are interspersed with independently owned businesses throughout this portion of the Inner Clement Street NCD.*

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



*In July 2007, the Planning Department conducted a preliminary survey of the mix of existing full-service restaurants, self-service restaurants/cafés/coffee houses, bars/pubs, and vacant commercial spaces within the Inner Clement Street NCD. Based on this survey, there were 37 full-service restaurants, 52 self-service restaurants/cafés/coffee houses, and 7 bars/pubs located within the Inner Clement Street NCD. The other nearest existing Quickly restaurant (2201 Clement Street) is located within the Outer Clement NCD at the corner of Clement Street and 23<sup>rd</sup> Avenue. [The existing Quickly restaurant located in the Outer Clement NCD was established prior to the provisions requiring Conditional Use authorization for any formula retail use in any of the City's Neighborhood Commercial Districts. There are also two other existing Quickly restaurants located within the Outer Richmond and Outer Sunset Neighborhoods which require Conditional Use authorization for their legalization by the Planning Commission.] The project sponsor has indicated that the existing restaurant will compliment the mix of goods and services currently available within the Inner Clement NCD and will contribute to the economic vitality of the neighborhood.*

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

*The proposed Project will not involve modifying the building's existing architectural and aesthetic character. There will be no expansion to the existing building envelope.*

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

*Based on the Planning Department's July 2007 survey, there were 17 vacant commercial retail spaces within the Inner Clement NCD. According to the project sponsor, there are currently 16 vacant commercial retail spaces within the Inner Clement NCD and within the surrounding neighborhood on the 3900 - 4800 block of Geary Boulevard. These vacant commercial spaces are located at 115 Clement Street, 212 Clement Street, 219 Clement Street, 244 Clement Street, 248 Clement Street, 391 Clement Street, 509 Clement Street, 511 Clement Street, 554 Clement Street, 626 Clement Street, 1033 Clement Street, 3900 Geary Boulevard, 4328 Geary Boulevard, 4442 Geary Boulevard, 4717 Geary Boulevard, and 4720 Geary Boulevard.*

- (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). Generally, the commercial establishments characterizing this portion of Clement Street include a mixture of restaurants, grocery markets, specialty/variety merchandise shops, coffee houses, and personal service establishments (i.e. hair salons).*

- D. **Section 716.1** sets forth provisions applicable in the Inner Clement Street Neighborhood Commercial Zoning District. The Inner Clement NCD controls are designed to promote development that is consistent with its existing land use patterns and to maintain a harmony

- E. **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 legalize the establishment of an existing restaurant, dba Sweet Delight Café, which is currently operating as a formula retail use consistent with that of a ‘Quickly’ Asian fusion style café franchise in San Francisco.
  - F. **Section 716.27** 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 restaurant’s proposed hours of operation are 11 a.m. to 12 p.m. Sunday through Thursday and 11 a.m. to 2 a.m. Friday and Saturday.
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 allows for the retention and continuation of an existing self-service restaurant use on the Project Site which would be compatible with the type of uses characterizing this portion of the Inner Clement Street NCD, which include a mixture of restaurants, special groceries, variety merchandise stores, and personal service establishments. The proposed Project currently provides job opportunities to the City by employing 15 employees.*

**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 Inner Clement 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 continue to provide retail goods and services (i.e. selling beverages, snacks, and desserts) and is accessible to all residents in this portion of the Inner Clement Street NCD.*

**Policy 9:**

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

*The proposed 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 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 preserves 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 has improved 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 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. 2008.0282C** 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. 17670. 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 **August 8, 2008**.

Linda Avery  
Commission Secretary

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

NAYS: None

ABSENT: None

ADOPTED: August 8, 2008

# Exhibit A

## Conditions of Approval

### GENERAL CONDITIONS:

#### A. The Approved Project

- (1) This approval is to legalize the establishment of an existing restaurant, dba Sweet Delight Café, which is currently operating as a formula retail use consistent with that of a 'Quickly' Asian fusion style café franchise selling a large variety of beverages, snacks, and desserts within the Inner Clement 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. 2008.0282C** (labeled EXHIBIT B), reviewed and approved by the Commission on **August 8, 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 11 a.m. to 12 p.m. Sunday through Thursday and 11 a.m. to 2 a.m. Friday and Saturday. Section 716.27 of the Planning Code allows the restaurant 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 Sponsor shall obtain all necessary permits for all aspects of operation from the Department of Public Health and the Department of Building Inspection.
- (3) Noise and odors shall be contained within the premises so as not to be a nuisance to nearby residents and businesses.
- (4) The operator of the establishment shall maintain the entrances and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at minimum, daily sweeping, litter pickup and disposal, and washing or steam/pressure cleaning of the main entrance and abutting sidewalks at least once every two weeks.

- (5) All garbage containers shall be stored within the building or designate storage areas except during collection periods.
- (6) The Project Sponsor shall provide adequate waiting areas inside the restaurant so that there is no loitering of patrons (and the associated noise) on the sidewalk while waiting for tables.

**C. 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. The use of banners for advertising shall not be hung underneath sign awnings.

**D. 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.

**E. 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.