



# SAN FRANCISCO PLANNING DEPARTMENT

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Subject to: (Select only if applicable)

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| <input type="checkbox"/> Affordable Housing (Sec. 415)           | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412)            | <input type="checkbox"/> Other                             |

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## Planning Commission Motion No. 18780

HEARING DATE: JANUARY 10, 2013

*Date:* January 3, 2013  
*Case No.:* **2012.1031 C**  
*Project Address:* **1515 SLOAT BOULEVARD**  
*Zoning:* NC-S (Neighborhood Commercial, Shopping Center)  
Lakeshore Plaza Special Use District  
26-40-X Height and Bulk District  
*Block/Lot:* 7255/002  
*Project Sponsor:* Jordan Lisowski  
Sushi Avenue Inc.  
895 Blue Gentian Road  
Eagan, MN 55121  
*Staff Contact:* Rick Crawford – (415) 558-6358  
[rick.crawford@sfgov.org](mailto:rick.crawford@sfgov.org)

**ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303 AND 703.4 OF THE PLANNING CODE TO ALLOW THE LEGALIZATION OF A FORMULA RETAIL LIMITED RESTAURANT, (D.B.A. SUSHI AVENUE) INSIDE THE EXISTING LUCKYS GROCERY STORE, NEIGHBORHOOD COMMERCIAL – SHOPPING CENTER DISTRICT (NC-S), THE LAKESHORE PLAZA SPECIAL USE DISTRICT AND A 26-40-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On August 8, 2012 Jordan Lisowski (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Sections 303(i), and 703.4, to allow the legalization of a formula retail limited restaurant, (d.b.a. Sushi Avenue) inside the existing Luckys grocery store, Neighborhood Commercial – Shopping Center District (NC-S), the Lakeshore Plaza Special Use District and a 26-40-X Height and Bulk District.

On January 10, 2013, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2012.1031C.

The project is categorically exempt as a Class 1 exemption under CEQA Guidelines.

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. 2012.1031C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

## **FINDINGS**

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The Project Site is located at 1515 Sloat Boulevard within the Lakeshore Plaza Shopping Center, on the south side of Sloat Boulevard, between Everglade Drive and Clearfield Drive in a NC-S (Neighborhood Commercial, Shopping Center) District, the Lakeshore Plaza Special Use District (SUD) and a 26-40 Height and Bulk District.

Lakeshore Plaza is a nine acre property bounded by Sloat Boulevard, Ocean Avenue, Clearfield Drive and Everglade Drive that is occupied by an approximately 220,000 square foot, auto oriented, two-story commercial shopping center comprised of three buildings surrounding a large surface parking lot. The shopping center provides a variety of goods and services to the Lakeshore Acres, Crestlake, and Merced manor neighborhoods. The shopping center is anchored by a Luckys supermarket and includes many other national retailers. The project would occupy space within the Luckys supermarket previously occupied by a Starbucks coffee shop.

3. **Surrounding Properties and Neighborhood.** The neighborhood surrounding the shopping center is characterized primarily by mid-20<sup>th</sup> century, detached, two-story, single-family dwellings with larger front setbacks. The streets are wide to facilitate vehicular movement and are aligned in a grid. The surrounding properties are located within the RH-1 (Residential House, One-Family) and RH-1(D) (Residential House, One-Family, Detached) Districts.
4. **Project Description.** The applicant proposes to legalize an existing formula retail limited restaurant (d.b.a. Sushi Avenue) within the existing Luckys grocery store in the Lakeshore Plaza Shopping Center. The facility is a 120 square feet in area, is located near the northerly entry door of the grocery store and replaces another formula retail limited restaurant (d.b.a. Starbucks).
5. **Public Comment.** The Department has not received any comments from the public regarding this project to date.

6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

A. **Formula Retail.** Planning Code Section 703.3 states that a Conditional Use Authorization is required for Formula Retail Uses within this District. The proposed use, Sushi Avenue is a national chain establishment with more than eleven stores. Section 303(i) requires that, with respect to an application for Conditional Use authorization for formula retail use, the Planning Commission shall consider the following criteria:

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

*The proposed formula retail limited restaurant replaces another formula retail limited restaurant (d.b.a. Starbucks) and would not increase the existing amount of formula retail uses in the District.*

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

*Lakeshore Plaza currently has eight food service businesses including one Restaurant and seven Limited Restaurants. The proposed formula retail limited restaurant replaces another formula retail limited restaurant (d.b.a. Starbucks) and would not alter the number of other uses in the District.*

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

*The project is located entirely within the existing Luckys supermarket and would not be visible from outside that store. The project would not alter the existing architectural and aesthetic character of the District.*

iv. The existing retail vacancy rates within the Neighborhood Commercial District.

*The proposed formula retail limited restaurant replaces another formula retail limited restaurant (d.b.a. Starbucks) and would not affect the number vacant storefronts in the District.*

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

*The proposed formula retail limited restaurant replaces another formula retail limited restaurant (d.b.a. Starbucks) and would not alter the mix of Citywide-serving retail uses and neighborhood-serving retail uses within the District.*

- B. **Limited Restaurant.** Planning Code Section 710.27 states that a Conditional Use Authorization is required for maintaining hours of operation from 11p.m. to 2 a.m, as defined by Planning Code Section 790.48.

*The proposed limited restaurant replaces another limited restaurant of similar size and thus is not required to seek additional Conditional Use authorization for the project. The Luckys supermarket includes a deli counter and a take-out Chinese restaurant in addition to the project. The sum of the floor areas of all the take-out food uses is greater than 10% of the supermarket's floor area so the project cannot be considered an accessory use to the Luckys supermarket.*

- C. **NC-S (Neighborhood Commercial Shopping Center District).** Section 713 of the Planning Code describes the purpose of the NC-S Districts as areas intended to serve as small shopping centers or supermarket sites, which provide retail goods and services for primarily car-oriented shoppers. They commonly contain at least one anchor store or supermarket, and some districts include small medical office buildings. The range of services offered at their retail outlets usually is intended to serve the immediate and nearby neighborhoods. These districts encompass some of the most recent (post-1945) retail development in San Francisco's neighborhoods and serve as an alternative to the linear shopping street.

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

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

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

- D. **Signage.** Currently, the Project Sponsor is not proposing any signage on the exterior of the Luckys supermarket. Any proposed signage would be subject to the review and approval of the Planning Department.
7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:
- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

*The project is necessary and desirable because it maintains the existing balance of commercial uses in the shopping center. The proposed formula retail limited restaurant replaces a similar use.*

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

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

*The size, shape, and arrangement of structures on the property would not be altered as part of this project. The project is located inside an existing business*

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

*The project would not adversely affect public transit or overburden the existing supply of parking in the neighborhood. The project is not intended, as a destination restaurant but rather, would serve the existing Luckys customers. The existing parking at the subject property, an auto-oriented shopping center, is adequate for the project.*

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

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

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

*The project would not alter the landscaping, open spaces, parking, loading, lighting, or signs in the existing shopping center.*

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

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

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

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

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

## **COMMERCE AND INDUSTRY ELEMENT**

### **Objectives and Policies**

#### **OBJECTIVE 1:**

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

##### **Policy 1.1**

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

##### **Policy 1.2**

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

##### **Policy 1.3**

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

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

#### **OBJECTIVE 3:**

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

##### **Policy 3.1:**

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

*The project would replace and existing limited restaurant use and provide resident employment opportunity for to those in the community.*

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

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

*The proposal would replace a formula-retail limited restaurant with another formula-retail limited restaurant and thus would not alter the balance of food uses or formula-retail uses in the District.*

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

*The project is a 120 square foot sushi stand within an existing supermarket and would have no effect on the character or diversity of the neighborhood.*

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

*No housing is removed for this project.*

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

*The project would not adversely affect transit service or overburden neighborhood parking as the use is inside the existing supermarket, the site is well served by transit on Sloat Boulevard and, the site is well served by existing off-street parking.*

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

*The project would not include an office use and would not displace any service or industry establishment.*

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

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

- G. That landmarks and historic buildings be preserved.

*A landmark or historic building does not occupy the Project Site.*

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

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

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

**DECISION**

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2012.1031C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated August 8, 2012, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

**APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 18780. 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 January 10, 2013.

Jonas P. Ionin  
Acting Commission Secretary

AYES: Commissioners Antonini, Fong, Hillis, Moore, and Sugaya

NAYS: none

ABSENT: Commissioners Bordon and Wu

ADOPTED: January 10, 2013

## **EXHIBIT A**

### **AUTHORIZATION**

This authorization is for a conditional use to allow a Formula Retail Limited Restaurant (d.b.a. Sushi Avenue) located at 1515 Sloat Boulevard, Block 7255, Lot 002 pursuant to Planning Code Sections 303 and 703.4 within the NC-S District, Lakeshore Plaza Special Use District and a 26-40-X Height and Bulk District; in general conformance with plans, dated August 8, 2012, and stamped "EXHIBIT B" included in the docket for Case No. 2012.1031C and subject to conditions of approval reviewed and approved by the Commission on January 10, 2013 under Motion No. 18780. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

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

Prior to the issuance of the building permit or commencement of use for the project, the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on January 10, 2013 under Motion No. 18780.

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

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18780 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building Permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

### **SEVERABILITY**

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

### **CHANGES AND MODIFICATIONS**

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

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

### **PERFORMANCE**

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as

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

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

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

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

## **MONITORING - AFTER ENTITLEMENT**

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

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