



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Motion No. 18816

HEARING DATE: FEBRUARY 28, 2013  
CONTINUED FROM FEBRUARY 14, 2013

*Date:* February 28, 2013  
*Case No.:* **2012.1353C**  
*Project Address:* **975 BRYANT STREET**  
*Zoning:* UMU (Urban Mixed Use)  
48-X Height and Bulk District  
*Block/Lot:* 3780/044  
*Project Sponsor:* Anthony Cataldo  
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*Staff Contact:* Julian J. Bañales – (415) 558-6339  
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**ADOPTING FINDINGS RELATING TO THE DISAPPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303 AND 843.46 OF THE PLANNING CODE TO ESTABLISH A FORMULA RETAIL USE (D.B.A. ORCHARD SUPPLY HARDWARE) WITHIN THE UMU (URBAN MIXED USE) DISTRICT AND A 48-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On October 25, 2012 Anthony Cataldo (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Section(s) 303 and 843.46 to establish a formula retail use (d.b.a. Orchard Supply Hardware) within the UMU (Urban Mixed Use) District and a 48-X Height and Bulk District.

On February 14, 2013, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2012.1353C. At this hearing the Commission voted an "intent to disapprove" the proposal.

On February 20, the Commission conducted a second duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2012.1353C.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

**MOVED**, that the Commission hereby **DISAPPROVES** the Conditional Use Authorization requested in Application No. 2012.1353C, 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 is located on the south side of Bryant Street, at the intersection of Bryant and Kate Streets, east of Interstate 80. The property is located within the UMU (Urban Mixed Use) District and the 48-X height and bulk district. The lot is 275 feet deep and provides 190 feet of frontage along Bryant Street. The east half of the lot is used as on-street parking. The approximately 33,000 square foot building is occupied by another Formula Retail use (d.b.a. Pacific Sales).
3. **Surrounding Properties and Neighborhood.** The project site is located within the South of Market Area neighborhood and the Showplace Square Plan Area. To the west of the site are Interstate 80, an automotive use and multifamily dwellings. To the north of the site are lots used for automobile impound and SFMTA parking enforcement vehicles when not on duty. To the east of the site is a light manufacturing use (printing press) and the Hall of Justice. To the south of the project is a multi-story building recently converted for office uses. Light industrial uses, public uses and residential uses surround the project site. The surrounding properties are located within the P (Public Use) and UMU (Urban Mixed Use) Zoning Districts
4. **Project Description.** The project proposes to establish a Formula Retail use (d.b.a. Orchard Supply Hardware) in a 33,000 square foot building that is currently occupied by another formula retail use (d.b.a. Pacific Sales) that sells domestic appliances. Orchard Supply Hardware primarily serves retail do-it-yourself and commercial customers and the core products consist of merchandise needed for recurring home maintenance and improvement in categories such as hardware, paint, tools and garden. As part of the project, a plant nursery would be added to the roof. Other changes include a change in signage, a change in paint, added landscape in the off-street parking area, a new Bryant Street entrance and a change of windows along Bryant Street to increase transparency.
5. **Public Comment.** The Department has received public comment regarding the Bryant Street façade as well as questions regarding the location of freight loading. In addition, concerns were raised regarding the need for the use in light of other businesses selling like goods in the area, and the subsequent potential negative impact upon those businesses.

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 843.46 requires Conditional Use authorization to establish a Formula Retail use within the UMU Zoning District. Section 846.46 also limits the gross square footage of the Formula Retail use to no more than 25,000 square feet per lot.

*The Project Sponsor proposes to establish a Formula Retail use (d.b.a. Orchard Supply Hardware) within an existing building of approximately 33,000 square feet that houses another Formula Retail use (d.b.a. Pacific Sales) and is seeking Conditional Use authorization. The Project Sponsor is not increasing the existing non-conforming condition.*

- B. **Screening and Greening of Parking Areas.** Planning Code Section 142 requires a screening feature around the perimeter of the lot adjacent to the public right-of-way when excavation and reconstruction of an existing vehicular use involves the removal of 200 square feet or more of the asphalt, concrete or other surface devoted to vehicular use.

*The Project Sponsor would alter the vehicle use area to improve its use by pedestrians and would add landscape within the vehicle use area. These changes would result in excavation and/or reconstruction of the vehicle use area in excess of 200 square feet. The Project Sponsor is including an ornamental fence along the Bryant Street façade in conformity with Planning Code Section 142.*

- C. **Off-Street Parking.** Planning Section 151.1 establishes a maximum of up to one off-street parking space for each 500 square feet of gross floor area up to 20,000 square feet, plus one for each 250 square feet of gross floor area in excess of 20,000.

*The Subject Property contains approximately 50 off-street parking spaces. As part of the scope of work, the Project Sponsor would be reducing the number of off-street parking spaces to 46, in conformance with the established off-street parking maximum of 76 for the subject property.*

- D. **Off-Street Freight Loading.** Planning Code Section 152.1 requires a minimum of one off-street freight loading space for the proposed project.

*The proposal provides one off-street freight loading space, in conformance with Planning Code Section 152.1. Furthermore, this loading space previously existed for the former use.*

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does not comply with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

*The proposed use, a retail hardware and garden store, is not necessary because there are a number of similar establishments in the vicinity of the subject property. Nor is the proposed use desirable as it would introduce a formula retail use in a neighborhood characterized by independently-owned businesses. Public comment also indicated that the proposed use is neither necessary nor desirable as other retail stores sell hardware and/or garden goods, and for the potential for a negative effect on existing businesses and community character.*

- 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 height and bulk of the existing building will remain the same and there will be no change in the size, shape or arrangement of the lone structure. There will be no changes to the size or shape of the site.*

- 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 is proposing to remain within the established off-street parking maximums and is reducing the number of off-street parking spaces. Although the proposed project will sell goods of a similar nature as the existing formula retail use, public comment expressed concern about potential adverse effects upon the traffic patterns and particularly, on Kate Alley due to its narrow width.*

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

*Given the nature of the retail goods being sold, it is not anticipated that there will be noxious or offensive emissions such as odors, noise or glare. Nevertheless, the proposed project would comply with all mandated mechanical systems requirements, thereby preventing offensive odors.*

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

*The proposed project will add landscaping to the vehicle use area and will comply with Planning Code Section 142, Screening and Greening of Vehicle Use Areas.*

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

*This portion of Bryant Street provides convenience goods and services to the residents of the SoMa and Mission neighborhoods as well as retail goods to the city population. There is a diversity of retail and light industrial uses in the immediate area. The proposed project, the addition of a formula retail home and garden store, would prove detrimental to the diversified commercial environment that is encouraged for this portion of Bryant Street.*

8. **Planning Code Section 303(i)** establishes additional criteria for the Planning Commission to consider when reviewing a Conditional Use authorization application for a formula retail use. The additional criteria are as follows:

- A. The existing concentrations of formula retail uses within the district.

*A walking survey conducted on January 16, 2013 found that within the contiguous UMU Zoning District there are approximately ten formula retail uses including Glidden Paint, Mercedes Benz, REI, Poggenpohl Kitchens, Union Bank, Bang and Olufsen, California Closets, Starbucks, Porcelanosa and Roche Bobois. While the introduction of a new formula retail use would not result in an overconcentration of such uses, it would alter the character of this portion of Bryant Street by introducing a business that is not independently-owned.*

- B. The availability of other similar retail uses within the district.

*The January 16, 2013 walking survey found six other establishments selling similar goods as those of the proposed project. The similar retail establishments include Glidden Paint, MacMurphy Pacific Wholesale Hardware, Poggenpohl Kitchens, California Closets, Porcelanosa and Roche Bobois. Several of these businesses already sell home and/or garden goods, so it appears that the neighborhood is already well-served by similar retail uses and like merchandise.*

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

*The proposed project will not dramatically alter the existing building. The area immediately surrounding the proposed project is very much light industrial/commercial in character and as such the proposed project is compatible with the existing aesthetic.*

- D. The existing retail vacancy rates within the district.

*The January 16, 2013 walking survey found approximately seven vacant sites within the contiguous UMU Zoning District. The vacant sites include storefronts and one building.*

- E. The existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the district.

*The proposed project could detrimentally alter the existing mix of Citywide-serving retail uses and neighborhood-serving retail uses as the proposed project is a business which sells home improvement goods in an area where it has been demonstrated that such businesses already exist.*

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

## **COMMERCE AND INDUSTRY**

### **Objectives and Policies**

#### **OBJECTIVE 1:**

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

#### **Policy 1.1:**

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

#### **Policy 1.3:**

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

*The proposed formula retail hardware and garden store would negatively affect the diversity of this portion of Bryant Street by adding another formula retail use, which would erode the existing character of the area.*

## **SHOWPLACE SQUARE / POTRERO AREA PLAN**

### **Objectives and Policies**

#### **OBJECTIVE 1.7:**

RETAIN THE ROLE OF SHOWPLACE SQUARE AS AN IMPORTANT LOCATION FOR PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ACTIVITIES, FOCUSING IN PARTICULAR ON DESIGN RELATED ACTIVITIES

#### **Policy 1.7.3:**

Require development of flexible buildings with generous floor-to-ceiling heights, large floor plates, and other features that will allow the structure to support various businesses.

*The proposed formula retail hardware and garden store would not retain or attract PDR activities, as it is a retail establishment.*

10. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does 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 proposed project will adversely impact the existing neighborhood-serving retail uses and will not enhance the existing retail opportunities in the surroundings, as many independently owned businesses of a similar nature and located in the vicinity.*

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

*The proposal to install a formula retail use will change the neighborhood character and economic diversity of this portion of Bryant Street.*

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

*No housing is removed or affected as part of the proposed project.*

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

*The proposed project would not impede MUNI transit service. However, due to the nature of the business, retail capacity and anticipated customer base, a further burden could be placed on streets or neighborhood parking.*

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

*The project will affect industrial and/or service sector uses and related employment opportunities, as the business qualifies as a formula retail use, thus preventing the establishment of locally-owned businesses.*

- F. 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 building codes to ensure the greatest possible preparedness in the event of 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 will have no negative impact on existing parks and open spaces. The Project does not have an impact on open spaces.*

11. The Project is not consistent with and would not promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would not contribute to the character and stability of the neighborhood and would not constitute a beneficial development.
12. The Commission hereby finds that approval of the Conditional Use authorization would not promote the health, safety and welfare of the City.

**DECISION**

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **DISAPPROVES Conditional Use Application No. 2012.1353C.**

**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. 18816. 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 February 28, 2013.

Jonas P. Ionin  
Acting Commission Secretary

AYES: Commissioners Moore, Borden, Hillis, and Wu

NAYES: Fong, Antonini

ABSENT: Sugava

ADOPTED: February 28, 2013