



SAN FRANCISCO PLANNING DEPARTMENT

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Planning Commission Motion No. 18923

HEARING DATE: JULY 11, 2013

Date: July 11, 2013
Case No.: **2013.0266C**
Project Address: **2224 UNION STREET**
Zoning: Union Street NCD (Neighborhood Commercial)
40-X Height and Bulk District
Block/Lot: 0534/011
Project Sponsor: Janet Crane, Freebairn-Smith & Crane
442 Post Street
San Francisco, CA 94102
Staff Contact: Sharon Lai – (415) 575-9087
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 703.3, 703.4 OF THE PLANNING CODE TO ALLOW THE ESTABLISHMENT OF A FORMULA RETAIL USE (D.B.A. SUR LA TABLE) WITHIN THE UNION STREET NCD (NEIGHBORHOOD COMMERCIAL DISTRICT) AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On March 12, 2013, Janet Crane (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Sections 303, 703.3 and 703.4 to allow a new Formula Retail establishment (d.b.a. Sur La Table) within the Union Street NCD (Neighborhood Commercial District) and a 40-X Height and Bulk District.

On July 11, 2013, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0266C.

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 authorizes the Conditional Use requested in Application No. 2013.0266C, 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 is located on the north side of Union Street, between Fillmore Street to the east and Steiner Street to the west, Block 0534, Lot 011. The property is located within the Union Street NCD (Neighborhood Commercial District) with 40-X height and bulk district. The property is developed with a three-story mixed-use building, containing one ground floor commercial space and 28 dwelling units at the second and third stories. The existing ground floor is currently occupied by an antique retail store (d.b.a. Past Perfect), that is operated by a collective of vendors and that has occupied the storefront for over ten years. Past Perfect has another location at 2246 Lombard Street, approximately 0.5 miles away. The subject property is a wide midblock lot, with approximately 70 feet of frontage on Union Street. The existing building was constructed circa 1904 and was included in the Planning Department's 1976 Architectural Survey as a potential historic resource.
3. **Surrounding Properties and Neighborhood.** The project site is located on the north side of Union Street, between Fillmore and Steiner Streets, within the Marina neighborhood. To the north is Lombard Street - US Highway 101 and to the east is Van Ness Avenue - US Highway 101. The Project site is located in the Union Street NCD, which has a vibrant variety of neighborhood-serving uses. Uses within the district include eating and drinking establishments and specialty shops. There are also a significant number of professional, realty, and business offices. Many restaurants and bars are open into the evening hours.

The subject block include uses such as a flower shop, Pilates instruction service, clothing retailers, pet supply shop, dental office, furniture stores, beauty salons, and a restaurant. The surrounding properties abutting the Union Street NCD are located within the RH-2 (Residential House, two-Family), RH-3 (Residential House, Three-Family), and RM-1 (Mixed, Low-Density) Districts.

4. **Project Description.** The proposal is to replace the existing retail store with a new formula retail establishment (d.b.a. Sur La Table) including an accessory cooking class area, which is categorized as a personal service use. Sur La Table is a Seattle-based company, founded in 1972, that specializes in cookware that "was inspired by classic French cookware and technique" and

“offer(s) high-quality products and services.” Sur La Table currently has 101 retail stores nationwide.

The proposed formula retail establishment will occupy approximately 7,000 square feet, of which approximately 760 square feet will be dedicated to the accessory cooking class use. The proposal includes minor tenant improvements to the exterior and interior but the existing commercial space would not be enlarged. There is no existing or proposed onsite parking, however, new bicycle parking will be provided for employees.

The proposed operation will consist of 30 part-time and full-time employees, including professional chefs, and will operate Monday to Saturday from 10 a.m. to 9 p.m. and Sunday from 11 a.m. to 7 p.m. There are two existing Sur La Table locations within San Francisco; one is located at the Westfield Shopping Center in Union Square, approximately 1.8 miles away, and the second is located at the Ferry Building in Pier 1, approximately 2.3 miles away.

5. **Public Comment.** The Department has received one phone call from an existing cooperative vendor from Past Perfect with concerns regarding displacement, one letter in opposition with concerns regarding new competition for a nearby hardware store, and 73 letters and cards in support submitted by the Sponsor.

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. **Use Size.** Planning Code Sections 121.2 and 725.21, requires Conditional Use (CU) authorization for non-residential use exceeding 2,500 square feet; as defined by Planning Code Section 790.130 in the Union Street NCD.

The existing 7,000 square foot retail space already exceeds the use size limit, and is considered an existing legal nonconforming condition for which no CU is required.

B. **Hours of Operation.** Planning Code Section 725.27 states that the principally permitted hours of operation are from 6 a.m. to 2 a.m. within the Union Street NCD, as defined by Planning Code Section 790.48.

The proposed hours of operation of Sur La Table are Monday to Saturday from 10 a.m. to 9 p.m. and Sunday from 11 a.m. to 7 p.m., which are within the permitted hours of operation.

C. **Parking.** Planning Code Section 151 of the Planning Code requires off-street parking for every 200 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.

The existing 7,000 square foot retail space does not contain off-street parking, and is considered an existing legal nonconforming condition, which is allowed to continue.

- D. **Loading.** Section 152 of the Planning Code requires off-street freight loading for uses in NC-3 Districts over 10,000 square feet.

The proposed use contains approximately 7,000 square-feet of floor area and thus does not require any off-street freight loading.

- E. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code requires that within NC Districts space for active uses shall be provided within the first 25 feet of building depth on the ground floor and 15 feet on floors above from any facade facing a street at least 30 feet in width. In addition, the floors of street-fronting interior spaces housing non-residential active uses and lobbies shall be as close as possible to the level of the adjacent sidewalk at the principal entrance to these spaces. Frontages with active uses that must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building. The use of dark or mirrored glass shall not count towards the required transparent area. Any decorative railings or grillwork, other than wire mesh, which is placed in front of or behind ground floor windows, shall be at least 75 percent open to perpendicular view. Rolling or sliding security gates shall consist of open grillwork rather than solid material, so as to provide visual interest to pedestrians when the gates are closed, and to permit light to pass through mostly unobstructed. Gates, when both open and folded or rolled as well as the gate mechanism, shall be recessed within, or laid flush with, the building facade.

The subject commercial space has approximately 58 feet of frontage from the 70 foot wide building on Union Street with approximately 43 feet, 6 inches, devoted to either the entrance or window space. The windows and entrances occupy 75% of the commercial frontage and are clear and unobstructed.

- F. **Formula Retail.** Planning Code Section 703.3 defines Formula Retail as a type of retail sales activity or retail sales establishment which, along with eleven or more other retail sales establishments located in the United States, maintains two or more of the following features: a standardized array of merchandise, a standardized façade, a standardized décor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark.

The proposed Formula Retail use would share a standardized array of merchandise, uniform apparel, standardized signage and trademark with approximately 101 other existing Sur La Table locations.

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

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 proposed use is taking over an existing retail space and does not involve an expansion. Although the storefront is wider than some other storefronts on the block-face, it is segmented approximately 10 feet by the residential entrance at the center of the frontage. The proposed retail use will complement the mix of goods and services currently available in the district by introducing a new specialty store providing goods that are not currently available and contributing to the economic vitality of the neighborhood.

- 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 the project will not alter the existing appearance or character of the project vicinity. No expansion is proposed.

- 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 Existing traffic pattern will not be significantly affected by the proposed project. There is an abundance of public transit available within ¼ mile from the Subject Site including seven Muni lines (28L, 22, 28, 41, 43, 45, and 91), and 21 Golden Gate Transit lines (72X, 101X, 2, 4, 8, 10, 18, 24, 27, 38, 44, 54, 56, 58, 70, 72, 74, 76, 80, 93, and 101). There is on-street parking in front of the subject property and in the surrounding neighborhood.

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

The proposed accessory use is subject to the standard conditions of approval to mitigate odor and noise generated by the cooking class.

- 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 involve interior alterations and the Department will review all lighting and signs proposed for the new business in accordance with the Planning Code. There will be no addition of parking spaces, loading facilities, open space or service 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.

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 purpose of the Union Street NCD in that the intended use is located at the ground floor and will provide compatible goods and services for the immediately surrounding neighborhoods during daytime hours.

8. **Planning Code Sections 303(i), 703.3(h) 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):

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

According to the Project Sponsor, there are approximately 288 operating retail establishments within the Union Street NCD and approximately 30 (10%) of these businesses appear to qualify as formula retail uses. These formula retail uses are primarily clothing retailers such as Bebe, Armani Exchange, Nine West, Lulu Lemon, and American Apparel. Other formula retail establishments include La Boulange, Bank of America, AT&T, Sephora, and SEEs.

Planning Department staff found one existing formula retail use (d.b.a. American Apparel) within the immediate 300 foot area. The existing formula retail uses occupy approximately 2% of the commercial frontage within 300 feet and will increase to 5.6% with the proposed project.

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

The Project Sponsor has indicated that no other store in the district is dedicated to selling specialty cookware and to cooking classes, although the Planning Department notes that kitchenware is sold at the Fredericksen Hardware Store located at 3029 Fillmore Street, on the subject block.

- C. 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 significant modifications to the building's existing architectural and aesthetic character. There will be no expansion of the existing building envelope.

- D. The existing retail vacancy rates within the Neighborhood Commercial District.

According to the Project Sponsor, there are currently 13 retail vacancies within the Union Street NCD.

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

Sur La Table will complement the mix of goods and services currently available within the Union Street NCD which include a variety of offerings in retail, fashion, accessories, personal services, eating and drinking establishments, and other neighborhood-serving uses which attract customers citywide.

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

GENERAL/CITYWIDE

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 1.2:

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 proposed development will provide desirable goods and services to the neighborhood and will provide resident employment opportunities to those in the community. Further, the Project Site is located within a Neighborhood Commercial District and is thus consistent with activities in the commercial land use plan.

OBJECTIVE 2:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1:

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

The Project will retain an existing commercial activity and will enhance the diverse economic base of the City by providing a specialty retail use that is not currently available within the NCD.

NEIGHBORHOOD COMMERCE

OBJECTIVE 6:

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

Policy 6.1:

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 new use is neighborhood-serving and will provide cooking classes for the residents of the area. The project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.

Policy 6.4:

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 Formula Retail use will sell goods as its principal use and provide personal service (cooking class) as its accessory use, which will enhance the variety of complementary uses for this neighborhood shopping area.

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 proposal would enhance the district by providing a high-quality specialty retail use. The business would create 30 new employment opportunities for the community.

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

The existing housing units in the surrounding neighborhood would not be adversely affected.

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 site is on Union Street and is well served by transit. It is expected that most employees would commute by transit thereby mitigating possible effects on street parking. Seven Muni lines (28L, 22, 28, 41, 43, 45, and 91), and 21 Golden Gate Transit lines (72X, 101X, 2, 4, 8, 10, 18, 24, 27, 38, 44, 54, 56, 58, 70, 72, 74, 76, 80, 93, and 101) are accessible within ¼ mile from the Subject Site.

- 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 not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses will not be affected by this project.

- 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 will be constructed to conform to the structural and seismic safety requirements of the City Building Code. This proposal will not affect the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

The subject building is over 50 years of age and is therefore a potential historic resource. The project will not modify any character defining features on the façade of this potential historic resource.

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

The project will have no negative effect on existing parks and open spaces. The project would not have an effect on open spaces.

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. 2013.0266C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated March 12, 2013, 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. 18923. 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 July 11, 2013.

Jonas P. Ionin
Acting Commission Secretary

AYES: Commissioners Moore, Sugaya, Antonini, Fong, Wu, and Borden

NAYS:

ABSENT: Commissioner Hillis

ADOPTED: July 11, 2013

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow a Formula Retail (d.b.a. Sur La Table) located at 2224 Union Street, Block 0534, and Lot 011 pursuant to Planning Code Section(s) 303, 703.3 and 703.4 within the Union Street Neighborhood Commercial District and a 40-X Height and Bulk District; in general conformance with plans, dated **March 12, 2013**, and stamped "EXHIBIT B" included in the docket for Case No. **2013.0266C** and subject to conditions of approval reviewed and approved by the Commission on **July 11, 2013**, under Motion No **18923**. 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 **July 11, 2013**, under Motion No **18923**.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **18923** 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.

DESIGN

2. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the architectural addenda. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org.

3. **Odor Control Unit.** In order to ensure any significant noxious or offensive odors are prevented from escaping the premises once the project is operational, the building permit application to implement the project shall include air cleaning or odor control equipment details and manufacturer specifications on the plans. Odor control ducting shall not be applied to the primary façade of the building.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org.

MONITORING

4. **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

OPERATION

5. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards. *For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org/>*

6. **Odor Control.** While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.

For information about compliance with odor or other chemical air pollutants standards, contact the Bay Area Air Quality Management District, (BAAQMD), 1-800-334-ODOR (6367), www.baaqmd.gov and Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org