



SAN FRANCISCO PLANNING DEPARTMENT

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) |
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Planning Commission Motion No. 18961

HEARING DATE: SEPTEMBER 12, 2013

Date: September 5, 2013
Case No.: **2013.0291C**
Project Address: **1233-1239 Noriega Street**
Zoning: Noriega Street Neighborhood Commercial District
40-X Height and Bulk District
Block/Lot: 2056/035
Project Sponsor: Sterling Bank & Trust
Brian Conley
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San Francisco, CA 94104
Staff Contact: Casey Noel – (415) 575-9125
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303 and 703.4 OF THE PLANNING CODE TO ALLOW A FORMULA RETAIL FINANCIAL SERVICES (D.B.A. STERLING BANK & TRUST) WITHIN THE NORIEGA STREET NCD (NEIGHBORHOOD COMMERCIAL DISTRICT) AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On March 15, 2013 Brian Conley (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Section(s) 303 and 703.4 to allow a formula retail financial service (d.b.a. Sterling Bank & Trust) within the Noriega Street NCD (Neighborhood Commercial District) and a 40-X Height and Bulk District.

On September 12, 2013, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0291C.

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

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. 2013.0291C, 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 south side of Noriega Street, between 19th and 20th Avenues, Block 2056, Lot 035. The subject property is located within the Noriega Street Neighborhood Commercial District ("NCD") and the 40-X Height and Bulk District. The property is developed with a two-story building with commercial on the ground floor and residential above. The tenant space at 1233-1239 Noriega Street is currently occupied by Harvest Book Store, but the current retail tenant is reducing its store size. The project site measures approximately 1834 sq ft and will be split into 926 sq ft at 1237 Noriega Street and 908 sq ft at the proposed subject space, with approximately 14 feet of frontage on Noriega Street.
3. **Surrounding Properties and Neighborhood.** The project site is located near the intersection of Noriega Street and 19th Avenue within the Noriega Street NCD. Noriega Street NCD encompasses a merchant corridor that runs eight blocks along both sides of Noriega Street from 19th Avenue to 27th Avenue. The area surrounding the project site is mixed-use in character. A variety of commercial establishments are located within ground floor storefronts in the Noriega Street NCD, including restaurants, medical and dentistry offices, small-scale groceries, apparel stores and jewelry boutiques, and some large-scale financial institutions. Buildings in the vicinity typically range from one to three stories in height. Upper floors of buildings are generally occupied by offices or residential units.
4. **Project Description.** The applicant proposes to establish a a formula retail financial service, known as "Sterling Bank & Trust," to replace an existing retail use at 1233-1239 Noriega Street. Sterling Bank & Trust is a community bank with approximately 12 San Francisco locations, 2 others in the Bay Area and 2 others outside of California. The project will divide the existing retail space occupying 1237 & 1239 Noriega Street into two retail spaces; the proposed use will occupy 1239 Noriega Street. The existing tenant space measures approximately 1834 sq ft and will be split into 926 sq ft at 1237 Noriega Street and 908 sq ft at the proposed subject space. The proposed use size would not exceed the use size limitations.

5. **Public Comment.** The Department has not received communications in opposition to or in support of the project.
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. **Off-Street Parking.** Section 151 of the Planning Code requires one off-street parking for every 500 square feet of occupied floor area up to 20,000 where the occupied floor area exceeds 5,000 square feet, plus one for each 250 square feet of occupied floor area in excess of 20,000.

The proposed use would occupy approximately 908 square-feet and is thus not required to provide any off-street parking spaces.

- B. **Off-Street Freight Loading.** Section 152 of the Planning Code requires no off-street loading space for retail uses that are 0 – 10,000 square-feet.

The proposed use would occupy approximately 908 square-feet and is thus not required to provide any off-street freight loading space.

- C. **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 Financial Services would share a standardized array of merchandise, a uniform apparel, standardized signage and trademark with approximately 16 other existing Sterling Bank & Trust locations.

- D. **Signage.** Any proposed signage will be subject to the review and approval of 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 size of the proposed use is in keeping with other storefronts on the block face. The proposed project would provide a necessary and desirable use because it would establish a financial services branch

within the Noriega Street NCD. This will compliment the mix of goods and services currently available in the district and contribute to the economic vitality of the neighborhood by removing a vacant storefront.

- 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 will not alter the existing appearance or character of the project vicinity. The proposed work will not affect the building envelope.

- 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 Planning Code does not require parking or loading for a commercial use under 5,000 square-feet. The proposed use is designed to meet the needs of the immediate neighborhood and should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide. The Project area is well-served by MUNI. The Property has easy access to the 16X, 28, 71, 71L, and 91 bus lines.

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

The proposed use is not expected to generate noxious or offensive emissions.

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

The project does not propose any landscaping improvements to the streetscape or the project site.

- 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 NC Districts in that the intended use is located at the ground floor, will provide a compatible convenience service for the immediately surrounding neighborhoods during daytime hours.

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

NEIGHBORHOOD COMMERCE

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.

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.

No commercial tenant would be displaced and the project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.

The following guidelines, in addition to others in this objective for neighborhood commercial districts, should be employed in the development of overall district zoning controls as well as in the review of individual permit applications, which require case-by-case review and City Planning Commission approval. Pertinent guidelines may be applied as conditions of approval of individual permit applications. In general, uses should be encouraged which meet the guidelines; conversely, uses should be discouraged which do not.

Policy 6.2:

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to the economic and technological innovation in the marketplace and society.

This is a Formula Retail use, but the proposed community bank will offer services more closely tailored to the needs of area residents and businesses than the national franchise banks currently operating in the district.

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 enhance the district by providing a financial service branch in an area that is not over concentrated by smaller scale branches. The business would create more employment opportunities for the community. The proposed alterations are within the existing building footprint.

- 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 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 Noriega Street and is well served by transit. It is presumable that the employees would commute by transit thereby mitigating possible effects on street parking. Noriega Street has access to the MUNI bus lines (16X, 28, 71, 71L, and 91).

- 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 displace any service or industry establishment. 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 impact 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 will 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. 2013.0291C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated August 19, 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. 18961. 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 September 12, 2013.

Jonas P. Ionin
Acting Commission Secretary

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

NAYES: None

ABSENT: None

ADOPTED: September 12, 2013

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow a formula retail financial services (d.b.a. **Sterling Bank & Trust**) located at [1233-1239 Noriega Street, Block 2056 and Lot 035] pursuant to Planning Code Section(s) **303 and 703.4** within the **Noriega Street Neighborhood Commercial** District and a **40-X** Height and Bulk District; in general conformance with plans, dated **August 18, 2013**, and stamped "EXHIBIT B" included in the docket for Case No. **2013.0291C** and subject to conditions of approval reviewed and approved by the Commission on **September 12, 2013** under Motion No. **18961**. 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 **September 12, 2013** under Motion No. **18961**.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **18961** 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.

MONITORING

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.
4. *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*

Motion No. 18961
September 12, 2013

CASE NO. 2013.0291C
1233-1239 Noriega Street

information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org/>