



SAN FRANCISCO PLANNING DEPARTMENT

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Planning Commission Motion 18970

HEARING DATE: SEPTEMBER 19, 2013

Date: September 12, 2013
Case No.: **2013.0245C**
Project Address: **2078 - 80 CHESTNUT STREET**
Zoning: NC-2 (Small-Scale Neighborhood Commercial) District and
40-X Height and Bulk District
Block/Lots: 0486A/012
Project Sponsor: Peet's Coffee & Tea
Chris Konecny, AIA
1400 Park Avenue
Emeryville, CA 94087
Staff Contact: Mary Woods – (415) 558-6315
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303(C), 303(I) AND 711.27 OF THE PLANNING CODE TO ALLOW A "FORMULA RETAIL USE" (D.B.A. PEET'S COFFEE & TEA) AND HOURS OF OPERATION FROM 5 A.M. TO 9 P.M. DAILY, IN AN NC-2 (SMALL-SCALE NEIGHBORHOOD COMMERCIAL) DISTRICT, CHESTNUT STREET FINANCIAL SERVICE SUBDISTRICT, AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On March 5, 2013, Peet's Coffee & Tea (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use authorization under Planning Code Sections 303(c), 303(i) and 711.27 to allow a Formula Retail Use (d.b.a. Peet's Coffee & Tea) and hours of operation from 5 a.m. to 9 p.m. daily, in an NC-2 (Small-Scale Neighborhood Commercial) District, Chestnut Street Financial Service Subdistrict, and a 40-X Height and Bulk District.

On September 19, 2013, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0245C.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class One for existing facilities.

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 Project Sponsor, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2013.0245C, 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 on the north side of Chestnut Street between Mallorca Way and Pierce Street, in Assessor's Block 0486A, Lots 012. The property is located in an NC-2 (Small-Scale Neighborhood Commercial) District, Chestnut Street Financial Service Subdistrict, and a 40-X Height and Bulk District. The property is developed with a one-story building, containing approximately 2,100 square feet. The existing vacant building was formerly occupied by two small retail stores: a 400 square-foot eye glasses store at 2078 Chestnut Street and a 1,700 square-foot clothing store at 2080 Chestnut Street.
3. **Surrounding Properties and Neighborhood.** The Project Site is located at the eastern part of the Chestnut Street neighborhood commercial (NC-2) corridor. It is the main commercial street that serves the surrounding residential dwellings of low to medium densities, with some multi-story apartment buildings.

The subject block contains mostly retail stores on the ground floor with some residential uses on upper floors. Buildings across from the Project Site contain a mix of small retail tenant spaces, and several larger spaces, such as an Apple store, the Marina theater, a Walgreens and a Gap store, mostly one-story in height. To the west of the Project Site, Chestnut Street is predominantly characterized by single-story retail buildings and multi-story mixed-use buildings with ground floor commercial spaces (retail shops, bars, small self-service/limited-restaurants and full-service restaurants) and residential uses above. To the east of the Project Site, Chestnut Street is characterized by two- to three-story buildings with retail shops, small self-service and full-service restaurants on the ground floor and residential dwellings on the upper floors. The Marina Middle School is one block east at Fillmore and Chestnut Streets.

The Chestnut Street commercial corridor extends east to Fillmore Street (one block east of the Project Site). Fillmore Street contains ground floor commercial uses from Chestnut Street to the

Union Street Neighborhood Commercial District (four blocks south of the Project Site), and thus connects the two neighborhood retail strips along Union and Chestnut Streets.

The Project Site is less than a mile southeast of the Palace of Fine Arts. The Pacific Heights neighborhood, characterized by large, single-family homes and medium- to high-density apartment buildings, begins five blocks south of the Project Site.

Project Description. Peet's Coffee & Tea proposes to relocate from 2156 Chestnut Street to the Project Site. The former location is half-block west of the Project Site. The proposal is to combine the existing two vacant retail spaces into a single storefront, totaling approximately 2,100 square feet. Façade changes are proposed to unify the two storefronts into a cohesive design by pulling forward the front wall by three feet at 2078 Chestnut Street to align with the historic storefront at 2080 Chestnut Street. No off-street parking or loading spaces exist at the Site and none are proposed.

The proposed Limited-Restaurant use (d.b.a. Peet's Coffee & Tea) is a Formula Retail use per Planning Code Section 703.3. The proposed formula retail use will be primarily a take-out coffee and tea store with indoor and sidewalk seating. The proposed hours of operation are 5 a.m. to 9 p.m. daily.

Section 312 - neighborhood notification is required for establishing a new formula retail use and was conducted in conjunction with the Conditional Use authorization process.

4. **Public Comment.** The original proposal included utilizing the rear open space for outdoor activities. Due to concerns from nearby residents, the Project Sponsor has decided not to proceed with the use of the rear open space. Since then, the Department has not received any correspondence in support of or in opposition to the proposed Project.
5. **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 Use.** 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 established 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. Planning Code Section 703.4 states that a Conditional Use authorization is required for a formula retail use, as defined by Planning Code Section 703.3, in any of the City's Neighborhood Commercial Districts.

The proposed Formula Retail, Limited-Restaurant (d.b.a. Peet's Coffee & Tea) would share a standardized array of merchandise, a standardized décor and color scheme, standardized signage and trademark with approximately 200 other existing Peet's Coffee & Tea establishments.

- B. **Limited-Restaurant.** Planning Code Section 711.43 allows coffee and tea shops under “Limited-Restaurant” as principally permitted uses on the ground floor, as defined by Planning Code Section 790.90 in NC-2 Districts.

The proposed Project involves relocating a Peet’s Coffee & Tea store from 2156 Chestnut Street to the Project Site. The Project is a coffee and tea store with accessory retail sales of its specialty coffee beans and tea leaves.

Planning Code Section 790.90 defines a “Limited-Restaurant” as:

(a) A retail eating and/or drinking use which serves ready-to-eat foods and/or drinks to customers for consumption on or off the premises, that may or may not have seating. It may include wholesaling, manufacturing, or processing of foods, goods, or commodities on the premises as an accessory use as set forth in Section 703.2(b)(1)(C)(v).

(b) It includes, but is not limited to, specialty foods provided by bakeries, delicatessens, and confectioneries meeting the above characteristics, but it is distinct from a “Restaurant”, as defined in Section 790.91, and a “Bar”, as defined in Section 790.22. It may also operate as a “Take-Out Food” use as defined in Section 790.122.

(c) It shall not provide on-site beer and/or wine sales for consumption on the premises, but may provide off-site beer and/or wine sales for consumption off the premises with a California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) within the accessory use limits as set forth in Section 703.2(b)(1)(C)(vi).

The proposed Project contains approximately 2,100 square feet of floor area and is classified as a Limited-Restaurant use. The change of use from Retail Sales to a Limited-Restaurant use which is also a Formula Retail use is permitted with Conditional Use Authorization and requires Section 312 Neighborhood Notification. Section 312 Notification was conducted in conjunction with the Conditional Use Notification.

- C. **Use Size.** Planning Code Sections 121.2, 711.21, and 790.130 establish size limits on non-residential use sized in the NC-2 Zoning District. With the NC District, Conditional Use authorization is required for any non-residential use that meets or exceeds 4,000 square feet of floor area.

The proposed use size, at approximately 2,100 square feet, is within the principally permitted use size limitations.

- D. **Hours of Operation.** Planning Code Section 711.27 states that Conditional Use authorization is required for hours of operation between 2 a.m. and 6 a.m., as defined by Planning Code Section 790.48.

The proposed hours of operation are 5 a.m. to 9 p.m. daily, which would require Conditional Use authorization for opening at 5 a.m.

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

The subject tenant space contains approximately 2,100 square of occupied floor area and does not require any off-street parking.

- F. **Loading.** Planning Code Section 152 requires one off-street freight loading for uses in NC-2 Zoning Districts over 10,000 square feet.

The proposed use contains approximately 2,100 square feet of floor area and does not require any off-street freight loading

- G. **Street Frontage in Neighborhood Commercial Districts.** Planning Code Section 145.1 requires in NC Districts containing specific uses, including retail stores, that the ground floor street frontage be at least 60% transparent in order to allow visibility to the inside of the building. The use of dark or mirrored glass shall not count towards the required transparent area. Such windows shall use clear, un-tinted glass, except for decorative or architectural accent. 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% 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 façade.

The proposed Project will occupy an existing one-story building that was previously occupied by two retail stores. Façade changes are proposed to unify the two storefronts into a cohesive design by pulling forward the front wall at 2078 Chestnut Street to align with the historic storefront at 2080 Chestnut Street. Upon completion, approximately 73% of the front façade would be transparent or consist of glazing, while the remaining 27% is the historic storefront entry.

- H. **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.

- I. **Operating Conditions.** Planning Code Section 703.5 sets forth operating conditions addressing entrances, noise, odor and garbage for all eating and drinking establishments. The subject establishment will be required to comply.

6. **Planning Code Section 303(c)** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- 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 Project is to establish a Limited-Restaurant use for Peet's Coffee & Tea. The first Peet's store was established 47 years ago in Berkeley. The Project Sponsor proposes to relocate from 2156 Chestnut Street to the Project Site. The former location is half-block west of the Project Site. The business was at its former location for 29 years and has a loyal following in the neighborhood, serving approximately 400 customers a day. According to the Project Sponsor, the Chestnut Street location was one of its highest volume stores and many customers arrived early in the morning at opening time. The Project will generate pedestrian traffic that will benefit businesses located near the Project Site and surrounding areas.

The proposal is to combine the existing two vacant retail spaces into a single storefront, totaling approximately 2,100 square feet. Outdoor seating will be provided at the sidewalk. The Project Sponsor will maintain the sidewalk in a clean-manner, including but not limited to monthly steam cleaning of the sidewalk. Façade changes are proposed to unify the two storefronts into a cohesive design by pulling forward the front wall by three feet at 2078 Chestnut Street to align with the historic storefront at 2080 Chestnut Street. The proposal would maintain the existing building envelope and height. No off-street parking or loading spaces exist at the Site and none are proposed.

The proposed use is in keeping with other storefronts on the block face and the Limited-Restaurant use is compatible with the other goods and services provided along the subject NC-2 corridor. The use will maintain an active storefront, which will contribute to the economic vitality of the neighborhood. The Project will employ approximately 20 to 30 people (four per shift), of which approximately 25% would be full-time positions.

According to the Project Sponsor, the Project will implement green building strategies to save energy, conserve water, recycle as much as possible, and maximize the air quality for its employees and customers. The Project Sponsor is committed to registering and certifying new build-outs through the LEED (Leadership in Energy and Environmental Design) rating system. Measures to obtain at least a LEED Silver rating at the subject property will be implemented, including air quality management, water and energy conservation, and recycled and reclaimed material usage.

- 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 structure will remain the same. The Project proposes to occupy existing vacant retail spaces, containing approximately 2,100 square feet. The proposed work will not affect the building envelope or height.

- 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 a relocation from 2156 Chestnut Street to the Site, which is half-block west of the subject property. The proposed use would be similar to the former location, and therefore, would not create any net change in traffic patterns for the area. Deliveries to the Site are transported by vans and smaller delivery trucks (not 18-wheel trucks) with access to on-street metered loading spaces after 7 a.m. daily. The Project Site is well-served by public transit. Several MUNI transit lines run directly in front of or near the Site, including the "22-Fillmore," the "28-19th Avenue," the "30-Stockton," and the "43-Masonic." According to the Project Sponsor, most of the 20 staff members would walk, bike or take public transportation to work.

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

While no noxious or offensive emissions will be associated with the Project, the proposed use is subject to the standard conditions of approval for restaurants outlined in Exhibit A. Condition Nos. 7, 10, 17 and 18 specifically obligate the Project Sponsor to address odor and noise generated by the Limited-Restaurant use.

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

Deliveries to the Site are transported by vans and smaller delivery trucks (not 18-wheel trucks) with access to on-street metered loading spaces. They will occur every other day after 7 a.m. Minimal interference with pedestrian or vehicular traffic circulation is expected. No new exterior lighting is proposed. The existing projecting sign will be repaired and refaced as well as the existing signage on the building façade.

- 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 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 NC-2 (Small-Scale Neighborhood Commercial) District in that the intended use is located at the ground floor and will provide a compatible convenience service for the immediately surrounding neighborhoods during daytime hours.

7. **Planning Code Sections 303(i) and 703.4** require Conditional Use authorization for the establishment of a formula retail use in Neighborhood Commercial Districts. The Planning Commission shall consider the following criteria set forth in **Section 303(i)** in addition to the criteria set forth in Section 303(c):

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

There are approximately 165 operating businesses in the NC-2 district. There is a mix of independent and formula retail uses, including banks, 25 businesses qualify as formula retail businesses. Formula retail uses currently located in the immediate area include Pottery Barn, Starbucks, Apple, Gap, and Walgreens.

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

There are 50 existing cafes, restaurants, and bars serving food in this NC-2 district. However, with regard to specialty coffee and/or tea stores, only two other stores exist, Starbucks and David's Tea, both of which also serve prepared-foods, such as sandwiches, while Peet's serve no food other than pastries prepared off premises.

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

The height and bulk of the existing building will remain the same. The Project primarily involves interior remodeling work with exterior aesthetic improvements, while maintaining the existing building envelope and height. The proposed work will enhance the architectural and aesthetic character of the District.

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

The Project proposes to occupy two existing vacant retail spaces. According to the Project Sponsor, there are currently two vacant spaces (out of a total of 162 storefronts) situated a block or two away from the subject property, or approximately 1% within the district.

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

The Project Site is located along the Chestnut Street commercial corridor in the Marina and Cow Hollow neighborhoods. The corridor is comprised of a mix of neighborhood-serving and Citywide-serving retail uses. Commercial uses include beauty shops, restaurants, bars, bakeries, clothing stores

and banks. This commercial district predominantly provides goods and services for the Marina and Cow Hollow neighborhoods.

8. **Planning Code Sections 303(p)** requires that the Planning Commission shall consider the following criteria set forth for "Eating and Drinking Uses" in addition to the criteria set forth in Section 303(c):

- A. The existing concentrations of eating and drinking uses in the area. Such concentration should not exceed 25% of the total commercial frontage as measured in linear feet within the immediate area of the subject site. For the purposes of this Section of the Code, the immediate area shall be defined as all properties located within 300' of the subject property and also located within the same zoning district.

There are approximately 25 eating and drinking storefronts measuring to approximately 420 feet of commercial frontage (out of a total of 1,800 feet) or 23% within 300 feet of the subject site.

9. **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 Project will provide desirable goods and services to the neighborhood and will provide resident employment opportunities to those who live in the community. The Project will occupy vacant retail storefronts with a Limited-Restaurant. The Project Site is located within a Neighborhood Commercial District and is thus consistent with activities in the commercial land use plan. In addition, the Project's

close proximity to nearby residences, the availability of public transit on Chestnut Street, and on-street parking will address any traffic and parking effects in the area.

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 replace vacant retail storefronts with a neighborhood-serving use, thereby enhancing the diverse economic base of the City.

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.

Policy 3.2:

Promote measures designed to increase the number of San Francisco jobs held by San Francisco residents.

The Project will provide employment opportunities for 20 full- and part-time workers.

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.

Eating and Drinking Establishments

Eating and drinking establishments include bars, sit-down restaurants, fast food restaurants, self-service restaurants, and take-out food. Associated uses, which can serve similar functions and create similar land use impacts, include ice cream stores, bakeries and cookie stores. Guidelines for eating and drinking establishments are needed to achieve the following purposes:

- Regulate the distribution and proliferation of eating and drinking establishments, especially in districts experiencing increased commercial activity;
 - Control nuisances associated with their proliferation;
 - Preserve storefronts for other types of local-serving businesses; and
 - Maintain a balanced mix of commercial goods and services.
- The regulation of eating and drinking establishments should consider the following:
- Balance of retail sales and services;
 - Current inventory and composition of eating and drinking establishments;
 - Total occupied commercial linear frontage, relative to the total district frontage;
 - Uses on surrounding properties;
 - Available parking facilities, both existing and proposed;
 - Existing traffic and parking congestion; and
 - Potential impacts on the surrounding community.

The Commerce and Industry Element of the General Plan contains Guidelines for Specific Uses. For eating and drinking establishments, the Guidelines state, "the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage." Based on the Project Sponsor's site survey, the existing eating and drinking establishment concentration is at approximately 31%. The proposed Project is a half-block relocation from 2156 Chestnut Street to the subject property within the same NC-2 district, and therefore, would not create any net change to the existing concentration of eating and drinking establishments. The Project was at its former location for 29 years, and therefore, would not threaten the balance of eating and drinking establishments in the district.

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 would preserve and enhance the existing neighborhood-serving uses by occupying vacant commercial spaces. It will provide employment opportunities for 20 to 30 people.

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

The proposed Project is a coffee and tea store; therefore, existing housing units in the surrounding neighborhood would not be 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 Project Site is well-served by public transit. Several MUNI transit lines run directly in front of or near the Site, including the "22-Fillmore," the "28-19th Avenue," the "30-Stockton," and the "43-Masonic." According to the Project Sponsor, most of the 20 to 30 staff members would walk, bike or take public transportation to work.

- 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 will conform to the structural and seismic requirements of the City Building Code.

- 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 proposed Project will maintain the existing building's envelope and height, and will not affect existing parks and 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 Project Sponsor, 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. 2013.0245C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans filed with the Application, dated September 6, 2013 and labeled "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. 18970. 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 19, 2013.

Jonas P. Ionin
Acting Commission Secretary

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

NAYS: None

ABSENT: None

ADOPTED: September 19, 2013

Exhibit A

Conditions of Approval

AUTHORIZATION

This authorization is for a Conditional Use Authorization to allow a Formula Retail Use (d.b.a. Peet's Coffee & Tea) located at 2078 - 80 Chestnut Street, Assessor's Block 0486A, Lot 012, pursuant to Planning Code Sections 303(c), 303(i) and 711.27 in an NC-2 (Small-Scale Neighborhood Commercial) District, and a 40-X Height and Bulk District; in general conformance with plans, dated September 6, 2013, and labeled "EXHIBIT B" included in the docket for **Case No. 2013.0245C** and subject to conditions of approval reviewed and approved by the Commission on September 19, 2013 under **Motion No. 18970**. 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 June 6, 2013 under **Motion No. 18970**.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the "Exhibit A" of this Planning Commission **Motion No. 18970** 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. The 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.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the Project and/or commence the approved use within this three-year period.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.

2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the Project Sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the Project Sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.

3. **Diligent pursuit.** 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. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.

4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the Project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.

5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.

6. **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.

DESIGN

7. **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 Building/Site Permit plans. 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 building.

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

8. **Rooftop Mechanical Equipment.** Pursuant to Planning Code Section 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the Building/Site Permit Application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

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

9. **Noise.** Plans submitted with the building permit application for the approved Project shall incorporate acoustical insulation and other sound proofing measures to control noise.

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

10. **Signage.** Any proposed signage shall be subject to the review and approval of the Planning Department and must comply with Article 6 of the Planning Code.

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

LOADING

11. **Delivery Hours.** The Project shall not have regular night deliveries. All deliveries shall be restricted to the hours designated for on-street metered loading after 7 a.m. No double-parking on streets fronting the Project Site shall be allowed.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.

MONITORING - AFTER ENTITLEMENT

- 12. 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.*
- 13. Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this Authorization. *For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.*

OPERATION

- 14. Rear Outdoor Patio Use.** The outdoor patio at the rear of the building shall not be used for any kind of business use in order to limit noise disturbance to neighbors. If such use is proposed, the Project Sponsor shall seek a new Conditional Use authorization for an outdoor activity area.
- 15. Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within trash enclosures on the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works. *For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>.*
- 16. 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>.*
- 17. Noise Control.** The premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance. *For information about compliance with the fixed mechanical objects such as rooftop air conditioning, restaurant ventilation systems, and motors and compressors with acceptable noise levels, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, www.sfdph.org.*

For information about compliance with the construction noise, contact the Department of Building Inspection, 415-558-6570, www.sfdbi.org.

For information about compliance with the amplified sound including music and television, contact the Police Department at 415-553-1012 or 415-553-0123, www.sf-police.org.

- 18. Community Liaison.** Prior to issuance of a Building/Site Permit Application to construct the Project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.