



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) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412) | <input type="checkbox"/> Other |

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Planning Commission Motion No. 19016

HEARING DATE: NOVEMBER 7, 2013

Date: November 7, 2013
Case No.: **2013.0361C**
Project Address: **1409 SUTTER STREET**
Zoning: NC-3 (Neighborhood Commercial, Cluster)
130-E Height and Bulk District
Block/Lot: 0689/025-028
Project Sponsor: Hong Lei
66 Bovet Road #380
San Mateo, CA 94402
Staff Contact: Sharon Lai – (415) 575-9087
sharon.w.lai@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 121, 303, 712.21, 712.55 AND 790.46 OF THE PLANNING CODE TO ESTABLISH A NEW TOURIST HOTEL WITH UP TO 10 GUESTROOMS (D.B.A. LEADER HOUSE), AND TO ALLOW THE HOTEL AND A NEW RESTAURANT BOTH OF WHICH EXCEED THE PERMITTED USE SIZE LIMIT OF 6,000 SQUARE FEET, WITHIN THE NC-3 (MODERATE-SCALE, NEIGHBORHOOD COMMERCIAL) DISTRICT AND A 130-E HEIGHT AND BULK DISTRICT.

PREAMBLE

On March 26, 2013, Hong Lei (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Sections 121, 303, 712.21, 712.55 and 790.46 to establish a new tourist hotel with up to 10 guestrooms (d.b.a. Leader House), and to allow the hotel and the new restaurant to exceed the permitted use size limit of 6,000 square feet, within the NC-3 (Moderate-Scale, Neighborhood Commercial) District and a 130-E Height and Bulk District.

On November 7, 2013, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0361C.

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. 2013.0361C, 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 Sutter Street, between Franklin and Gough Streets, Block 0689, Lots 025-028. The property is located within the NC-3 (Neighborhood Commercial, Moderate-Scale) District with a 130-E Height and Bulk district. The property is developed with a four-story building that has historically been occupied by a single use. The subject property is a mid-block lot, with approximately 71 feet of frontage on Sutter Street and a lot depth of approximately 138 feet. There are side setbacks provided on both sides of the building with an uncovered accessory parking lot at the rear of the property. The subject building was constructed in 1880 and is a known historic resource, also known as the Thomas Payne House. The last known legal use of the building was a private club and office that also functioned as an event venue during recent years.
3. **Surrounding Properties and Neighborhood.** The project site is located on Sutter Street, and the nearest cross street is Franklin Street, within the Western Addition neighborhood. One block to the east is Van Ness Avenue and to the south is Geary Boulevard. The Project site is located in an NC-3 District spanning from California Street to O'Farrell Street which provides a wide variety of goods and services that serve the surrounding neighborhoods. The subject NC-3 District extends along Franklin Street, and has a mixed character with varying building heights and use types. The mixture of uses includes residential, automobile sales, restaurants, retail and personal services. The surrounding properties are located within the RM-4 (Mixed Residential, High Density) and RC-4 (Residential Commercial, High Density) Districts. The property immediately to the east is occupied by the Spanish Consulate and the property immediately to the west is a 164-unit apartment building. The future Van Ness and Geary CPMC campus is located one block southeast of the subject block.
4. **Project Description.** The applicant proposes to change the use of the building from a private club, which is considered a large institutional use, to a 10-room tourist hotel. A restaurant, which

is principally permitted in the NC-3 District, is also proposed. The previously existing private club included a catering and dining hall at the ground and second floors, which will be the location of the principally permitted new restaurant. The existing third floor contains six lodging rooms and a library for the private club and will be converted to seven guestrooms for the tourist hotel. The existing fourth floor contains accessory office space, a housekeeper's unit and other communal spaces for the private club, and will become three guestrooms, accessory office space and communal areas for the tourist hotel. All modifications are within the existing building envelope. The proposed restaurant will be approximately 9,500 square feet and the proposed tourist hotel will be approximately 8,200 square feet in size.

There are currently six parking spaces at the rear and side of the property, which will remain. The proposed use is not a Formula Retail use. The proposal requires a change of use and Section 312-neighborhood notification was conducted in conjunction with the Conditional Use Authorization process.

5. **Public Comment.** As of October 31, 2013, The Department has received nine written comments of support and three comments in opposition with concerns regarding noise and odor.
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. **Restaurant Use.** Planning Code Section 712.44 principally permits the establishment of new restaurant uses at the first and second story in NC-3 Districts. Planning Code Section 790.91 defines a restaurant as, "a retail eating or eating and drinking use which serves foods to customers for consumption on or off the premises and which has seating. It may have a Take-Out Food use as defined by Planning Code Section [790.122](#) as a minor and incidental use. It may provide on-site beer, wine, and/or liquor sales for drinking on the premises (with ABC license types 41, 47, 49, 59, or 75); however, if it does so it shall be required to operate as a Bona Fide Eating Place as defined in Section [790.142](#). It is distinct and separate from a Limited-Restaurant as defined in Section [790.90](#). This use must comply with the controls set forth in Section [703.5](#)."

The proposed ground and second floor restaurant complies with the definition of a restaurant use and is therefore principally permitted.

B. **Tourist Hotel.** Planning Code Section 712.55 requires Conditional Use authorization for the establishment of a tourist hotel at all floors in the NC-3 District, defined in Section 790.46 as "a retail use which provides tourist accommodations, including guest rooms or suites, which are intended or designed to be used, rented, or hired out to guests (transient visitors) intending to occupy the room for less than 32 consecutive days."

The proposed third and fourth floor 10-room tourist hotel requires Conditional Use authorization by the Planning Commission.

- C. **Hours of Operation.** Planning Code Section 712.27 does not impose a limit on hours of operation within the NC-3 zoning district.

There is no limit on the hours of operation, therefore the project complies. The restaurant hours are proposed to be 11:00 a.m. to 11 p.m. daily.

- D. **Parking.** Planning Section 151 of the Planning Code requires restaurant uses to provide off-street parking for every 200 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet, and for hotels within NC districts to provide 0.8 parking spaces per guestroom. Planning Code Section 150 requires parking spaces to be provided in the case of a major addition to an existing structure or use. A major addition is defined as any enlargement, alteration, change of occupancy or increase in intensity of use which would increase the number of off-street parking spaces required for uses other than dwelling units by at least 15 percent or by at least five spaces, whichever is greater; or which would increase the requirement for off-street loading spaces by at least 15 percent.

The individual function of spaces within the private club was used for the purposes of calculating the existing parking requirements. The existing parking requirement is based on approximately 4,706 square feet of occupied catering space, utilizing the restaurant use parking ratio, and six boarding rooms, utilizing the tourist hotel guestroom parking ratio. The existing private club required a total of 29 parking spaces, where currently six uncovered parking spaces at the rear and the side of the property are provided. The existing parking is non-conforming.

The proposed restaurant and tourist hotel requires a total of 32 parking spaces. The proposed restaurant will require 24 parking spaces and the tourist hotel will require 8 parking spaces. However, there is a parking credit of 23 spaces due to the existing non-conformity. Therefore, the proposed project increases the parking requirement by 3 spaces or approximately 10 percent, which is below the threshold to require parking spaces to be provided. Hence, no new parking is required for the proposed new uses.

- E. **Loading.** Planning Code Section 152.1 requires off-street loading if the commercial space exceeds 10,000 sq. ft. or of the hotel space exceeds 100,000 sf.

The proposed restaurant will be approximately 9,500 gross square feet and the proposed tourist hotel will be approximately 8,300 gross square feet. Thus, the project complies with Planning Code Section 152. No new loading spaces are required.

- F. **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 47 feet of building frontage along Sutter Street that is set back approximately 13 feet from the front property line. The building does not meet the 60 percent transparency and fenestration requirement. However, it represents the building's existing condition, and the Project does not include any exterior alterations. The building is thus considered legally noncomplying, and the change of use to a restaurant does not require exterior alterations to bring the building into compliance with this Section. Furthermore, the subject building is a known historic resource and any additional fenestration on the façade would affect the resource and would require additional evaluation under the California Environmental Quality Act.

- G. **Use Size.** Planning Code Section 712.21 requires Conditional Use Authorization for uses exceeding 6,000 square feet in size in NC-3 Districts.

The existing commercial space is approximately 18,000 square feet in size, which is an existing non-forming condition. The building was historically operated by a single tenant as a private club, which is considered an institutional use. The project proposes to increase the number of use size non-conformity from one to two and therefore, requires a Conditional Use Authorization. However, the new uses will be within the existing building footprint and each individual use will be smaller in size than the existing use, thereby bring the property closer into conformance with Planning Code Section 712.21.

- A. **Signage.** Currently, there is not a proposed sign program on file with the Planning Department. Any proposed signage will be subject to the review and approval of the Planning Department.

7. **Planning Code Section 121.2(a)** establishes criteria for the Planning Commission to consider the extent to which the following criteria are met when reviewing a Conditional Use application for establishing a use size greater than 6,000 square feet in an NC-3 District:

- A. The intensity of activity in the district is not such that allowing the larger use will be likely to foreclose the location of other needed neighborhood-serving uses in the area.

The proposed two new uses are smaller in size than the existing single use, which will result in uses that are more consistent with the existing neighborhood scale. The subject NC-3 district contains a variety of uses that exceed the 6,000 square foot use size limit including vehicle dealerships, auto repair shops, and formula retail grocery store.

- B. The proposed use will serve the neighborhood, in whole or in significant part, and the nature of the use requires a larger size in order to function.

The proposed restaurant use will be open to the public and is neighborhood serving. The proposed tourist hotel is intended to serve the tourist population. Due to the nature of hotel uses and the need to have individual guest rooms, tourist hotels have a need for a larger use size. The proposed restaurant will occupy the existing space that was previously a catering hall for an institutional use. The proposed kitchen and dining areas will remain in the existing location and size.

- C. The building in which the use is to be located is designed in discrete elements which respect the scale of development in the district.

There are not exterior expansions proposed. The subject uses will occupy an existing historic building that has been part of this neighborhood in its current scale since 1880 and is an integral part of the neighborhood's character and scale.

- 8. **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 size of the proposed use is in keeping with other uses in the NC-3 district. The project is proposed within the existing building envelope which has existed since 1880. San Francisco is an international tourist destination. The proposed restaurant and tourist hotel are necessary and desirable uses that will cater to the tourist population's demand. This will compliment the mix of goods and services currently available in the district and contribute to the economic vitality of San Francisco by replacing a private club with active uses that are open to the general public.

- 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.

- 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 additional parking or loading for the proposed uses. The Project would not adversely affect public transit or overburden the existing supply of parking in

the subject NC-3 zoning district as the site is well-served by public transit. The Project Site is served by 14 bus lines.

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

The proposed use is subject to the standard conditions of approval for restaurants as outlined in Exhibit A. Conditions 10 and 11 specifically obligate the project sponsor to mitigate odor and noise generated by the restaurant use. The tourist hotel use is not anticipated to emit 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 proposed restaurant and tourist hotel is located within the existing building envelope. No exterior modifications are currently proposed and all exterior façade alterations will be subject to Planning Department review.

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

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

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

The proposed project is consistent with the stated purposes of NC-3 Districts in that the intended use diversifies the existing commercial environment by introducing a new tourist hotel.

- 9. **Planning Code Section 303(g)** establishes additional criteria for the Planning Commission to consider when reviewing applications for tourist hotels and motels. On balance, the project does comply with said criteria in that:

- A. The impact of the employees of the hotel or motel on the demand in the City for housing, public transit, childcare, and other social services. To the extent relevant, the Commission shall also consider the seasonal and part-time nature of employment in the hotel or motel;

The proposed 10 guestroom tourist hotel is not anticipated to have a significant effect on the City's services.

- B. The measures that will be taken by the project sponsor to employ residents of San Francisco in order to minimize increased demand for regional transportation;

The sponsor has stated his intention that at least 90 percent of the staff hired will be local San Francisco residents.

- C. The market demand for a hotel or motel of the type proposed;

San Francisco regularly places amount the world's most favored travel destinations. At present, occupancy rates in San Francisco are nearing 80 percent, substantially above the 62 percent nationwide average. With this level of occupancy, the competitive market will be operating at capacity during peak periods and will be unable to accommodate additional demand¹. The proposed additional guest rooms will help absorb some of this demand.

- D. In the Transit Center C-3-O(SD) Commercial Special Use District, the opportunity for commercial growth in the Special Use District and whether the proposed hotel, considered with other hotels and non-commercial uses approved or proposed for major development sites in the Special Use District since its adoption would substantially reduce the capacity to accommodate dense, transit-oriented job growth in the District.

The project is not located with the C-3-O district.

10. **Planning Code Section 303(p)** establishes additional criteria for the Planning Commission to consider when reviewing applications for restaurant uses. On balance, the project does comply with said criteria in that:

- A. The existing concentration 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.

The new restaurant use is principally permitted and does not require Commission action. While not applicable in this case, it is noted that the proposed restaurant would nonetheless comply with this criteria, in that there is not an overconcentration of eating and drinking uses in the District. The sponsor conducted a survey of eating and drinking uses within the subject NC-3 district. The proposed addition of Leader House will increase the concentration of eating and drinking uses within the subject 300 foot radius from 4 percent to 6 percent, well below the 25 percent concentration threshold. Three existing eating or drinking uses are located within 300 feet of the proposed new restaurant.

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

¹ PKF Consulting USA, *Market Demand Analysis*, December 7, 2012. This document is available for public review at the Planning Department, 1650 Mission Street, San Francisco, as part of Case No. 2011.0038C.

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 project would add 10 tourist hotel rooms intended to serve international visitors and business travelers seeking alternative style lodging in San Francisco's downtown, Civic Center and Japantown areas. The project would create new jobs in a location that is easily accessible by multiple transit routes. The project would result in increased tax revenue for the City and an increase in retail activity in the immediate neighborhood.

A tourist hotel is permitted with a Conditional Use Authorization, 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.

Due to the Site's central location that borders several neighborhoods, the Project is anticipated to easily attract hotel patrons. The Site is also centrally located, close to many jobs and services, as well as public transit.

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 as the space is currently vacant. The project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood, since the proposed eating use will only minimally increase the eating and drinking establishment concentration.

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 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.

- The establishment should not add to an over-concentration of eating and drinking establishments in a single district. The balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage. Proposals for eating and drinking establishments which would increase the proportion of total occupied commercial frontage above 20% should be reviewed to ensure that they would not reduce the variety of neighborhood-serving uses; nor create substantial noise, traffic, parking problems or other nuisances in the district or surrounding

- neighborhood. Those establishments that would do the above should not be permitted. Except in districts with an established pattern of service to a broad market, such as North Beach, such establishments should not occupy more than 25% of the total commercially occupied frontage in a district. To minimize the problems they can create, eating and drinking uses should generally be at least 100 feet apart from each other, unless there are factors making clustering of uses appropriate. For example, a configuration of clustered eating and drinking uses where off-street parking is shared might be more appropriate than an even distribution of such establishments.
- New, expanding or relocating eating and drinking uses should not impose significant adverse impacts on traffic and transit volumes and circulation and parking congestion. If such impacts are anticipated, especially on transit-preferential streets, the proposed use, expansion or relocation should be redesigned to mitigate such impacts, or it should be prohibited.
 - Eating and drinking uses should be adequately soundproofed or insulated for noise and operated so as to reasonably protect adjoining and surrounding upper-story residences from disturbances from fixed source equipment.

The General Plan states that there is a concern with the potential over-concentration of eating and drinking establishments. 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." Project sponsor has performed a survey of the subject NC-3 District which includes the Subject Property. With the proposed restaurant use, approximately 6% of the frontage of the subject NC-3 District would be occupied by eating and drinking establishments. The proposed change of use from an institutional use to a Restaurant will minimally increase the concentration by 1%.

Policy 6.2:

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

The proposed use is a neighborhood-serving use. The proposed eating and drinking establishment is not considered a Formula Retail Use.

Policy 6.3:

Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

The Proposed project will maintain the character of the subject building and introduce a new commercial use on the subject block. The Project will not have an impact on the existing affordable housing units as the subject space has historically been an institutional use with no dwelling units.

OBJECTIVE 8:

ENHANCE SAN FRANCISCO'S POSITION AS A NATIONAL CENTER FOR CONVENTIONS AND VISITOR TRADE.

Policy 8.1:

Guide the location of additional tourist related activities to minimize their adverse impacts on existing residential, commercial, and industrial activities.

Policy 8.1: Assure that areas of particular visitor attraction are provided with adequate public services for both residents and visitors.

The Project is located near the Civic Center area, which houses many major public buildings that are tourist attractions. The site is located near tourist activities and public transit.

12. **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 Project would further this policy by including active uses that are open to the general public. Moreover, the addition of the hotel use will bring new employees and visitors to the site and area, which would strengthen existing retail operations and encourage new retail opportunities in the vicinity. 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 residential units in the surrounding neighborhood would not be adversely affected by the project.

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 Sutter Street and is well served by transit. It is presumed that many employees would commute by transit thereby mitigating possible effects on street parking. Sutter Street is served by 14 bus lines within ¼ mile radius.

- 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 affect the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

The Project does not propose any exterior modifications to the subject historic building.

- 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.

13. 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.
14. 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. 2013.0361C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated March 26, 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. 19016. 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 November 7, 2013.

Jonas P. Ionin
Acting Commission Secretary

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

NAYS: N/A

ABSENT: N/A

ADOPTED: November 7, 2013

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow the establishment of a 10-room tourist hotel (d.b.a. **Leader House**) located at 1409 Sutter Street, Block 0689, and Lots 025-028 pursuant to Planning Code Sections 303, 712.55 and 790.46 within the NC-3 District and a 130-E Height and Bulk District; in general conformance with plans, dated **March 26, 2013**, and stamped "EXHIBIT B" included in the docket for Case No. **2013.0361C** and subject to conditions of approval reviewed and approved by the Commission on **November 7, 2013**, under Motion No **19016**. 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 **November 7, 2013**, under Motion No **19016**.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **19016** 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.** 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

DESIGN

4. **Signage.** Any signs on the property shall be made to comply with the requirements of Article 6 of the Planning Code applying to nonconforming uses.

MONITORING – AFTER ENTITLEMENT

5. **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

6. **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

7. **Community Liaison.** Prior to issuance of a building permit 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

8. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within 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>

9. **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/>*

10. **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

11. **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