Executive Summary Conditional Use

HEARING DATE: JULY 26, 2012

Date: July 19, 2012 *Case No.*: **2012.0638C**

Project Address: **969 Sutter Street**

Zoning: RC-4 (Residential-Commercial Combined, High Density) District

80-A Height and Bulk District

Block/Lot: 0300/015

Project Sponsor: Yousef Shamieh

9 43rd Avenue

San Mateo, CA 94403

Staff Contact: Kevin Guy – (415) 558-6163

Kevin.Guy@sfgov.org

Recommendation: Approval with Conditions

PROJECT DESCRIPTION

The Project Sponsor proposes to establish a formula retail restaurant, known as "Papa John's Pizza" within the existing vacant tenant space measuring approximately 900 square feet, located at 969 Sutter Street, pursuant to Planning Code Sections 209.8, 303, and 703.3. The restaurant would sell pizza and other food, primarily for delivery or carry-out. There would be no expansion to the tenant space as part of this Project.

SITE DESCRIPTION AND PRESENT USE

The Project is located on the south side of Polk Street, between Hyde and Leavenworth Streets, Lot 015 in Assessor's Block 0300, within the RC-4 (Residential-Commercial Combined, High Density) District and the 80-A Height and Bulk District. The Project Site is developed with a two-story building, with residential units situated over a ground-floor retail tenant space. The tenant space is currently vacant, but was previously occupied by a Mexican restaurant (known as "La Mexicana Taqueria").

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The area surrounding the project site is mixed-use in character. The site is located within the Lower Nob Hill neighborhood, an area characterized by high-density residential development, including numerous residential hotels. Retail uses are often found on the ground floors of residential buildings, although retail frontage is not continuous on all streets. Processions of storefronts are interrupted by ground-floor dwelling units, residential lobbies and elevated entries, and utilitarian building service spaces.

1650 Mission St. Suite 400 San Francisco, CA 94103-2479

Reception: 415.558.6378

Fax:

415.558.6409

Planning Information: 415.558.6377 The scale of development varies greatly in the vicinity of the project site. Older buildings in the immediate area are generally four to eight stories in height. Some taller residential towers of more recent construction are interspersed among the older mid-rise structures. Tall hotel structures, such as the Hotel Nikko and the Hilton can be found in the blocks near Union Square to the southeast.

The Polk Street Neighborhood Commercial District (NCD) is located to the west, located in the gulch between Nob Hill, Russian Hill, and Pacific Heights. The Polk Street NCD provides convenience goods and services to the residents of the Polk Gulch neighborhood and the west slopes of Nob and Russian Hill. The district has a very active and continuous commercial frontage along Polk Street, while the side streets have a greater proportion of residences. The zoning controls for this area are designed to encourage residential development above neighborhood-serving commercial uses on the ground floor.

ENVIRONMENTAL REVIEW

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

HEARING NOTIFICATION

ТҮРЕ	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUA L PERIOD
Classified News Ad	20 days	July 6, 2012	July 6, 2012	20 days
Posted Notice	20 days	July 6, 2012	July 6, 2012	20 days
Mailed Notice	20 days	July 6, 2012	July 6, 2012	20 days

PUBLIC COMMENT

Through the Project Sponsor, the Department has received numerous letters and petitions in support of the project from residents and business owners in the area. The Department has received no letters in opposition to the project. The Department has received one communication in opposition to the project.

ISSUES AND OTHER CONSIDERATIONS

- With regard to Conditional Use authorizations for Formula Retail Uses, the Planning Commission is required to consider the following additional criteria [Section 303(i)] in addition to the standard Conditional Use findings:
 - o The existing concentrations of formula retail uses within the district.
 - o The availability of other similar retail uses within the district.
 - o The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the district.

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- o The existing retail vacancy rates within the district.
- o The existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the district.

REQUIRED COMMISSION ACTION

In order for the Project to proceed, the Commission must grant Conditional Use authorization to allow the establishment of a Formula Retail Use within the RC-4 District, pursuant to Planning Code Sections 209,8, 303, and 703.3.

BASIS FOR RECOMMENDATION

- Other Formula Retail in Vicinity: Staff performed a survey of formula retail uses in the vicinity, within the blocks bounded by Polk, California, Taylor, and O' Farrell Streets. A survey of this area reveals that there are 15 existing and approved formula retail uses in the area. These businesses include Pizza Hut, Domino's Pizza, three Walgreens, two Subways, Out of the Closet, Chase Bank, MetroPCS, FedEx Office, Goodwill, Max Muscle, Trader Joe's (approved and under construction), and CVS (approved and under construction).
- Similar Business Types in Vicinity: The surrounding Lower Nob Hill neighborhood is intensely developed with high-density residential uses at an urban scale. Therefore, the area is able to support a strong concentration of restaurants, even those offering similar types of food. However, it should be noted that there are over 25 establishments within six blocks of the Project Site that offer pizza (approximately 15 of these within the blocks bounded by Polk, California, Taylor, and O' Farrell Street), including two other Formula Retail establishments. Nonetheless, the proposed Project will further diversify the variety and price-point offerings of pizza restaurants in the area.
- Architectural Compatibility: The Project will be compatible with the architectural and aesthetic character of the neighborhood as there will be no exterior alterations to the building. Furthermore, the Conditions of Approval found in Exhibit A will require that the storefront remain visually open and transparent, through the use of clear glass and unobstructed windows.
- Commercial Vacancy in Vicinity: In addition to the subject vacant tenant space, there
 are approximately 13 other vacant commercial storefronts within the blocks bounded by
 Polk, California, Taylor, and O' Farrell Streets.
- The Project would contribute to the diversity of retail businesses options in the area.
- The Project has been found to be both necessary and desirable at the proposed location as it would allow a vacant storefront to be occupied by an active use. Due to the existing vacancy rate in the area, the proposed business would not preclude a locally-owned, independent business from establishing their business in the area.

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- The business model of the restaurant emphasizes carry-out service to the surrounding high-density residential neighborhood, and will therefore drive foot traffic which activates the surrounding sidewalks.
- The restaurant intends to be operate until 1:00am daily, and will therefore diversify the mix of late-night dining options in the vicinity.
- The Project meets all applicable requirements of the Planning Code.

RECOMMENDATION:

Approval with Conditions

Attachments:

Draft Motion
Block Book Map
Sanborn Map
Aerial Photograph
Zoning Map
Formula Retail Map
Correspondence in Opposition to Project
Project Sponsor Submittal, including:

- Reduced Plans
- Correspondence in Support of Project
- Site Photos

Planner's Initials

Attachment Checklist

Executive Summary	Context Photos
Draft Motion	Project sponsor submittal
Block Book Map	Drawings: Existing Conditions
Sanborn Map	Check for legibility
Zoning District Map	Drawings: Proposed Project
Formula Retail Map	Check for legibility
Aerial Photo	Site Photos

Exhibits above marked with an "X" are included in this packet

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SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)	
☐ Affordable Housing (Sec. 415)	☐ First Source Hiring (Admin. Code)
☐ Jobs Housing Linkage Program (Sec. 413)	☐ Child Care Requirement (Sec. 414)
☐ Downtown Park Fee (Sec. 412)	☐ Other

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Planning Commission Draft Motion

HEARING DATE: JULY 26, 2012

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 Case No.:
 2012.0638C

Project Address: **969 Sutter Street**

Zoning: RC-4 (Residential-Commercial Combined, High Density) District

80-A Height and Bulk District

Block/Lot: 0300/015

Project Sponsor: Yousef Shamieh

9 43rd Avenue

San Mateo, CA 94403

Staff Contact: Kevin Guy – (415) 558-6163

Kevin.Guy@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 209.8, 303, AND 703.3 OF THE PLANNING CODE TO ALLOW A FORMULA RETAIL USE (D.B.A. PAPA JOHN'S PIZZA) WITHIN THE RC-4 (RESIDENTIAL-COMMERCIAL COMBINED, HIGH DENSITY) DISTRICT AND THE 80-A HEIGHT AND BULK DISTRICT.

PREAMBLE

On May 16, 2012, Yousef Shamieh ("Project Sponsor") filed an application with the Planning Department ("Department") for Conditional Use authorization under Planning Code Sections ("Sections") 209,8, 303, and 703.3 to allow a Formula Retail Use (d.b.a. Papa John's Pizza) within the RC-4 (Residential-Commercial Combined, High Density) District and the 80-A Height and Bulk District.

On July 26, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2012.0638C.

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. 2012.0638C, 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 Polk Street, between Hyde and Leavenworth Streets, Lot 015 in Assessor's Block 0300, within the RC-4 (Residential-Commercial Combined, High Density) District and the 80-A Height and Bulk District. The Project Site is developed with a two-story building, with residential units situated over a ground-floor retail tenant space. The tenant space is currently vacant, but was previously occupied by a Mexican restaurant (known as "La Mexicana Taqueria").
- 3. Surrounding Properties and Neighborhood. The area surrounding the project site is mixed-use in character. The site is located within the Lower Nob Hill neighborhood, an area characterized by high-density residential development, including numerous residential hotels. Retail uses are often found on the ground floors of residential buildings, although retail frontage is not continuous on all streets. Processions of storefronts are interrupted by ground-floor dwelling units, residential lobbies and elevated entries, and utilitarian building service spaces.

The scale of development varies greatly in the vicinity of the project site. Older buildings in the immediate area are generally four to eight stories in height. Some taller residential towers of more recent construction are interspersed among the older mid-rise structures. Tall hotel structures, such as the Hotel Nikko and the Hilton can be found in the blocks near Union Square to the southeast.

The Polk Street Neighborhood Commercial District (NCD) is located to the west, located in the gulch between Nob Hill, Russian Hill, and Pacific Heights. The Polk Street NCD provides convenience goods and services to the residents of the Polk Gulch neighborhood and the west slopes of Nob and Russian Hill. The district has a very active and continuous commercial frontage along Polk Street, while the side streets have a greater proportion of residences. The zoning controls for this area are designed to encourage residential development above neighborhood-serving commercial uses on the ground floor.

- 4. **Project Description.** The Project Sponsor proposes to establish a formula retail restaurant, known as "Papa John's Pizza" within the existing vacant tenant space measuring approximately 900 square feet, located at 969 Sutter Street, pursuant to Planning Code Sections 209.8, 303, and 703.3. The restaurant would sell pizza and other food, primarily for delivery or carry-out. There would be no expansion to the tenant space as part of this Project.
- 5. **Public Comment.** Through the Project Sponsor, the Department has received numerous letters and petitions in support of the project from residents and business owners in the area. The Department has received no letters in opposition to the project. The Department has received one communication in opposition to 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. Other Retail Sales and Services. Section 209.8(a) states that a ground-floor commercial use may be permitted within the RC-4 District if the use is principally permitted on the ground floor within the NC-3 District.
 - A Restaurant use in principally permitted at the ground floor within the NC-3 District, and is therefore principally permitted at the ground floor within the RC-4 District. The Project would continue a Restaurant use at this location, which is the use that previously occupied the now-vacant tenant space.
 - B. Street Frontage in Neighborhood Commercial Districts. Section 145.1 of the Planning Code requires that NC Districts provide the following: 1) "active uses" within the first 25 feet of building depth on the ground floor from any facade facing a street at least 30 feet in width; 2) street-facing ground-level spaces that open directly onto the street; and 3) frontages that are fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and that allow visibility to the inside of the building.
 - The subject commercial space has approximately 20 feet of frontage along Sutter Street. This entire space will be occupied by the "active use" of Papa John's Pizza, a Formula Retail Use. Nearly the entire façade is dedicated to clear, unobstructed clear-glass windows, including a recessed entrance that leads directly to the sidewalk. The windows are all clear and unobstructed at eye level, and are conditioned to remain as such.
 - C. **Parking**. Planning Section 151 of the Planning Code requires retail uses to provide one off-street parking for every 500 square-feet of occupied floor area, where the occupied floor area exceeds 5,000 square-feet.

The floor area of the subject tenant space measures approximately 900 sf and thus does not require any off-street parking.

D. **Loading**. Section 152 requires off-street freight loading for uses above a certain size. Retail establishments and uses primarily engaged in the handling of goods (such as the proposed business) are not required to provide off-street freight loading if they measure less than 10,000 square feet in gross floor area.

With a gross floor area of under 10,000 square feet, the Project is not required to provide any off-street loading.

E. **Formula Retail.** Section 209.8(d) allows formula retail uses in the RC-4 District with Conditional Use authorization.

The Project is considered to be a formula retail use as defined by Section 703.3 of the Planning Code, and as such, is seeking a Conditional Use authorization.

- F. **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 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use authorization. On balance, the Project complies 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 Project has been found to be desirable at the proposed location as it would allow a vacant storefront to be occupied by an active use. There are other vacant storefronts in the vicinity, therefore, the proposed business would not preclude a locally-owned, independent business from establishing their business in the area. The Project will serve the neighborhood and is located within a walkable context of high-density residential buildings. Because the business model will emphasize carry-out orders, the Project will generate substantial foot traffic and activate surrounding sidewalks.

The surrounding Lower Nob Hill neighborhood is intensely developed with high-density residential uses at an urban scale. Therefore, the area is able to support a strong concentration of restaurants, even those offering similar types of food. However, it should be noted that there are over 25 establishments within six blocks of the Project Site that offer pizza (approximately 15 of these within the blocks bounded by Polk, California, Taylor, and O' Farrell Street) including two other Formula Retail establishments. Nonetheless, the proposed Project will further diversify the variety and price-point offerings of pizza restaurants in the area.

- 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 size and shape of the site and the size, shape, and arrangement of the building on the site are adequate for the Project. The Project would not physically expand the existing building or tenant space, and therefore would not alter the existing appearance or character of the Project vicinity.

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 will not adversely impact public transit or overburden the existing supply of parking in the neighborhood. The Planning Code does not require off-street parking or loading for the Project. The restaurant is expected to serve residents in the immediate vicinity within a convenient walking distance of the site. The business should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide. The restaurant will offer pizza deliveries, therefore, employees will need to park several vehicles in the area during their shifts. However, these vehicles will be moved frequently, and will not be parked on-street during the time of their deliveries. Therefore, the parking of delivery vehicles should not substantially affect on-street parking conditions in the area.

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. Specifically, the Project Sponsor will be required to install interior upgrades and implement management practices to odors, if necessary. The use is not expected to generate glare, dust, or substantial noise.

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

The building is built-out to the front property line, thus no landscaping will need to be provided. There is no off-street parking on the Project Site. Future changes in lighting and signage would be required to comply with the requirements of the Planning Code, CEQA, the Urban Design Element of the General Plan, and other applicable regulations and policies, in accordance with Conditions of Approval contained in Exhibit A.

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.

- 8. Planning Code Sections 209.8 and 303(i) require Conditional Use authorization for the establishment of a formula retail use in the RC-4 District. 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.

While the subject property is not located within an NCD, staff performed a survey of formula retail uses in the vicinity, within the blocks bounded by Polk, California, Taylor, and O' Farrell Streets. A survey of this area reveals that there are 15 existing and approved formula retail uses in the area. These businesses include Pizza Hut, Domino's Pizza, three Walgreens, two Subways, Out of the Closet, Chase Bank, MetroPCS, FedEx Office, Goodwill, Max Muscle, Trader Joe's (approved and under construction), and CVS (approved and under construction).

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

Within the survey area bounded by Polk, California, Taylor, and O' Farrell Streets, there are approximately 15 restaurants that offer pizza, including two other Formula Retail establishments (Pizza Hut and Dominoes Pizza). While there are a substantial number of retail uses similar to the proposed Project, the surrounding neighborhood is intensely developed with high-density residential uses and should be able to support a strong concentration of similar restaurants.

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

No physical expansions of the subject building would be necessary to accommodate the proposed use, and thus the Formula Retail Use would remain compatible with the architectural and aesthetic character of the area. Any future signage would be review by historic preservation staff prior to approval.

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

There are currently 13 vacant commercial storefronts in the survey area bounded by Polk, California, Taylor, and O' Farrell Streets, in addition to the subject tenant space.

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

The area surrounding the subject property contains eating and drinking establishments, specialty and general retail stores, services, and institutions that serve not only the immediate neighborhood, but also the City as a whole. There is a mixture of Formula Retail establishments, as well as locally-owned and independent uses, although there is a majority of independent uses within the immediate vicinity. The proposed use is intended to be primarily neighborhood-serving.

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

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

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 attract a new commercial activity to a vacant commercial tenant space. The business model of the restaurant emphasizes carry-out service to the surrounding high-density residential neighborhood, and will therefore drive foot traffic which activates the surrounding sidewalks. The restaurant intends to be operate until 1:00am daily, and will therefore diversify the mix of late-night dining options in the vicinity.

- F. **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 complies 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 not affect any neighborhood-serving retail use, as the proposed use will occupy a vacant store front. By occupying a vacant store front, the Project will activate the space, attracting pedestrian traffic that may patronize existing neighborhood businesses and increase demand for other existing businesses in the Lower Nob Hill neighborhood. It is also intended to be a neighborhood-serving use that will offer new employment opportunities for neighborhood residents.

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

The Project will not have an adverse effect on neighborhood character or the cultural and economic diversity of the neighborhood. With the addition of subject business, the area would enjoy a greater mix of uses and greater choice for consumers. Furthermore, the addition of another formula retail use would not add to an overconcentration of formula retail uses in an area that primarily features locally owned, independent businesses. The Project will have no effect on housing and will not significantly change the retail character of the Lower Nob Hill neighborhood.

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

The Project would not affect the City's supply of affordable housing.

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

The Project would not adversely affect public transit or place a burden on the existing supply of parking in the neighborhood. While a few on-street parking spaces will be needed for use by delivery drivers, these vehicles will be moved frequently, and will not be parked on-street during the time of their deliveries. Therefore, the parking of delivery vehicles should not substantially affect on-street parking conditions in the area.

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.

There is no commercial office development associated with the Project. No industrial or service sector uses would be displaced; however, the Project would enable the creation of several new service sector employment opportunities in the neighborhood.

F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The Project does not involve any construction activities that would compromise the structural integrity of the existing building. Any interior tenant improvements associated with this Project will conform to the structural and seismic safety requirements of the City's Building Code.

G. That landmarks and historic buildings be preserved.

No exterior changes are proposed for the Project. Any future storefront alterations or signage would be required to comply with applicable historic preservation standards.

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

The Project, which does not include any physical expansion of the building envelope, would not affect any parks or open spaces, or their access to sunlight.

- G. 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.
- H. 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. 2012.0638C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with floor plans on file, dated July 26, 2012, 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. XXXXX. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on July 26, 2012.

Commission Secretary			
AYES:			
NAYS:			
ABSENT:			
ADOPTED:	July 26, 2012		

Linda D. Averv

EXHIBIT A

AUTHORIZATION

This authorization is for a Conditional Use authorization to allow a Formula Retail Use (d.b.a. Papa John's Pizza) located at 969 Sutter Street, Lot 015 in Assessor's Block 0030, pursuant to Planning Code Sections 209.8, 303, and 703.3, within the RC-4 Zoning District and the 80-A Height and Bulk District; in general conformance with plans, dated July 26, 2012, and stamped "EXHIBIT B" included in the docket for Case No. 2012.0638C and subject to conditions of approval reviewed and approved by the Commission on July 26, 2012 under Motion No XXXXXX. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the Project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on July 26, 2012 under Motion No XXXXXX.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

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

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, <u>www.sf-planning.org</u>

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 - COMPLIANCE AT PLAN STAGE

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 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 buildings.

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

MONITORING - AFTER ENTITLEMENT

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

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PLANNING DEPARTMENT

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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

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

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

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, <u>www.sfdbi.org</u>

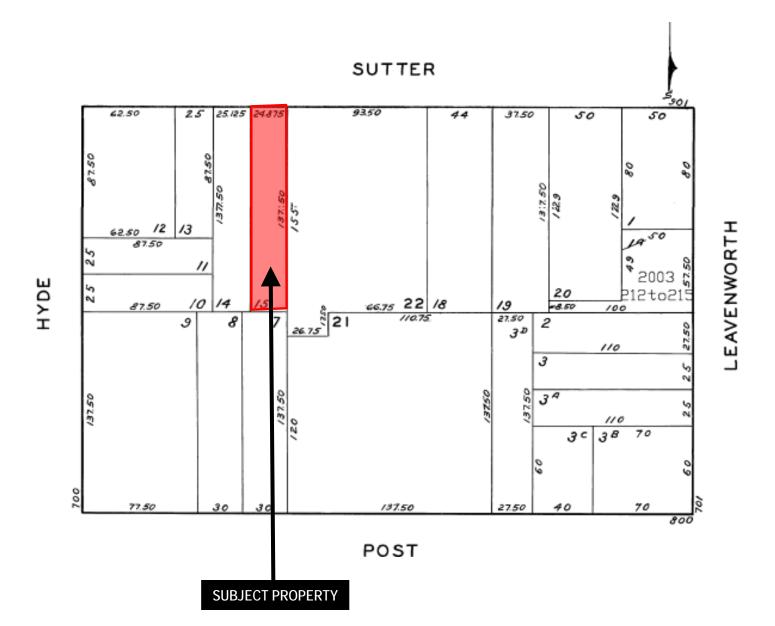
For information about compliance with the amplified sound including music and television contact the Police Department at 415-553-1012 or 415-5530123, <u>www.sf-police.org</u>

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 as necessary, 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

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.

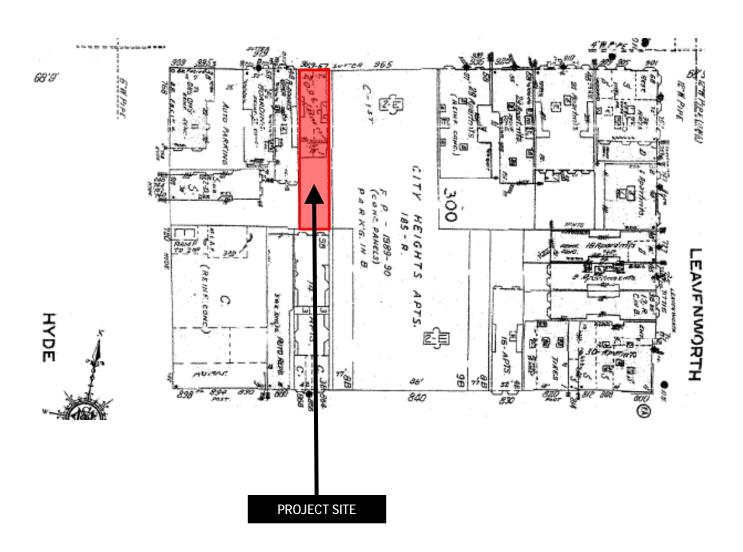
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Parcel Map





Sanborn Map*





^{*}The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.

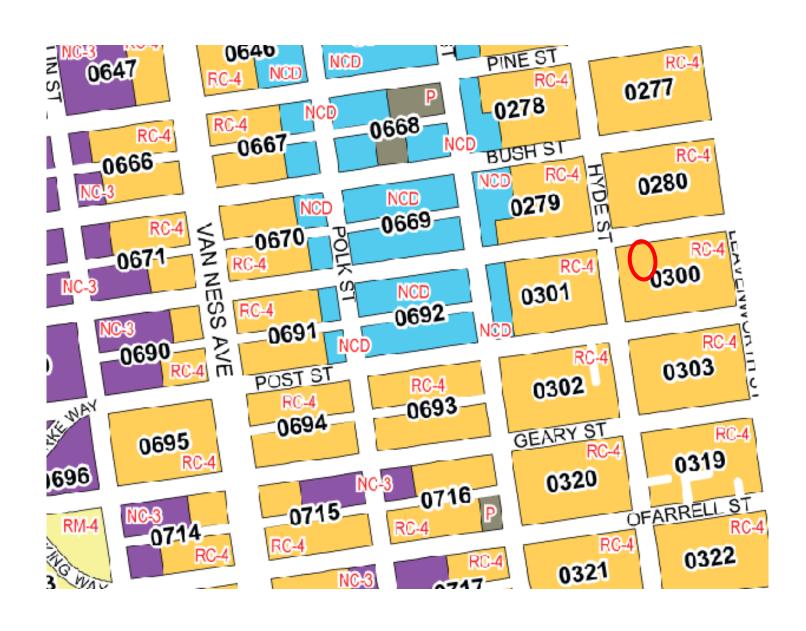
Aerial Photo



PROJECT SITE

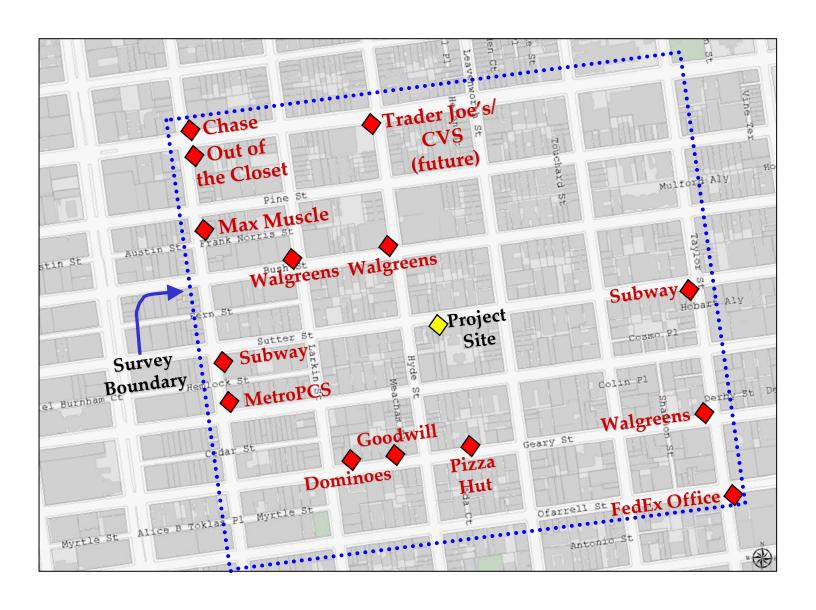


Zoning Map





Formula Retail Map







CommunityLeadershipAlliance <admin@communityleadershipalliance.net> 07/10/2012 10:51 PM

To Kevin.Guy@sfgov.org

CC

bcc

Subject Attn; Mr.Kevin Guy /Re:Proposed Papa John's 969 Sutter/D3

Dear Mr.Kevin Guy-

Our organization performed an extensive community survey regarding the 969 Sutter street proposed Papa John's Pizza venue. We also considered this CU application as one of five action items on our 7/10/12 advisory board meeting's agenda.

In conclusion our organization feels strongly that a formula retail outlet such as a Papa John's Pizza does not lend well, or correctly to the fabric of this respective central city neighborhood.

However we would be interested in meeting w/the property/business owner of 969 Sutter street to discuss other possible small business options.

Sincerely David J. Villa-Lobos, Executive Director www.communityleadershipalliance.net 415-921-4192

Mail Your Contributions To: Community Leadership Alliance P.O. Box 642201, SF,CA 94164

Or Our On-Line Contribution Link Below:

CONTRIBUTION PAGE:

http://pleaseContribute.com/1497 Thank you so very much for your support

San Francisco Planning Commission 1650 Mission Street, Suite 400 San Francisco, CA 94103

RE: Please Support Our CU Permit for Papa John's at 969 Sutter Street

Dear Commissioners,

We, Paul and Yousef Shamieh have purchased the building at 969 Sutter Street and are seeking a Conditional Use permit to open a Papa John's pizza parlor in the first floor retail space that was most recently a taqueria but has sat vacant for some time. We request that you approve our CU permit application.

We also own a Papa John's in the Parkmerced Shopping Center. That location is nearly seven miles from Sutter Street and is the only other Papa John's in the City. It is an attractive pizza parlor and one of the few successful retail establishments in the shopping center. It brings foot traffic and customers into the other stores and restaurants and creates a more lively neighborhood shopping area.

Our Papa John's on Sutter Street will also be attractive and well-maintained. The building has not been maintained for years, but we will renovate it and bring it up to code. Paul will be moving into the apartment behind the retail space on the first floor and looks forward to being a part of this wonderful neighborhood.

We will not serve or sell alcohol on the premises. We already met with several of our neighbors at a community meeting we held at the site on May 7, 2012. The folks who live behind the building asked us to rebuild the back fence, and we have agreed to do so according to their preferences. Every person who attended the meeting expressed support for the project. The neighborhood is looking forward to an improvement to the property that it badly needs. We will also hire residents and students who live nearby. Our intention is to be a good neighbor and engaged member of the community.

While Papa John's is considered formula retail by the San Francisco Planning Code, this location is individually owned and operated, in this case by our local family with long-standing roots in San Francisco and the Bay Area. Both of us grew up within a few miles of the building.

We have conducted extensive community outreach and everyone we've spoken with has been supportive of a Papa John's on Sutter Street. We feel our Papa John's is a good fit for this location and for the neighborhood. We respectfully ask the Planning Commission to grant a Conditional Use permit for Papa John's at 969 Sutter Street when this item comes before you on July 26, 2012.

Sincerely,

Paul and Yousef Shamieh

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Mr. Kevin Guy, Planner San Francisco Planning Department 1650 Mission Street San Francisco, CA 94103

RE: 2012.0638C – 969 Sutter Street (Papa John's Pizza)

Dear Mr. Guy:

I am writing on behalf of **Lower Polk Neighbors** [LPN], a community association made up of residents and merchants. LPN's boundaries are California Street on the North, Ellis Street on the South, Larkin on the East and the West Side of Van Ness as the West boundary.

At our regular Lower Polk Neighbors meeting on June 13, 2012, Yousef and Paul Shamieh, the prospective owners of Papa John's Pizza, presented their request for neighborhood support for their new restaurant at 969 Sutter. There was a question and answer session after the presentation in which most concerns were addressed. At our July 11, 2012 meeting Lower Polk Neighbors voted unanimously to support their request for support. Although the proposed pizza restaurant is just outside our association boundaries, we did appreciate their community outreach and involvement.

Lower Polk Neighbors feel the new Papa John's Pizza will be a positive asset for our community and the owners will listen to and be supportive of neighborhood concerns if and when they arise.

With regards,

Ron Case, Chairman Lower Polk Neighbors



July 13, 2012

Kevin Guy SF Planning Department 1650 Mission #400 SF, CA 94103

Dear Mr. Guy,

I am writing to express the North of Market/Tenderloin Community Benefit District's strong support of Paul and Yousef Shamieh and the proposed Papa John's restaurant at 969 Sutter Street, and request that you consider supporting the change in conditional use of the permit.

Paul and Yousef reached out to our organization and attended our community meeting to discuss the project with our Board and community members.

We feel that an occupied retail storefront will create improvements to the building, the block, the neighborhood, and the City of San Francisco. Paul and Yousef agreed to maintain the building and sidewalk in a consistent and meaningful way.

Additionally, Paul and Yousef have a strong desire to support the community with donations, provision of jobs for local residents, and sponsorship programs. We are confident the Papa John's restaurant, and Paul and Yousef Shamieh, will be outstanding neighbors.

We request approval of the change in conditional use of the permit.

If you have any questions, please feel free to contact me. Thank you for your consideration.

Sincerely, Diner Hilliarel

Dina Hilliard

Executive Director

North of Market/Tenderloin Community Benefit District

July 11, 2012

San Francisco Planning Commission 1650 Mission Street, Suite 400 San Francisco, CA 94103

RE: Please Approve Conditional Use Permit for Papa John's, 969 Sutter Street

Dear Commissioners,

I am the long-time owner of Sutter Fine Foods at 988 Sutter Street in San Francisco. My market is across the street from 969 Sutter where Papa John's is proposed for the empty restaurant space on the first floor. I support Papa John's at this location and urge the Commission to support it as well

I know Paul and Yousef Shamieh who bought the building at 969 Sutter Street, and rented space to them for their Papa John's at Parkmerced Shopping Center, which I own, in the southwest part of the City. They have been true to their word in keeping their pizza parlor clean and well-maintained. They are hard-working, conscientious businessmen and their Parkmerced site is doing very well. I believe their Papa John's on Sutter Street will be successful as well and will contribute to the neighborhood's thriving, lively atmosphere. A stable property owner at that location who also operates the pizza parlor will be a great benefit to the neighborhood.

The Shamiehs plan to renovate the building and bring it up to code, as it has not been properly maintained for some time. They will hire workers from the neighborhood to work in the pizza parlor, just as they have done at Parkmerced. This is also good for our community.

They do not plan to sell liquor or obtain a liquor license, which I know is something our neighbors will appreciate. If any issues arise from the take out and delivery service, I am confident they will work them out with the neighborhood.

The Shamiehs are from a local family and were born, raised and continue to live nearby. They will be the owners and operators of Papa John's, unlike other "formula retail" establishments.

As a local merchant I am very pleased to welcome Paul and Yousef Shamleh to the neighborhood and look forward to having Papa John's across the street from my market.

I request that the Planning Commission approves the Conditional Use permit for Papa John's at 969 Sutter Street.

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Sincerely,

John Jweinat

Sutter Fine Foods 988 Sutter Street

San Francisco, CA 94109

Peter Moylan

July 3, 2012

San Francisco Planning Commission 1650 Mission Street, Suite 400 San Francisco, CA 94103

RE: Support CU Permit for Papa John's at 969 Sutter Street

I wish to join in with my neighbors in support of the Shamieh family's goal of opening a Papa John's at 969 Sutter Street.

I have been a resident of 925 Sutter Street for 18½ years. In that time, we have never had a high quality pizza restaurant on the street. Although Papa John's is a national chain, its pizza is clearly better than what we now have. Like any neighborhood that is overwhelmingly young and single, we eat out far more often than most. It is crucial to have good pizza. It is especially important for me, because they will serve pizza by the slice. Now I have to buy a whole pizza and have it delivered.

I have met the proposed owners and I believe they are very sincere in their promise to maintain their store in excellent condition and be a good neighbor to the people and other businesses on the 900 block of Sutter.

I understand that parking is an issue of concern. It seems to me that their store, designed primarily for pick-up and delivery, cannot have much of an effect on the street with several other restaurants and the normal flow of deliveries to residents on a block with nothing but multi-unit apartments.

Therefore, I fully support the issuance of a conditional use permit for this purpose.

Sincerely,

Peter Moylan

July 9, 2012

San Francisco Planning Commission 1650 Mission Street, Suite 400 San Francisco, CA 94103

RE: Support CU Permit for Papa John's at 969 Sutter Street

Dear Commissioners,

As a seventeen year resident of Lower Nob Hill at 866 Post St., APT 7, I am writing in support of the proposed Papa John's at 969 Sutter Street.

I understand the Shamieh family that hopes to open the pizza parlor at this location has purchased the building and plans to make extensive repairs to bring it up to code, and will maintain the property in much better condition than it is in currently.

I live directly behind the building that has been purchased by the Shamieh family. My bedroom window looks directly out upon back of the building at 969 Sutter Street, as well as the open yard space between our two buildings. I have a direct and very real interest in what happens to the building at 969 Sutter Street in terms of noise and aesthetics.

The Shamiah family has promised to keep the front restaurant area clean and attractive, and have agreed with me to fix the back fence and keep the backyard in good condition as well. Currently, and for many years, this fence has been broken and the backyard has not been properly taken care of.

We have been told there will be no alcohol served or sold at this location, which is important to our neighborhood. We have discussed parking in front of the restaurant and the Shamiehs are considering ways to work out any potential problems in that regard, though I don't foresee this as being an issue since much of the business will come from local residents and foot traffic. The family has pledged to minimize other issues that may arise related to pizza take out and delivery.

I am fine with having a "formula retail" business in the neighborhood, as there are many alternative pizza establishments in the general neighborhood that will offer plenty of competition. Also, there is a Subway sandwich franchise just a few blocks away on Sutter, and also a Domino's Pizza a few blocks away on Geary, so there is precedent for "formula retail" in the neighborhood.

As members of the family plan to live in the building, I believe that they will be good caretakers and make good neighbors. They strike me as reasonable people with a reasonable business model that will meet demand in the neighborhood.

I urge the Planning Commission to grant the Shamiehs a Conditional Use permit for their Papa John's when this item comes before you on July 26, 2012.

Sincerely,

Jason Vallandigham 866 Post St., APT 7 San Francisco, CA 94109

Lacon

-

July 9, 2012

San Francisco, Planning Commission 1650 Mission Street, Suite 400 San Francisco, Ca 94103

RE: Support for a Conditional Use Permit for Papa John's Pizza Parlor at 969 Stutter Street

Dear Commissioners,

I am a long time resident and business man of The Lower Nob Hill Historic Hotel and Apartment District. Also, I am President of Save Our Streets Tenants And Merchants Association. I am in support of the project to restore the building with a Papa John's Pizza Parlor on the ground floor.

The Shamiehs family has assured the neighbors that they will not extend the pizza Parlor on to the back yard and will use it only for normal activities. Also, they have assured the neighbors that they are looking for parking for their delivery vehicles and will not double park on Sutter street which is the main exit going west out of the Financial District and Downtown/Union Square. The Fact Sheet handed out to the neighbors stated the hours would be from 11:AM till 11:PM. Some would like to see the hours 11:AM till 10:PM. The only other concern is a Parklet on the street in front of 969 Sutter Street. Parklets are a public nuisance as they are a new concept and it is not clear who can use them and who will enforce any problems that occur in and around them.

The Shamiehs family plans to have a member of the family occupy a unit in the building, owner occupied buildings are always good.

Sincerely,

Robert B. Garcia, 866 Post st., San Francisco, Ca 94109

Allen J. Mallelle

July 10, 2012

David M. Overdorf 647 Hyde Street San Francisco, CA 94109

Kevin Guy San Francisco Planning Commission 1650 Mission Street, Suite 400 San Francisco, CA 94103

RE: Hearing July 26, 2012 concerning Premises of 967-969 Sutter Street, San Francisco, CA dba as "Papa John's "Formula Retail Pizza

Dear Commissioners,

Since 1998 I have owned and lived in the property at 647 Hyde Street, San Francisco, CA, 94109 which is located within 500 feet of the premises. I am pleased to write in support of the proposed change of use to "Papa Johns" operating at the premises subject to acceptable and enforceable conditions of use.

The project sponsors (the Shamieh family) have done considerable outreach to the surrounding community and it is my understanding that they have purchased the historic property which is a contributing property No. 310 to the "Lower Nob Hill Apartment Hotel District", "Jauchen's Olde Copper Shop (2 stories, stucco and metal cladding, Mission/Spanish Colonial Revival Ornament, ground floor commercial, upper floor originally residential use. The premises were built in 1923 by contractor James McLaughlin (SF Heritage Files) and were originally the shop and residence of the metal sculptor Hans W. Jauchen. The façade is probably intact and should remain in the same style and materials if restored.

It is also my understanding that they (the project sponsors) have both accepted and committed to the following conditions to comply with the criteria of necessity, desirability and compatibility with the surrounding neighborhood:

- They will restore the premises in conformity to all San Francisco historic preservation, planning and building codes.
- 2. They will ensure that the signage and restored facade will be subordinate and not a distraction from the original façade.
- 3. They will keep the front façade and public right of way sidewalks graffiti free, clean and attractive at all times.
- 4. They will operate a small pizza parlor which will be primarily a neighborhood serving business which is neither a significant change nor intensification of use. The premises have been used previously both as a neighborhood serving business (on grade level) as well as a residence (on second level).
- They will repair the rear fence to the rear garden and keep the garden neat, clean, quiet and attractive at all times.
- 6. They will not use the outside garden as a patio facility for customers' use or for storage.
- They will not sell or serve alcoholic beverages. They will not transfer or apply for any ABC License at these premises.
- 8. They will ensure that all customer noise, music, etc will be contained within the premises. Loitering and smoking will not be allowed in front of the premises.
- 9. They will not apply for a Place of Entertainment Permit, Sidewalk Encroachment (Sidewalk Tables and Chairs) Permit, or Pool Hall Permit.

Copy

- 10. Since the project sponsor is not in control of private parking, the only parking available will be street parking. The project sponsor has expressed a willingness to work out potential problems that could arise from double parking and other issues related to pizza take out and delivery, such as applying for a special street frontage zone for loading, unloading. Consequently there could not be a "street parklet" as was discussed at a Community meeting because it would most likely result in delivery vehicles double parking in front of the premises. The premises are located approximately 5 blocks from Union Square with Sutter Street for one way traffic moving west. Blockage of just one lane causes traffic jams and much horn honking. I do not profess to know the best solution but I hope a solution can be memorialized in the final conditions of use. I leave it to the Planning Commission to determine whether the change or intensification of use would require that the project sponsor be in control of private parking spaces for their customers. It is my sense that as long as there is no double parking, the existing public and private parking in this neighborhood can accommodate 10-30 customers.
- 11. They will have operating hours between 11 am until 11pm. Many neighbors would be more comfortable with operating hours until 10pm. 11 pm is fine with me as long as it is no later. Project sponsors should, however, make a commitment not to apply for extended hours permit.

I urge the Planning Commission to grant the Shamiehs a Conditional Use Permit with the above conditions for Papa Johns when this item comes before you on July 26, 2012. If there are any questions pertaining to the above, please do not hesitate to contact me.

Sincerely,

David M. Overdorf (415-370-1517)







