

File No. 101087

Committee Item No. _____

Board Item No. 37

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee _____

Date _____

Board of Supervisors Meeting

Date 09/14/10

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget Analyst Report
- Legislative Analyst Report
- Introduction Form (for hearings)
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Award Letter
- Application
- Public Correspondence

OTHER (Use back side if additional space is needed)

- Conditional Use Appeal for 3150 California Street
- Planning Department's Appeal Response Attachments
- _____



Completed by: Joy Lamug

Date 09/09/10

Completed by: _____

Date _____

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.



**NOTICE TO BOARD OF SUPERVISORS OF APPEAL
FROM ACTION OF THE CITY PLANNING COMMISSION**

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2010 AUG -6 AM 10:09

BY CF

Notice is hereby given of an appeal to the Board of Supervisors from the following action of the City Planning Commission.

The property is located at 3150 CALIFORNIA ST.

July 8, 2010

Date of City Planning Commission Action
(Attach a Copy of Planning Commission's Decision)

August 6, 2010

Appeal Filing Date

The Planning Commission disapproved in whole or in part an application for reclassification of property, Case No. _____.

The Planning Commission disapproved in whole or in part an application for establishment, abolition or modification of a set-back line, Case No. _____.

The Planning Commission approved in whole or in part an application for conditional use authorization, Case No. 2010.0357.

The Planning Commission disapproved in whole or in part an application for conditional use authorization, Case No. _____.

Statement of Appeal:

a) Set forth the part(s) of the decision the appeal is taken from:

Decision that was reached on Page 9

b) Set forth the reasons in support of your appeal:

We believe that a Pet Store Chain - Pet Food Express is not necessary or desirable - It will have a negative impact on all the Pet Stores within a 2 mile radius. AND MORE!

Person to Whom
Notices Shall Be Mailed

Name and Address of Person Filing Appeal:

SUSAN LANDRY
Name

SUSAN LANDRY
Name
ON BEHALF of The Animal Connection

980 TERESITA Blvd.
Address

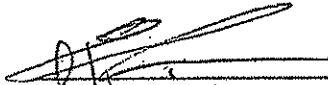


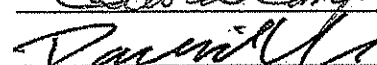

980 TERESITA Blvd.
Address
SAN FRANCISCO, CA
94127

415-337-8944
Telephone Number

415-337-8944
Telephone Number

Susan Landry
Signature of Appellant or
Authorized Agent

Pursuant to Planning Code Section 308.1(b), the undersigned members of the Board of Supervisors believe that there is sufficient public interest and concern to warrant an appeal of the Planning Commission on Case No. 2010-0357, a conditional use authorization regarding (address) 3150 CALIFORNIA ST SAN FRANCISCO, CA, District 2. The undersigned members respectfully request the Clerk of the Board to calendar this item at the soonest possible date.

SIGNATURE	DATE
 ERIC HARTZ SUPERVISOR	8-4-10
	8-4-10
	8-4-10
	8-5-10
	8-5-10
_____	_____

(Attach copy of Planning Commission's Decision)

((

((

((



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Inclusionary Housing (Sec. 315)
- Jobs Housing Linkage Program (Sec. 313)
- Downtown Park Fee (Sec. 139)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 314)
- Other

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion No. 18139

HEARING DATE: JULY 8, 2010

Date: July 1, 2010
Case No.: 2010.0357C
Project Address: 3150 California Street
Zoning: NC-2 (Neighborhood Commercial, Small Scale)
 40-X Height and Bulk District
Block/Lot: 1022/013
Project Sponsor: Jim Moore
 2131 Williams Street
 San Leandro, CA 94577
Staff Contact: Aaron Starr – (415) 558-6362
aaron.starr@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303 & 703.3 OF THE PLANNING CODE TO ALLOW A FORMULA RETAIL USE (DBA PET FOOD EXPRESS) IN AN NC-2 (NEIGHBORHOOD COMMERCIAL, SMALL SCALE) DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On May 11, 2010, Jim Moore (Project Sponsor) filed an application with the San Francisco Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 303 and 703.3 to allow a Formula Retail Use (dba Pet Food Express) in an NC-2 (Neighborhood Commercial, Small Scale) District and a 40-X Height and Bulk District.

On July 8, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2010.0357C.

The Project was determined by the Department to be Categorically Exempt from the California Environmental Quality Act ("CEQA") as a Class 1 [State CEQA Guidelines Section 15301(a)] exemption under CEQA Guidelines as described in the determination contained in the Planning Department files for this project. The Commission has reviewed and concurs with said determination.

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 approves the Conditional Use Authorization requested in Application No. 2010.0357C.

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 19,889 square-foot project site is located on the north side of California Street between Presidio Avenue to the west and Lyon Street to the east, between the neighborhoods of Presidio Heights and Pacific Heights. The project site contains an approximately 14,525 square-foot, two-story commercial building with several offices located in the building. The space that the proposed use will occupy is approximately 5,595 sq. ft., and was previously occupied by a Hollywood Video Store. The subject parcel is a rectangular-shaped lot with a 150' frontage on California Street. The site has 24 parking spaces, four of which are specifically dedicated to the subject retail space.
3. **Surrounding Properties and Neighborhood.** The project site is located on the north side of California Street between Presidio Avenue to the west and Lyon Street to the east, between the neighborhoods of Presidio Heights and Pacific Heights. The Jewish Community Center and the SF Fireman's Credit Union are located half a block to the west. The subject property is part of a small NC-2 District that includes the entire block face of the subject block (1022) and the southeast and southwest corners of the intersection of California Street and Presidio Avenue. NC-2 Districts are intended to serve as the City's Small-Scale Neighborhood Commercial Districts. These districts are linear shopping streets which provide convenience goods and services to the surrounding neighborhoods as well as limited comparison shopping goods for a wider market. The range of comparison goods and services offered is varied and often includes specialty retail stores, restaurants, and neighborhood-serving offices.

One block to the north is Sacramento Street, which has its own neighborhood specific zoning district, the Sacramento Street NCD, and two blocks to the west is Laurel Village, an NC-S Zoning District (Neighborhood Commercial Shopping Center District). The Sacramento Street NCD is characterized by small high-end stores selling antiques, art, and other specialty goods. The NC-S District provides a wider range of goods and services including a hardware store, grocery stores, coffee shops and clothing stores.

4. **Project Description.** The proposal is to establish a pet food and accessories store, (dba Pet Food Express), which is a formula retail use, in a commercial space that was previously occupied by a

Hollywood Video Store. Pet Food Express is a locally-owned chain with approximately 34 locations located throughout the Bay Area making it the eighth largest pet specialty retailer in the USA, according to its web site. Currently Pet Food Express has two other locations in San Francisco, one in Stonestown Mall and one on Market Street at the corner of Duboce Avenue. In addition to offering pet products such as food, toys and treats, most Pet Food Express stores feature self-service pet washes, vaccination clinics, and mobile pet adoptions. Pet Food Express does not sell animals in their stores. No major exterior alterations are proposed for the subject site. The store will employ approximately 8 full time and 5 part-time employees

5. **Public Comment.** As of Wednesday, June 30, 2010, the Department received one letter from the Geary Street Merchants Association in support of the project. In addition, the project sponsor did extensive public outreach and has put together a packet that outlines the outreach effort and a summary of the support and opposition to the project. The packet shows that 103 businesses in the area were interviewed about the proposed store; three of those interviewed were opposed, while 28 had no opinion. The packet also includes a letter of support from the Sacramento Street Neighborhood Association.

On June 30, 2010 the Department received a phone call from Bobby Wise who said that he had a petition with signatures in opposition to the proposed project. Bobby Wise is the owner of George, a boutique pet store on California Street in the Fillmore Neighborhood Commercial District, about .7 miles away from the subject site.

At the July 8, 2010 Planning Commission hearing, 122 letters of opposition to the Project were submitted to the Planning Commission, along with a letter and e-mail from the Small Business Commission (SBC) outlining the SBC's position on the Project, a letter from Paul Wermer expressing his concern with the Project, an e-mail from the President of the Sacramento Street Merchants Association indicating that it doesn't support the Project, and an e-mail from a merchant on Sacramento Street expressing her support of the Project.

6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Use.** Planning Code Section 711.40 permits Other Retail Sales and Services uses on the ground floor in NC-2 Districts.

The proposed use is considered an "Other Retail Sales and Service" use as defined by Planning Code Section 790.102. The proposed use would be located on the ground floor in an NC-2 district; it is principally permitted in this use district.

- B. **Hours of Operation.** Planning Code Section 711.27 states that permitted hours of operation for NC-2 districts is 6:00 a.m. to 2:00 a.m.

The proposed project's hours of operation are between 9:00 a.m. and 7:00 p.m., which is within the permitted hours of operation.

- C. **Parking.** Planning Section 151 of the Planning Code requires one off-street parking space for each 500 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.

The proposed use will have approximately 5,595 sq. ft., which requires 11 parking spaces per Section 151 of the Planning Code. The subject site contains 24 parking spaces four of which are dedicated to the subject retail space. Assuming that the rest of the floor area is used for offices, the total required amount of parking per Planning Code Section 151 is 27 spaces, three more than exist on the site. The site has a legal deficiency of parking spaces and is not required to add more per section 150(c)(1) of the Planning Code. Any existing lawful deficiency in off-street parking or loading spaces may be carried forward as long as the use or structure is not substantially changed. Both the previous and proposed uses are classified as "Other Retail Space" in Planning Code Section 151, and the existing retail space is not being enlarged.

- D. **Formula Retail.** Planning Code Section 703.3 defines a formula retail use as a type of retail sales activity or retail sales establishment which, along with eleven or more other retail sales establishments located in the United States, maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark. Businesses that are determined to be formula retail uses require Conditional Use Authorization to be established in NC-2 Zoning Districts.

The proposed use meets at least four of the above criteria in addition to having 34 other locations in the United States. The proposed use is considered a formula retail use; as such, the project sponsor has applied for Conditional Use authorization to establish a formula retail use in a Neighborhood Commercial District.

- E. **Loading.** Planning Code Section 152 does not require on-site loading spaces where the gross floor area of the proposed retail use is less than 100,000 sq. ft.:

The proposal does not include an on-site loading space and none are required.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. 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 proposed use will provide a development that is necessary and desirable with the surrounding neighborhood. A windshield survey and internet search found no other comparable pet food and supply stores in the immediate vicinity. Further, the proposed use will be located in a space that was previously occupied by a formula retail use (dba Hollywood Video) and the proposed use is not in conflict with the current character of this section of California Street.

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 proposal is consistent with this criterion. The proposal includes moving into an existing building with only minor cosmetic changes.

- 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 proposed pet supply store would replace a video store. As both are retail uses with similar traffic patterns, there should be no change in impact to traffic patterns for persons or vehicles or the type and volume of traffic. The proposed site contains 24 parking spaces where the Planning Code requires 27 spaces. While slightly deficient in the number of required spaces, the site is within walking distance of a more pedestrian-oriented commercial corridor and residential neighborhoods, and is well-served by transit. Given this and that the use is not substantially changing, it is reasonable to assume that the proposed use will not have a negative impact on current traffic patterns and that the amount of parking onsite will be adequate for the use.

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

The proposed use would not emit noxious or offensive emission such as noise, glare, dust, or odor.

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

There are no proposed changes to the existing landscaping, and parking areas.

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

The project complies with the Planning Code and will not adversely affect the General Plan for the reasons stated below.

8. Planning Code Section 303(i) establishes criteria for the Planning Commission to consider when reviewing applications for Formula Retail Uses. On balance, the project complies with said criteria in that:

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

Within the subject NC-2 District, there are no other Formula Retail Uses. The other major uses in this district include the SF Fireman's Credit Union, the Laurel Hotel and Ella's Restaurant. A windshield survey conducted between Arguello Boulevard and Parker Street on California and Sacramento Streets showed that there are approximately 11 formula retail establishments in the immediate vicinity. There are none on Sacramento Street, which tends towards a higher end retail market with design and antique stores, while California Street has more "everyday" goods and services such as a hardware store, grocery store, coffee shops and drug stores. There does not appear to be an over-concentration of formula retail uses in the area.

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

A windshield survey and an internet search did not find any comparable pet food and supply stores within the immediate vicinity.

The Commission has directed that should the Project Sponsor seek to establish another San Francisco store in the future, Planning Department staff is to work with the City's Small Business Commission to identify neighborhoods which are underserved by pet-related businesses for consideration by the Project Sponsor.

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

The proposal includes only minor cosmetic changes to the existing structure, which is in keeping with the architectural and aesthetic character of the Neighborhood Commercial District

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

A windshield survey found that very few retail spaces are currently vacant except the existing space. One space in the NC-S District along California is under construction.

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

This specific NC-2 District has very few neighborhood-serving uses, Ella's Restaurant possibly being the one exception. The NC-S District along California and the NCD along Sacramento have a good mix of both neighborhood-serving and Citywide-serving uses.

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

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 1:

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1:

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development that has substantial undesirable consequences that cannot be mitigated.

The proposed Formula Retail use would have a substantial net benefit since it would be filling a large vacant retail space and providing a retail use that the area does not currently have.

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 proposed use will bring additional commercial activity to the City and provide a service that does not currently exist in the immediate vicinity.

10. Planning Code Section 101.1(b) establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

The Project will not displace any neighborhood-serving retail uses; it will be located within a vacant store front that was previously occupied by another formula retail use.

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

The proposal will not have any impact on existing housing nor will it have an impact on the character of California or Sacramento Streets.

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

The proposal will have no impact on 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 is to convert a vacant retail video store to a retail pet food/supply store and the existing 24 parking spaces on the site will be retained. Four of those spaces are specifically dedicated to the subject retail space and the rest are shared spaces for the complex. Therefore, the proposal will not impede MUNI transit service or overburden our streets or neighborhood parking.

- 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 is a retail establishment in a Neighborhood Commercial District. It will not impact industrial or service sector jobs.

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

The Project would comply with any building codes that are applicable to the project.

- G. That landmarks and historic buildings be preserved.

The subject building is not a designated landmark nor does it appear to be a potential historic resource. The proposed project will not have any impact on landmark or historic buildings.

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

The project will have no negative impact on existing parks and open spaces.

11. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
12. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby APPROVES Conditional Use Application No. 2010.0357C subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans filed with the Application as received on March 9, 2010 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. 18139. 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 8, 2010.

Linda D. Avery
Commission Secretary

AYES: Antonini, Borden, Lee, Miguel

NAYS: Moore, Olague, Sugaya

ABSENT:

ADOPTED: July 8, 2010

Exhibit A

Conditions of Approval

1. This authorization is for a Conditional Use Authorization under Planning Code Sections 303 and 703.3 of the Planning Code to allow a formula retail use (d.b.a. Pet Food Express) at 3150 California Street within the NC-2 (Neighborhood Commercial, Small Scale) District and a 40-X Height and Bulk District, in general conformance with plans filed with the Application as received on March 9, 2010 and stamped "EXHIBIT B" included in the docket for Case No. 2010.0357C, reviewed and approved by the Commission on July 8, 2010.
2. Prior to the issuance of the Building Permit 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 premises (Assessor's 1022, Lot 013), which notice shall state that construction has been authorized by and is subject to the conditions of this Motion.
3. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code shall be subject to enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1.
4. Should monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(e)(1).
5. The property owner shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.
6. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed.
7. The Project Sponsor shall maintain an attractive storefront providing visibility of the interior through the storefront windows.
8. The Project Sponsor shall work with the City's Department of Parking and Traffic to address enforcement of "no-left turn" laws from California Street into the Project's parking lot and from the parking lot onto California Street.
9. The Project shall appoint a Community Liaison Officer to address issues of concern to neighbors related to the operation of this Project. The Project Sponsor shall report the name and telephone number of this Officer to the Zoning Administrator and the neighborhood for reference. The Applicant will keep the above parties apprised should a different staff liaison be designated.

10. An enclosed garbage area shall be provided within the establishment. All garbage containers shall be kept within the building until pick-up by the disposal company.
11. The authorization and right vested by virtue of this action shall be deemed void and canceled if, within 3 years of the date of this Motion, a site permit or building permit for the Project has not been secured by Project Sponsor. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a city, state, or federal agency or by appeal of the issuance of such permit.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

August 12, 2010

John Rahaim, Director
Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

File No. 101087, Planning Case No. 2010.0357C
3150 California Street Conditional Use Appeal

Dear Mr. Rahaim:

This office is in receipt of an appeal from the decision of the Planning Commission by its Motion No. 18139 dated July 8, 2010, approving a Conditional Use Authorization pursuant to Sections 303 and 703.3 of the Planning Code to allow a Formula Retail Use (dba Pet Food Express) in an NC-2 (Neighborhood Commercial, Small Scale) District and a 40-X Height and Bulk District, located at:

3150 California Street, Lot No. 013, in Assessor's Block No. 1022.

Pursuant to Ordinance No. 121-01, Supervisors Eric Mar, Sopenia Maxwell, John Avalos, David Campos, and David Chiu subscribed to this conditional use appeal as an alternative to obtaining the signatures of 20% of the property owners within 300 feet of the subject property. The hearing on the appeal is scheduled to be heard by the Board of Supervisors on Tuesday, September 7, 2010, at a time to be determined.

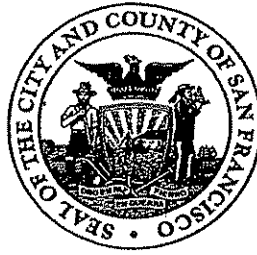
Sincerely,

A handwritten signature in black ink, appearing to read "Angela Calvillo".

Angela Calvillo
Clerk of the Board

c:
Appellant, Susan Landry, 980 Teresita Boulevard, San Francisco, CA 94127
Property Owner, San Francisco University High School, 3065 Jackson Street, San Francisco, CA 94115, w/copy of appeal
Applicant, Michael Levy, 2131 Williams Street, San Leandro, CA 94577, w/copy of appeal
Project Contact, Jim Moore, 5340 Lawton Avenue, Oakland, CA 94618, w/copy of appeal
Scott Sanchez, Acting Zoning Administrator, Planning Department, w/copy of appeal
Bill Wycko, Environmental Review Officer, Planning Department, w/copy of appeal
AnMarie Rodgers, Planning Department, w/copy of appeal
Tara Sullivan, Planning Department, w/copy of appeal
Aaron Starr, Planning Department, w/copy of appeal
Cheryl Adams, Deputy City Attorney, w/copy of appeal
Kate Stacy, Deputy City Attorney, w/copy of appeal
Marlena Byrne, Deputy City Attorney, w/copy of appeal

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

NOTICE OF CANCELLED MEETING

SAN FRANCISCO BOARD OF SUPERVISORS

NOTICE IS HEREBY GIVEN that the meeting of the San Francisco Board of Supervisors scheduled for Tuesday, September 7, 2010, at 2:00 p.m. at 1 Dr. Carlton B. Goodlett Place, Room 250, San Francisco, California, has been **CANCELLED**. Agenda items are being moved to the Regular Meeting of Tuesday, September 14, 2010, at 2:00 p.m., unless otherwise indicated.

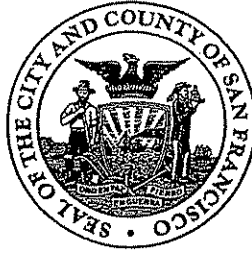
Please note, Special Order agenda items, scheduled for 2:30 p.m. will be heard at the Regular Meeting of the Board of Supervisors next Tuesday, September 14, 2010, at 2:30 p.m.

A handwritten signature in black ink, appearing to read "Angela Calvillo".

Angela Calvillo, Clerk of the Board

POSTED: September 7, 2010

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

NOTICE IS HEREBY GIVEN THAT the Board of Supervisors of the City and County of San Francisco will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: Tuesday, September ¹⁴7, 2010

Time: 2:30 p.m.

Location: Legislative Chamber, Room 250 located at City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102

Subject: Hearing of persons interested in or objecting to the decision of the Planning Commission's July 8, 2010, Conditional Use Permit identified as Planning Case No. 2010.0357C by its Motion No. 18139 under Planning Code Sections 303 and 703.3, to allow a Formula Retail Use (dba Pet Food Express) in an NC-2 (Neighborhood Commercial, Small Scale) District and a 40-X Height and Bulk District, on property located at 3150 California Street, Lot No. 013, in Assessor's Block No. 1022. (District 2) (Filed by Susan Landry on behalf of The Animal Connection II and subscribed by Supervisors Mar, Maxwell, Avalos, Campos, and Chiu)

Pursuant to Government Code Section 65009, notice is hereby given, if you challenge, in court, the matter described above, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Supervisors at, or prior to, the public hearing.

In accordance with Section 67.7-1 of the San Francisco Administrative Code, persons who are unable to attend the hearing on these matters may submit written comments to the City prior to the time the hearing begins. These comments will be made a part of the official public records in these matters, and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to

Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board and agenda information will be available for public review on Thursday, September 2, 2010.

A handwritten signature in black ink, appearing to read 'A. Calvillo' followed by a flourish.

Angela Calvillo
Clerk of the Board

DATED: August 27, 2010



SAN FRANCISCO PLANNING DEPARTMENT

Conditional Use Authorization Appeal 3150 California Street

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

Reception:
415.558.6378

Fac
415.558.6409

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
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2010 SEP - 1 PM 12:05

BY [Signature]

DATE: April 7, 2010
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: John Rahaim, Planning Director – Planning Department (415) 558-6411
 Aaron Starr, Case Planner – Planning Department (415) 558-6362
RE: File No. 10-1087, Planning Case No. 2010.0357C
 Appeal of Conditional Use Authorization for 3150 California Street
HEARING DATE: September 7, 2010
ATTACHMENTS:

- A. Planning Commission Motion No.18139, dated July 8, 2010
- B. Planning Department Executive Summary
- C. Site photographs and maps
- D. Outreach report
- E. Survey of Existing Businesses in Immediate Neighborhood
- F. Plans

PROJECT SPONSOR: Jim Moore, consultant for Pet Food Express, 2131 Williams Street
San Leandro, CA 94577

APPELLANT: Susan Laundry, on behalf of the Animal Connection, 980 Teresita Blvd., San Francisco, CA 94127

INTRODUCTION

This memorandum and the attached documents are a response to the letter of appeal to the Board of Supervisors (the "Board") regarding the Planning Commission's ("Commission") approval of a Conditional Use Authorization under Planning Code Sections 303 (Conditional Use Authorization) and 703.3 (Formula Retail), to allow a Formula Retail Use (dba Pet Food Express) in an NC-2 (Neighborhood Commercial, Small-Scale) Zoning District and a 40-X Height and Bulk District ("the Project").

This response addresses the appeal ("Appeal Letter") to the Board filed on August 2, 2010 and the supplemental letter dated August 27, 2010, both by Susan Laundry, residing at 980 Teresita Blvd., on behalf of The Animal Connection, a pet food and accessories store. The Appeal Letter referenced the proposed project in Case No. 2010.0357C.

The decision before the Board is whether to uphold or overturn the Planning Commission's approval of Conditional Use Authorization to allow a Formula Retail Use (dba Pet Food Express) at 3150 California Street.

SITE DESCRIPTION & PRESENT USE

The 19,889 square-foot project site is located on the north side of California Street between Presidio Avenue to the west and Lyon Street to the east, between the neighborhoods of Presidio Heights and Pacific Heights. The project site contains an approximately 14,525 square-foot, two-story commercial building with several offices located in the building. The space that the proposed use will occupy is approximately 5,595 sq. ft., and was previously occupied by a Hollywood Video Store. The subject parcel is a rectangular-shaped lot with a 150' frontage on California Street. The site has 24 parking spaces, four of which are specifically dedicated to the subject retail space.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The project site is located between the neighborhoods of Presidio Heights and Pacific Heights. The Jewish Community Center and the SF Fireman's Credit Union are located half a block to the west. The subject property is part of a small NC-2 District that includes the entire block face of the subject block (1022) and the southeast and southwest corners of the intersection of California Street and Presidio Avenue. NC-2 Districts are intended to serve as the City's Small-Scale Neighborhood Commercial Districts. These districts are linear shopping streets which provide convenience goods and services to the surrounding neighborhoods as well as limited comparison shopping goods for a wider market. The range of comparison goods and services offered is varied and often includes specialty retail stores, restaurants, and neighborhood-serving offices.

One block to the north is Sacramento Street, which has its own neighborhood-specific zoning district, the Sacramento Street NCD, and two blocks to the west is Laurel Village, a NC-S Zoning District (Neighborhood Commercial Shopping Center District). The Sacramento Street NCD is characterized by small high-end stores selling antiques, art, clothing, and other specialty goods. The NC-S District (Laurel Village) provides a wider range of goods and services including a hardware store (Ace Hardware), grocery stores (Cal-Mart, Bryans), coffee shops (Peets, Starbucks) and clothing stores.

PROJECT DESCRIPTION

The proposal is to establish a pet food and accessories store, (dba Pet Food Express), which is a formula retail use, in a commercial space that was previously occupied by a Hollywood Video Store. Pet Food Express is a locally-owned chain with approximately 34 locations located throughout the Bay Area and is the eighth largest pet specialty retailer in the USA (according to its web site). Currently Pet Food Express has two other locations in San Francisco, one in the Stonestown Mall and one on Market Street at the corner of Duboce Avenue. In addition to offering pet products such as food, toys and treats, most Pet Food Express stores feature self-service pet washes (i.e., owners come into the store to bathe their dogs), and periodic vaccination clinics and mobile pet adoptions. Pet Food Express does not sell animals in their stores. No major exterior alterations are proposed for the subject site.

BACKGROUND

- The project sponsor submitted a Conditional Use Authorization application on May 11, 2010.

- At the July 8, 2010 public hearing, the Commission granted a Conditional Use Authorization pursuant to Sections 303 and 703.3 authorizing a Formula Retail Use (dba Pet Food Express) in an NC-2 (Neighborhood Commercial, Small-Scale) Zoning District and a 40-X Height and Bulk District.

CONDITIONAL USE AUTHORIZATION REQUIREMENTS

Planning Code Section 303 establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. Those criteria are as follows:

- 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.
- 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;
 - 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;
 - iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;
 - iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;
- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

Planning Code Section 303(i)/703 establishes criteria for the Commission to consider when reviewing applications for Formula Retail Uses. Those criteria are as follows:

- A. The existing concentrations of formula retail uses within the Neighborhood Commercial District.
- B. The availability of other similar retail uses within the Neighborhood Commercial District.
- C. The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the Neighborhood Commercial District.
- D. The existing retail vacancy rates within the Neighborhood Commercial District.
- E. The existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the Neighborhood Commercial District.

APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES

The concerns raised in the Appeal Letter are cited in a summary below and are followed by the Department's response:

Issue 1: The Appellant contends that the proposed formula retail use is neither necessary nor desirable as required by Section 303 of the Code, and that there are 24 businesses within one mile of the project site that offer similar services.

Response 1:

The Commission found that there were few other formula retail establishments in the immediate area. The term "immediate area" can be interpreted differently, but the Department/Commission's standard methodology defines it as a similar use/feature that is located within the same Neighborhood Commercial District – depending how large it is - or at least within walking distance of the subject site, ¼ of a mile (the ¼ mile radius is what the Code mandates as a 'buffer' around each NCD). Based on this methodology, the Commission found that there are no other pet food and supply stores within the immediate area of the subject site.

Further, San Francisco encompasses a small geographical area and the character of the City can change dramatically from block to block. Using a 1 mile radius as the Appellant does would span over a ¼ of the City's width and length. The Department does not use such a broad radius because it does not adequately reflect the true nature of a neighborhood. A one-mile radius from the subject site reaches Haight Street, Alamo Square, and upper Pacific Heights – distinct neighborhoods that few would consider to be in the 'immediate area' of the project site. The Department does not believe that an analysis using such a large radius is an accurate method for determining the impact of a use/feature in an 'immediate area'.

Of the 27 businesses listed on Appellant's survey, six of them are Walgreens Pharmacies, one is a Safeway and one is a Trader Joes - all formula retail establishments. While these stores do sell a limited stock of pet food and pet supplies - mostly limited to dogs and cats - their primary business is not pet food and supplies but grocery and pharmaceutical items.

Of the 27 businesses listed on appellant's survey, four are pet-grooming salons (i.e., owners drop off their pet for cleaning and cutting). Pet Food Express does not provide pet grooming services, they provide self-service facilities where dog owners who don't use a pet groomer or who would rather not or can't wash their dogs at home a place to wash their dogs.

Of the 27 businesses listed on appellant's survey, four are veterinarians. Pet Food Express sponsors periodic low-cost vaccination days but does not provide any other veterinary services.

That leaves 11 stores that are considered "primarily" pet food and supply stores. Of those only two are within ½ mile and none are within ¼ of a mile of the project site, or within the subject NCD or the two adjacent NCDs. Further, one of those stores located within ½ a mile is "Bella and Bean Couture," a boutique pet store selling a "whimsical line of dog accessories" that can be found "in over 300 retail establishments world wide," according to their web site. They also sell their products online. The closest pet food and supply store is Pet Source, located on Geary Blvd .4 miles away and in a different neighborhood commercial district.

In summary, while there are several pet related businesses or stores that sell a limited supply of pet supplies, none are located within what the Commission considered the immediate area.

Issue 2: The Appellant contends that the proposed Formula Retail Use will have a negative impact on all the pet stores within a 2-mile radius that are already filling the neighborhoods' needs for pet supplies.

Response 2:

There are only stores within the immediate vicinity (as defined above) that sell pet food and supplies to the neighborhood - Walgreens (located on the western corner of California and Spruce Streets) and Trader Joes (located on Masonic Avenue at Geary Boulevard). These stores have a very limited variety of pet products and typically do not sell pet supplies for animals other than cats and dogs. As described above, the Commission does not take such a broad view of the neighborhood as the Appellant does. Given that there are no other similar pet food and supplies stores within the immediate vicinity, the Commission found that the proposed use is necessary for the neighborhood.

Note that formula retail use controls were designed to protect neighborhood character and existing small business within neighborhoods. The controls were not designed to eliminate competition between established businesses and new businesses in disparate parts of the City. Given that the subject NCD on California Street only contains a few parcels and there were two distinct adjacent neighborhood commercial districts - the NC-S Zoning District known as Laurel Village and the Sacramento Street NCD - the Department thought it prudent to analyze the proposed use's impact on those neighborhood commercial districts in addition to the small group on California Street. The Commission found that there are no other similar stores in either of these neighborhood commercial districts and nor is there an over-concentration of formula retail uses in the two adjacent neighborhood commercial districts. Therefore, the Commission found that the proposed project would not negatively impact the subject or directly adjacent neighborhood commercial districts.

Issue 3: The Appellant contends that there was significant opposition to the opening of Pet Food Express at this location as evident by the 2,600 signatures on a petition and 190 letters. Several neighborhood organizations were also opposed to Pet Food Express at this location.

Response 3:

The Department and the Applicant did not have time to analyze each 2,600 signatures and letters prior to the July 8th Commission hearing - they were first made available to the Department and Commission at the hearing or immediately beforehand.

However, of the approximately 120 emails in opposition to the proposed Pet Food Express that the Department received prior to the July 8th hearing, 2 were from residents/businesses located in one of the adjacent NCDs, 8 were from the 94115 zip code and 1 was from the 94118 zip Code - well outside of the immediate neighborhood.

Some of the emails the Department received were from Santa Monica, Van Nuys, Austin, Mill Valley and Brooklyn, NY. Of the 79 petition signatures that the applicant and the Department received prior to the hearing, 10 were from the 94115 zip code and 18 were from the 94118 zip code.

The Appellant's statement that 2,600 citizens oppose the Pet Food Express is misleading. These numbers do not indicate the level of support or opposition to the proposed project by those who live in the adjacent neighborhoods - only that 2,600 people from somewhere signed a petition in opposition to Pet Food Express.

The Sacramento Street Neighborhood Association originally supported Pet Food Express at this location, but unexpectedly changed its mind right before the July hearing based on a small sampling from an email survey sent to its members. Out of 100 emails sent to its members, 14 responded. Of those 14, two said yes, three abstained and eight said no. The head of the Sacramento Street Neighborhood Association still personally supported Pet Food Express at this location. The other letters were from neighborhood organizations not affiliated with the subject neighborhood commercial district or the adjacent neighborhood commercial districts.

Issue 5: The Appellant states that a Pet Food Express opening at this location will contribute to the erosion of the uniqueness and diversity of the local shopping districts within the neighborhood.

Response 5:

As stated above, there are no other pet food supply stores located within this neighborhood or in the immediate neighborhood (1/4 mile). Prohibiting Pet Food Express to move into this vacant retail space will likely have more of a detrimental effect on the neighborhood than by permitting it to locate here. Currently, the storefront space at 3150 California Street is vacant and previously housed a Hollywood Video Store - a formal retail establishment. The subject building, with its location on an auto dominated street in a strip mall-like building with over 5,000 sq. ft. of floor area, is more suited to a formula retail establishment than a small independent store.

Issue 6: The Appellant states that Pet Food Express would have an unfair advantage over its smaller competitors.

Response 6:

The Commission was aware of the competitive advantage that formula retail businesses can have over smaller independent establishments when it authorized Pet Food Express in this location. They found, however, that there were no other comparable pet food and supply stores within the subject or adjacent NCD's, and determined that the proposed use would not have an unfair advantage over other pet food and supply stores within the rest of the City because they would not be in direct competition with them. Further, the Commission found that Pet Food Express is a locally-owned business and gives back to the community through its local charitable contributions.

Issue 7: The Appellant states that there were outside factors that influenced the Commission's decision.

Response 7:

The Planning Code does not prohibit Commissioners from evaluating a project on criteria or issues not listed in the Planning Code. The Commission should consider all pertinent facts in a case and make a reasoned decision based on those facts. The criteria set forth in the Planning Code should be considered, and if not met, the Commission should provide a rationale for approving it. In this case however, the Commission found that the project meets the criteria listed in Code Section 303.

Issue 8: The Appellant states that Pet Food Express should not be issued a conditional use permit to the detriment of many and in contrast to the will of many residents simply because "formula retail has to go somewhere".

Response 8:

The Commission did not find that the proposed use would be detrimental to the subject NCD or the adjacent NCDs. By stating that "formula retail has to go somewhere" the Commission acknowledged that formula retail establishments do have a place in San Francisco and that the particular site proposed for the Pet Food Express was an ideal location for this type of use. Note that the Commission has disapproved several proposed formula retail uses in the past several years, including American Apparel and Pet Food Express. They did not authorize this use simply as a default of "formula retail has to go somewhere" – they felt it met the standards of Code Section 303 and was necessary and desirable and appropriate for the neighborhood.

CONCLUSION

For the reasons stated above, the Planning Department recommends that the Board uphold the Commission's decision in approving the Conditional Use Authorization for the Formula Retail Use (dba Pet Food Express) and deny the appeal.

ATTACHMENTS

Document is available
at the Clerk's Office
Room 244, City Hall

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COB-1

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BY _____

David Chiu
President, San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Subject: Appeal of Conditional Use Authorization; Pet Food Express at 3150 California St.
Planning Department Case No. 2010.0357C

On July 8, 2010 the San Francisco Planning Commission approved a conditional use permit for Pet Food Express to open a retail store at 3150 California Street, Block # 1022; Lot 013. I am appealing this decision on behalf of many business owners and City residents that stand opposed to the opening of this chain store in the Laurel Heights neighborhood.

In reviewing the Planning Commissioners comments during the July 8th hearing, as well as their findings given at the hearing, it's apparent that many criteria that are required to be met by the City's code regarding formula retail uses were not taken into consideration in their decision making. I will provide an overview of why the proposed Pet Food Express does not meet the code's criteria for issuing a conditional use permit to a formula retailer. I will outline factors that were taken into account by the Planning Commission that should not have been considered in their decision making. Additionally, I have attached letters of opposition to the issuing of this permit. I have also attached a detailed outline showing the Planning Department's Executive Summary Findings from the July 8th hearing and have provided evidence that shows that many of their findings were not accurately based in fact.

Three key components of the planning code for formula retail require that the proposed chain store fill a need in the neighborhood, be desirable to the neighborhood, and be compatible with the neighborhood. The proposed Pet Food Express fails to meet any of these three criteria.

Need:

Pet Food Express argued that there were no other pet businesses within the immediate area of their proposed store, in fact there are 24 businesses that offer pet supplies and/or services within a one mile radius of the proposed location (source - Google Maps, titled Pet Resources). These businesses offer a variety of services including both retail and grooming. The need for pet related products and services is already well served by the existing pet businesses. (Planning Code Section 303(c)(1) That the proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community: In order to succeed, Pet Food Express would have to take away business from the other local independent businesses that are already filling the neighborhood's pet supplies needs.

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Desirability:

Over 2600 citizens indicated their opposition to the opening of Pet Food Express at the California St. location by signing petitions at their local independently owned pet stores. Over 190 letters were sent to the Planning Commission urging them to deny Pet Food Express' permit application for this store. The Sacramento Street Merchants Association expressed their opposition to the Planning Commission in writing before the July 8th hearing. The Fillmore St. Merchants Association wrote a letter of support for the local small businesses prior to the hearing. (Planning Code Section 303(c)(1))

Compatibility:

If Pet Food Express were to open, its products and services would draw business away from the other independent businesses in the area. This is detrimental for a number of reasons:

1) It would potentially weaken the local economy by lessening the diversity of businesses in the neighborhood. It's the very uniqueness of San Francisco's neighborhood businesses that spur San Franciscans, local Bay Area residents, and tourists to shop here. If independent retailers close as the result of Pet Food Express opening at this location it will contribute to the erosion of the uniqueness and diversity of the local shopping districts within the neighborhood. (Planning code section 703.3 (a) (2) states that San Francisco needs to protect its vibrant small business sector and create a supportive environment for new small business innovations. (Planning Code Section 703.3 (a)(1) states that San Francisco is a city of diverse and distinct neighborhoods identified in large part by the character of their commercial areas.)

2) It would potentially decrease the money going into the San Francisco economy from the pet retail sector in the neighborhood. The independent stores contribute to San Francisco in innumerable ways including investing their profits back into our local economy (while chains tend to divert their profits out of the City) and supporting other San Francisco based businesses (such as accountants, printers, distributors, etc.). Additionally, the independent stores are vibrant members of the community. They support local charities and local community events. (Planning Code Section 703.3 (a)(5) Money earned by independent businesses is more likely to circulate within the local neighborhood and City economy than the money earned by formula retail business which often have corporate offices and vendors located outside San Francisco.)

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3) Pet Food Express is the eighth largest pet chain in the United States. Due to its size Pet Food Express has considerable resources that can be used to give it an unfair advantage over its smaller competitors, such as selling some products at a loss (loss leaders) to drive business to their stores from the local independent stores. (Planning Code Section 703.3(a)(6) Formula retail business can have a competitive advantage over independent operators because they are typically better capitalized and can absorb larger start up costs, pay more for lease space, and commit to longer lease contracts. This can put pressure on existing business and potentially price out new start up independent businesses.

Outside Factors Influencing the Planning Commissions' Decision

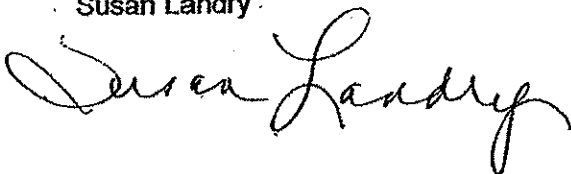
In addition to Pet Food Express not meeting the above criteria for a conditional use permit it seems that some of the justifications offered by the Planning Commissioners for the decision to give Pet Food Express this conditional use permit were based on issues that should not have been given consideration in their decision making.

A couple of Planning Commissioners cited the fact that University High School was the landlord of the property where the proposed store will be as a reason they felt favorably about approving the permit request. The identity of the landlord of the property should have no bearing on whether a conditional use permit was issued. Nowhere in the code does it suggest that who owns a property should have any bearing on the decision to issue or not issue a conditional use permit. It should have been considered an irrelevant fact and treated with neutrality by the Commissioners.

Another commissioner stated during the hearing that the Planning Commission has to allow formula retail to go somewhere in the City. Pet Food Express should not be issued a conditional use permit to the detriment of many and in contrast to the will of many residents simply because "formula retail has to go somewhere". The decision of whether Pet Food Express was given this permit should have been based strictly on whether they met the criteria outlined by the Planning code for when formula retail is allowed to open in a commercial district.

The evidence in our rebuttal makes it clear that the Planning Commission did not fully use the Planning Code to come to their decision. If the Planning Code's guidelines are followed Pet Food Express clearly does not meet the qualifications for a conditional use permit at the proposed California Street location. I respectfully request that the Board of Supervisors deny Pet Food Express' request for a conditional use permit to operate a store at 3150 California Street.

Sincerely,
Susan Landry



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EXECUTIVE SUMMARY - FINDINGS AND EXCEPTIONS

PLANNING DEPARTMENT Executive Summary **FINDINGS, pg. 3, bullet point 5:**

Public Comment: As of Wednesday, June 30, 2010 the Department received one letter from the Geary St. Merchant's Association in support of the project. In addition the project sponsor did extensive public outreach and has put together a packet that outlines the outreach effort and a summary of the support in opposition of the project. The package shows that 103 businesses in the area were interviewed about the proposed store; three of those interviewed were opposed, while 28 had no opinion. The packet also includes a letter of support from the Sacramento St. Neighborhood Association.

EXCEPTION:

7/7/10 email from Rachel Lopez Metzger, President of the Sacramento St. Merchants Association: "...The Sacramento Street Merchants Association does not support Pet Food Express moving into 3150 California Street"....
(attachment #2)

PLANNING DEPARTMENT Executive Summary **FINDINGS , pg. 3, bullet point 5:**

On June 30, 2010 the Department received a phone call from Bobby Wise who said that he had a petition with signatures in opposition to the proposed project. Bobby Wise is the owner of George, a boutique pet store on California St. in the Fillmore Neighborhood Commercial District, about .7 miles away from the subject site.

CLARIFICATION / EXCEPTION:

190 letters of support were received in opposition to the project, and over 2,600 signatures were gathered through petitions. Additionally, letters from Associations requesting denial of the Conditional Use Permit, and letters supporting local merchants are attached.

Small Business Commission, Office of Small Business (attachment #3)
Sacramento St. Merchants Association (attachment #4)
Fillmore Merchants Association (attachment #5)
Potrero Hill Association of Merchants and Businesses (attachment #6)
PAWS (Pets Are Wonderful Support) (attachment #7)
Paul Wermer, Ph.D, Sustainability Consultant (attachment #8)

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**PLANNING DEPARTMENT Executive Summary,
FINDINGS , pg. 4**

7. Planning Code Section 303 establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use Approval. On balance, the project does not 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 community.

(Planning Department's Response): The proposed use will provide a development that is necessary and desirable with the surrounding neighborhood. A windshield survey and internet search found no other comparable pet food and supply stores in the immediate vicinity. Further, the proposed use will be located in a space that was previously occupied by a formula retail use (dba Hollywood Video), and the proposed use is not in conflict with the current character of this section of California St.

CLARIFICATION / EXCEPTION:

There are a total of 24 businesses that currently supply goods and/or services within a one mile radius from this proposed location. (attachment # 1 - source Google Maps). The neighborhood is already very well served.

**PLANNING DEPARTMENT Executive Summary,
FINDINGS , pg. 5, section 7 (C)**

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

Appellant's Response: The following sections of the City's Planning Code, section 703, were overlooked in the findings from the July 8, 2010 Planning Commission hearing:

Omitted Code: Section 703.3 (a)(1) San Francisco is a city of diverse and distinct neighborhoods identified in large part by the character of their commercial areas.

Appellant's Response: The project proposes to establish a Formula Retail Use in a neighborhood known for its diversity of independently owned establishments and therefore adversely affects the economic diversity and unique character of the neighborhood.

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Omitted Code: Section 703.3(a)(2) San Francisco needs to protect its vibrant small business sector and create a supportive environment for new small business innovations. One of the eight Priority Policies of the City's General Plan resolves that "existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such business enhanced."

Appellant's Response: There are currently 24 stores that supply the needs of the neighborhood. The proposed project is detrimental to the current employees and business potential for these existing stores.

Omitted Code: Section 703.3(a)(5) Money earned by independent businesses is more likely to circulate within the local neighborhood and City economy than the money earned by formula retail business which often have corporate offices and vendors located outside of San Francisco.

Appellant's Response: The proposed projects corporate headquarters and 105,000 square foot warehouse is located in San Leandro, CA.

Omitted Code: Section 703.3(a)(6) Formula retail business can have a competitive advantage over independent operators because they are typically better capitalized and can absorb larger start up costs, pay more for lease space, and commit to longer lease contracts. This can put pressure on existing business and potentially price out new start up independent businesses.

Appellant's Response: The proposed project is the eighth largest pet supply company in the United States; therefore they are substantially better capitalized compared to the local independent businesses. The proposed project has 34 stores and 105,000 square foot warehouse. This enables the proposed project considerable buying power and pricing leverage. The policy of the proposed project is to price match and undercut its competitors. Independent businesses have voiced concern over the proposed projects price manipulation in the pet industry. (attachment # 9)

Omitted Code: Section 703.3(a)(7) San Francisco is one of a very few major urban centers in the State in which housing, shops, work places, schools, parks and civic facilities intimately co-exist to create strong identifiable neighborhoods. The neighborhood streets invite walking and bicycling and the City's mix of architecture contributes to a strong sense of neighborhood community within the larger City community.

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Appellant's Response: Over 2,600 San Francisco residents have signed a petition requesting the Planning Commission oppose the Conditional Use for the proposed project. In addition, approximately over 190 letters have been sent to the Planning Department with a request for the Planning Commission to deny the Conditional Use for the proposed project. The following neighborhood and merchant associations have voted to request the Planning Commission deny the Conditional Use permit for the proposed project: SF Small Business Commission, Polk Street Merchants Association, Potrero Hill Merchants Association (ref. letters)

***PLANNING DEPARTMENT Executive Summary,
FINDINGS , pg. 5, section 8 (E)***

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

CLARIFICATION / EXCEPTION:

The Lombard St. location was an NC-3, whereas the California St. location is an NC-2 location; this does not make sense given that the NC-3 would normally be a more logical location for a big-box store. Thus, it seems Pet Food Express would be even more inappropriate in Laurel Heights than it was in the Lombard St. location.

***PLANNING DEPARTMENT Executive Summary,
NEIGHBORHOOD COMMERCE , pg. 6***

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.

CLARIFICATION / EXCEPTION:

As part of the Small Business Commission's discussion on the 2460 Lombard project, commissioners directed staff to work with the Office of Economic and Workforce Development to help identify alternate locations for Pet Food Express. These efforts were summarized in our previous letter, and include neighborhoods such as Lower Polk, Ocean Ave., and the Bayview. Today, Pet Food Express has not pursued working with the Office of Economic and Workforce Development in opening stores in these traditionally underserved, but fast-growing San Francisco neighborhoods. (attachment #3)

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**PLANNING DEPARTMENT Executive Summary,
NEIGHBORHOOD COMMERCE , pg. 7**

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.

(Planning Department's Response): The proposed use will bring additional commercial activity to the City and provide a service that does not currently exist in the immediate vicinity.

EXCEPTION:

There are currently 24 stores that supply the needs of the neighborhood. The proposed project is detrimental to the current employees and business potential for these existing stores.

cc: Supervisor Michela Alioto-Pier
Supervisor John Avalos
Supervisor David Campos
Supervisor Carmen Chu
Supervisor Chris Daly
Supervisor Bevan Dufy
Supervisor Sean Elsbernd
Supervisor Eric Mar
Supervisor Sophie Maxwell
Supervisor Ross Mirkarimi
Clerk of the Board of Supervisors
Aaron Starr, Planning Department

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SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Inclusionary Housing (Sec. 315)
- Jobs Housing Linkage Program (Sec. 313)
- Downtown Park Fee (Sec. 139)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 314)
- Other

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Planning Commission Motion No. XXXXX

HEARING DATE: JULY 8, 2010

Date: July 1, 2010
Case No.: 2010.0357C
Project Address: 3150 California Street
Zoning: NC-2 (Neighborhood Commercial, Small Scale)
40-X Height and Bulk District
Block/Lot: 1022/013
Project Sponsor: Jim Moore
2131 Williams Street
San Leandro, CA 94577
Staff Contact: Aaron Starr – (415) 558-6362
aaron.starr@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303 & 703.3 OF THE PLANNING CODE TO ALLOW A FORMULA RETAIL USE (DBA PET FOOD EXPRESS) IN AN NC-2 (NEIGHBORHOOD COMMERCIAL, SMALL SCALE) DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On May 11, 2010, Jim Moore (Project Sponsor) filed an application with the San Francisco Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 303 and 703.3 to allow a Formula Retail Use (dba Pet Food Express) in an NC-2 (Neighborhood Commercial, Small Scale) District and a 40-X Height and Bulk District.

On July 8, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2010.0357C.

The Project was determined by the Department to be Categorically Exempt from the California Environmental Quality Act ("CEQA") as a Class 1 [State CEQA Guidelines Section 15301(a)] exemption under CEQA Guidelines as described in the determination contained in the Planning Department files for this project. The Commission has reviewed and concurs with said determination.

- The project sponsor has done extensive neighborhood outreach and according to their submission has strong support from the other businesses in the area.
- Taken together, the three Neighborhood Commercial Districts in this area are not over-saturated with formula retail uses.
- The project sponsor applied for and was denied Conditional Use authorization to open a Pet Food Express at 2460 Lombard Street. At that time, the Commission made clear that they were denying the application not because of the business or its practices, but because of the overwhelming neighborhood opposition and the potential negative impact to locally-owned small businesses.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant Conditional Use authorization to allow for a formula retail use in an NC-2 District.

BASIS FOR RECOMMENDATION

The Department believes this project is necessary and/or desirable under Section 303 of the Planning Code for the following reasons:

- The project will occupy a vacant store front that is well suited for larger commercial uses that tend to be Formula Retail uses.
- There are no other similar pet food and supply stores in the immediate area that will be negatively impacted by the formula retail use.
- The District is well served by transit, and the site has four dedicated parking spaces in addition to 20 shared parking spaces; traffic impacts should be minimal.
- The proposed Project meets all applicable requirements of the Planning Code.

RECOMMENDATION: Approval with Conditions
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Attachments:

- Block Book, Sanborn and Zoning Map
- Aerial Photographs
- CU Application
- Plans
- Photographs
- Reduced Plans
- Outreach Summary



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use HEARING DATE: JULY 8, 2010

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Date: July 1, 2010
Case No.: 2010.0357C
Project Address: 3150 California Street
Zoning: NC-2 (Neighborhood Commercial, Small Scale)
40-X Height and Bulk District
Block/Lot: 1022/013
Project Sponsor: Jim Moore
2131 Williams Street
San Leandro, CA 94577
Staff Contact: Aaron Starr – (415) 558-6362
aaron.starr@sfgov.org
Recommendation: Approval with Conditions

PROJECT DESCRIPTION

The proposal is to establish a pet food and accessories store, (dba Pet Food Express), which is a formula retail use, in a commercial space that was previously occupied by a Hollywood Video Store. Pet Food Express is a locally-owned chain with approximately 34 locations located throughout the Bay Area making it the eighth largest pet specialty retailer in the USA, according to its web site. Currently Pet Food Express has two other locations in San Francisco, one in Stonestown Mall and one on Market Street at the corner of Duboce Avenue. In addition to offering pet products such as food, toys and treats, most Pet Food Express stores feature self-service pet washes, vaccination clinics, and mobile pet adoptions. Pet Food Express does not sell animals in their stores. No major exterior alterations are proposed for the subject site.

SITE DESCRIPTION AND PRESENT USE

The 19,889 square-foot project site is located on the north side of California Street between Presidio Avenue to the west and Lyon Street to the east, between the neighborhoods of Presidio Heights and Pacific Heights. The project site contains an approximately 14,525 square-foot, two-story commercial building with several offices located in the building. The space that the proposed use will occupy is approximately 5,595 sq. ft., and was previously occupied by a Hollywood Video Store. The subject parcel is a rectangular-shaped lot with a 150' frontage on California Street. The site has 24 parking spaces, four of which are specifically dedicated to the subject retail space.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The project site is located on the north side of California Street between Presidio Avenue to the west and Lyon Street to the east, between the neighborhoods of Presidio Heights and Pacific Heights. The Jewish

Community Center and the SF Fireman's Credit Union are located half a block to the west. The subject property is part of a small NC-2 District that includes the entire block face of the subject block (1022) and the southeast and southwest corners of the intersection of California Street and Presidio Avenue. NC-2 Districts are intended to serve as the City's Small-Scale Neighborhood Commercial Districts. These districts are linear shopping streets which provide convenience goods and services to the surrounding neighborhoods as well as limited comparison shopping goods for a wider market. The range of comparison goods and services offered is varied and often includes specialty retail stores, restaurants, and neighborhood-serving offices.

One block to the north is Sacramento Street, which has its own neighborhood specific zoning district, the Sacramento Street NCD, and two blocks to the west is Laurel Village, an NC-S Zoning District (Neighborhood Commercial Shopping Center District). The Sacramento Street NCD is characterized by small high-end stores selling antiques, art, and other specialty goods. The NC-S District provides a wider range of goods and services including a hardware store, grocery stores, coffee shops and clothing stores.

ENVIRONMENTAL REVIEW

The project is categorically exempt from the California Environmental Quality Act ("CEQA") as a Class 1 [State CEQA Guidelines Section 15301(a)]

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	July 18, 2010	July 16, 2010	22 days
Posted Notice	20 days	July 18, 2010	July 18, 2010	20 days
Mailed Notice	10 days	July 18, 2010	July 18, 2010	20 days

PUBLIC COMMENT

As of Wednesday, June 30, 2010, the Department received one letter from the Geary Street Merchants Association in support of the project. In addition, the project sponsor did extensive public outreach and has put together a packet that outlines the outreach effort and a summary of the support and opposition to the project. The packet shows that 103 businesses in the area were interviewed about the proposed store; three of those interviewed were opposed, while 28 had no opinion. The packet also includes a letter of support from the Sacramento Street Neighborhood Association.

On June 30, 2010 the Department received a phone call from Bobby Wise who said that he had a petition with signatures in opposition to the proposed project. Mr. Wise is the owner of George, a boutique pet store on California Street in the Fillmore Neighborhood Commercial District, about .7 miles away from the subject site.

ISSUES AND OTHER CONSIDERATIONS

- The proposed operation will replace a formula retail establishment with another formula retail establishment. There will only be minor cosmetic changes to the existing building.

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 approves the Conditional Use Authorization requested in Application No. 2010.0357C.

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 19,889 square-foot project site is located on the north side of California Street between Presidio Avenue to the west and Lyon Street to the east, between the neighborhoods of Presidio Heights and Pacific Heights. The project site contains an approximately 14,525 square-foot, two-story commercial building with several offices located in the building. The space that the proposed use will occupy is approximately 5,595 sq. ft., and was previously occupied by a Hollywood Video Store. The subject parcel is a rectangular-shaped lot with a 150' frontage on California Street. The site has 24 parking spaces, four of which are specifically dedicated to the subject retail space.
3. **Surrounding Properties and Neighborhood.** The project site is located on the north side of California Street between Presidio Avenue to the west and Lyon Street to the east, between the neighborhoods of Presidio Heights and Pacific Heights. The Jewish Community Center and the SF Fireman's Credit Union are located half a block to the west. The subject property is part of a small NC-2 District that includes the entire block face of the subject block (1022) and the southeast and southwest corners of the intersection of California Street and Presidio Avenue. NC-2 Districts are intended to serve as the City's Small-Scale Neighborhood Commercial Districts. These districts are linear shopping streets which provide convenience goods and services to the surrounding neighborhoods as well as limited comparison shopping goods for a wider market. The range of comparison goods and services offered is varied and often includes specialty retail stores, restaurants, and neighborhood-serving offices.

One block to the north is Sacramento Street, which has its own neighborhood specific zoning district, the Sacramento Street NCD, and two blocks to the west is Laurel Village, an NC-S Zoning District (Neighborhood Commercial Shopping Center District). The Sacramento Street NCD is characterized by small high-end stores selling antiques, art, and other specialty goods. The NC-S District provides a wider range of goods and services including a hardware store, grocery stores, coffee shops and clothing stores.

4. **Project Description.** The proposal is to establish a pet food and accessories store, (dba Pet Food Express), which is a formula retail use, in a commercial space that was previously occupied by a

Hollywood Video Store. Pet Food Express is a locally-owned chain with approximately 34 locations located throughout the Bay Area making it the eighth largest pet specialty retailer in the USA, according to its web site. Currently Pet Food Express has two other locations in San Francisco, one in Stonestown Mall and one on Market Street at the corner of Duboce Avenue. In addition to offering pet products such as food, toys and treats, most Pet Food Express stores feature self-service pet washes, vaccination clinics, and mobile pet adoptions. Pet Food Express does not sell animals in their stores. No major exterior alterations are proposed for the subject site. The store will employ approximately 8 full time and 5 part-time employees

5. **Public Comment.** As of Wednesday, June 30, 2010, the Department received one letter from the Geary Street Merchants Association in support of the project. In addition, the project sponsor did extensive public outreach and has put together a packet that outlines the outreach effort and a summary of the support and opposition to the project. The packet shows that 103 businesses in the area were interviewed about the proposed store; three of those interviewed were opposed, while 28 had no opinion. The packet also includes a letter of support from the Sacramento Street Neighborhood Association.

On June 30, 2010 the Department received a phone call from Bobby Wise who said that he had a petition with signatures in opposition to the proposed project. Bobby Wise is the owner of George, a boutique pet store on California Street in the Fillmore Neighborhood Commercial District, about .7 miles away from the subject site.

6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Use.** Planning Code Section 711.40 permits Other Retail Sales and Services uses on the ground floor in NC-2 Districts.

The proposed use is considered an "Other Retail Sales and Service" use as defined by Planning Code Section 790.102. The proposed use would be located on the ground floor in an NC-2 district; it is principally permitted in this use district.

- B. **Hours of Operation.** Planning Code Section 711.27 states that permitted hours of operation for NC-2 districts is 6:00 a.m. to 2:00 a.m.

The proposed project's hours of operation are between 9:00 a.m. and 7:00 p.m., which is within the permitted hours of operation.

- C. **Parking.** Planning Section 151 of the Planning Code requires one off-street parking space for each 500 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.

The proposed use will have approximately 5,595 sq. ft., which requires 11 parking spaces per Section 151 of the Planning Code. The subject site contains 24 parking spaces four of which are dedicated to the subject retail space. Assuming that the rest of the floor area is used for offices, the total required

amount of parking per Planning Code Section 151 is 27 spaces, three more than exist on the site. The site has a legal deficiency of parking spaces and is not required to add more per section 150(c)(1) of the Planning Code. Any existing lawful deficiency in off-street parking or loading spaces may be carried forward as long as the use or structure is not substantially changed. Both the previous and proposed uses are classified as "Other Retail Space" in Planning Code Section 151, and the existing retail space is not being enlarged.

- D. **Formula Retail.** Planning Code Section 703.3 defines a formula retail use as a type of retail sales activity or retail sales establishment which, along with eleven or more other retail sales establishments located in the United States, maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark. Businesses that are determined to be formula retail uses require Conditional Use Authorization to be established in NC-2 Zoning Districts.

The proposed use meets at least four of the above criteria in addition to having 34 other locations in the United States. The proposed use is considered a formula retail use; as such, the project sponsor has applied for Conditional Use authorization to establish a formula retail use in a Neighborhood Commercial District.

- E. **Loading.** Planning Code Section 152 does not require on-site loading spaces where the gross floor area of the proposed retail use is less than 100,000 sq. ft.:

The proposal does not include an on-site loading space and none are required.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does not comply with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The proposed use will provide a development that is necessary and desirable with the surrounding neighborhood. A windshield survey and internet search found no other comparable pet food and supply stores in the immediate vicinity. Further, the proposed use will be located in a space that was previously occupied by a formula retail use (dba Hollywood Video) and the proposed use is not in conflict with the current character of this section of California Street.

- 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 proposal is consistent with this criterion. The proposal includes moving into an existing building with only minor cosmetic changes.

- 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 proposed pet supply store would replace a video store. As both are retail uses with similar traffic patterns, there should be no change in impact to traffic patterns for persons or vehicles or the type and volume of traffic. The proposed site contains 24 parking spaces where the Planning Code requires 27 spaces. While slightly deficient in the number of required spaces, the site is within walking distance of a more pedestrian-oriented commercial corridor and residential neighborhoods, and is well-served by transit. Given this and that the use is not substantially changing, it is reasonable to assume that the proposed use will not have a negative impact on current traffic patterns and that the amount of parking onsite will be adequate for the use.

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

The proposed use would not emit noxious or offensive emission such as noise, glare, dust, or odor.

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

There are no proposed changes to the existing landscaping, and parking areas.

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

The project complies with the Planning Code and will not adversely affect the General Plan for the reasons stated below.

8. Planning Code Section 303(i) establishes criteria for the Planning Commission to consider when reviewing applications for Formula Retail Uses. On balance, the project does not comply with said criteria in that:

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

Within the subject NC-2 District, there are no other Formula Retail Uses. The other major uses in this district include the SF Fireman's Credit Union, the Laurel Hotel and Ella's Restaurant. A windshield survey conducted between Arguello Boulevard and Parker Street on California and Sacramento Streets showed that there are approximately 11 formula retail establishments in the immediate

vicinity. There are none on Sacramento Street, which tends towards a higher end retail market with design and antique stores, while California Street has more "everyday" goods and services such as a hardware store, grocery store, coffee shops and drug stores. There does not appear to be an over-concentration of formula retail uses in the area.

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

A windshield survey and an internet search did not find any comparable pet food and supply stores within the immediate vicinity.

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

The proposal includes only minor cosmetic changes to the existing structure, which is in keeping with the architectural and aesthetic character of the Neighborhood Commercial District

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

A windshield survey found that very few retail spaces are currently vacant except the existing space. One space in the NC-S District along California is under construction.

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

This specific NC-2 District has very few neighborhood-serving uses, Ella's Restaurant possibly being the one exception. The NC-S District along California and the NCD along Sacramento have a good mix of both neighborhood-serving and Citywide-serving uses.

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

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 1:

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1:

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development that has substantial undesirable consequences that cannot be mitigated.

The proposed Formula Retail use would have a substantial net benefit since it would be filling a large vacant retail space and providing a retail use that the area does not currently have.

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 proposed use will bring additional commercial activity to the City and provide a service that does not currently exist in the immediate vicinity.

10. Planning Code Section 101.1(b) establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

The Project will not displace any neighborhood-serving retail uses; it will be located within a vacant store front that was previously occupied by another formula retail use.

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

The proposal will not have any impact on existing housing nor will it have an impact on the character of California or Sacramento Streets.

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

The proposal will have no impact on 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 is to convert a vacant retail video store to a retail pet food/supply store and the existing 24 parking spaces on the site will be retained. Four of those spaces are specifically dedicated to the subject retail space and the rest are shared spaces for the complex. Therefore, the proposal will not impede MUNI transit service or overburden our streets or neighborhood parking.

- 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 is a retail establishment in a Neighborhood Commercial District. It will not impact industrial or service sector jobs.

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

The Project would comply with any building codes that are applicable to the project.

- G. That landmarks and historic buildings be preserved.

The subject building is not a designated landmark nor does it appear to be a potential historic resource. The proposed project will not have any impact on landmark or historic buildings.

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

The project will have no negative impact on existing parks and open spaces.

11. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.

12. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

Motion No. XXXXXX
Hearing Date: July 8, 2010

CASE NO 2010.0357C
3150 California Street

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. 2010.0357C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans filed with the Application as received on March 9, 2010 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 8, 2010.

Linda D. Avery
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: July 8, 2010

Exhibit A

Conditions of Approval

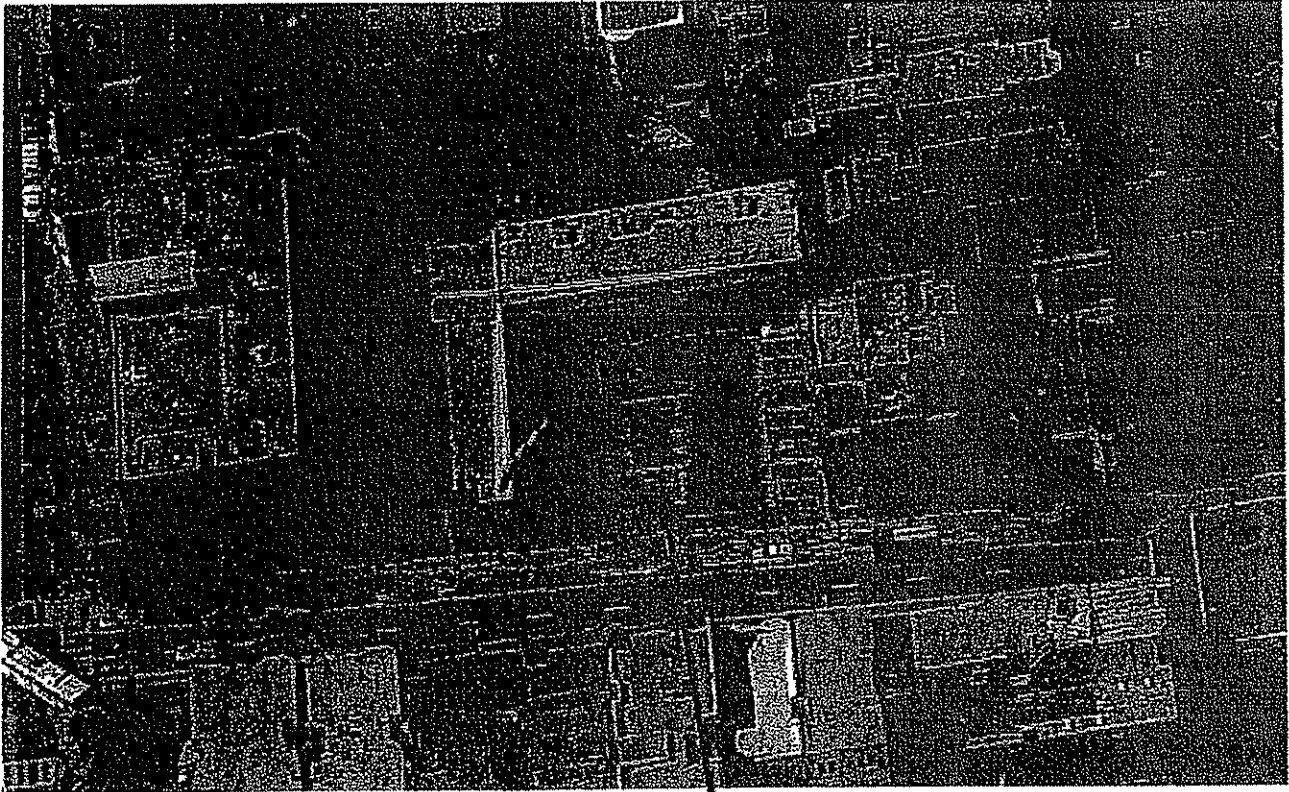
1. This authorization is for a Conditional Use Authorization under Planning Code Sections 303 and 703.3 of the Planning Code to allow a formula retail use (d.b.a. Pet Food Express) at 3150 California Street within the NC-2 (Neighborhood Commercial, Small Scale) District and a 40-X Height and Bulk District, in general conformance with plans filed with the Application as received on March 9, 2010 and stamped "EXHIBIT B" included in the docket for Case No. 2010.0357C, reviewed and approved by the Commission on July 8, 2010.
2. Prior to the issuance of the Building Permit 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 premises (Assessor's 1022, Lot 013), which notice shall state that construction has been authorized by and is subject to the conditions of this Motion.
3. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code shall be subject to enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1.
4. Should monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(e)(1).
5. The property owner shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.
6. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed.
7. The Project Sponsor shall maintain an attractive storefront providing visibility of the interior through the storefront windows.
8. The Project shall appoint a Community Liaison Officer to address issues of concern to neighbors related to the operation of this Project. The Project Sponsor shall report the name and telephone number of this Officer to the Zoning Administrator and the neighborhood for reference. The Applicant will keep the above parties apprised should a different staff liaison be designated.
9. An enclosed garbage area shall be provided within the establishment. All garbage containers shall be kept within the building until pick-up by the disposal company.

Motion No. XXXXXX
Hearing Date: July 8, 2010

CASE NO 2010.0357C
3150 California Street

10. The authorization and right vested by virtue of this action shall be deemed void and canceled if, within 3 years of the date of this Motion, a site permit or building permit for the Project has not been secured by Project Sponsor. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a city, state, or federal agency or by appeal of the issuance of such permit.

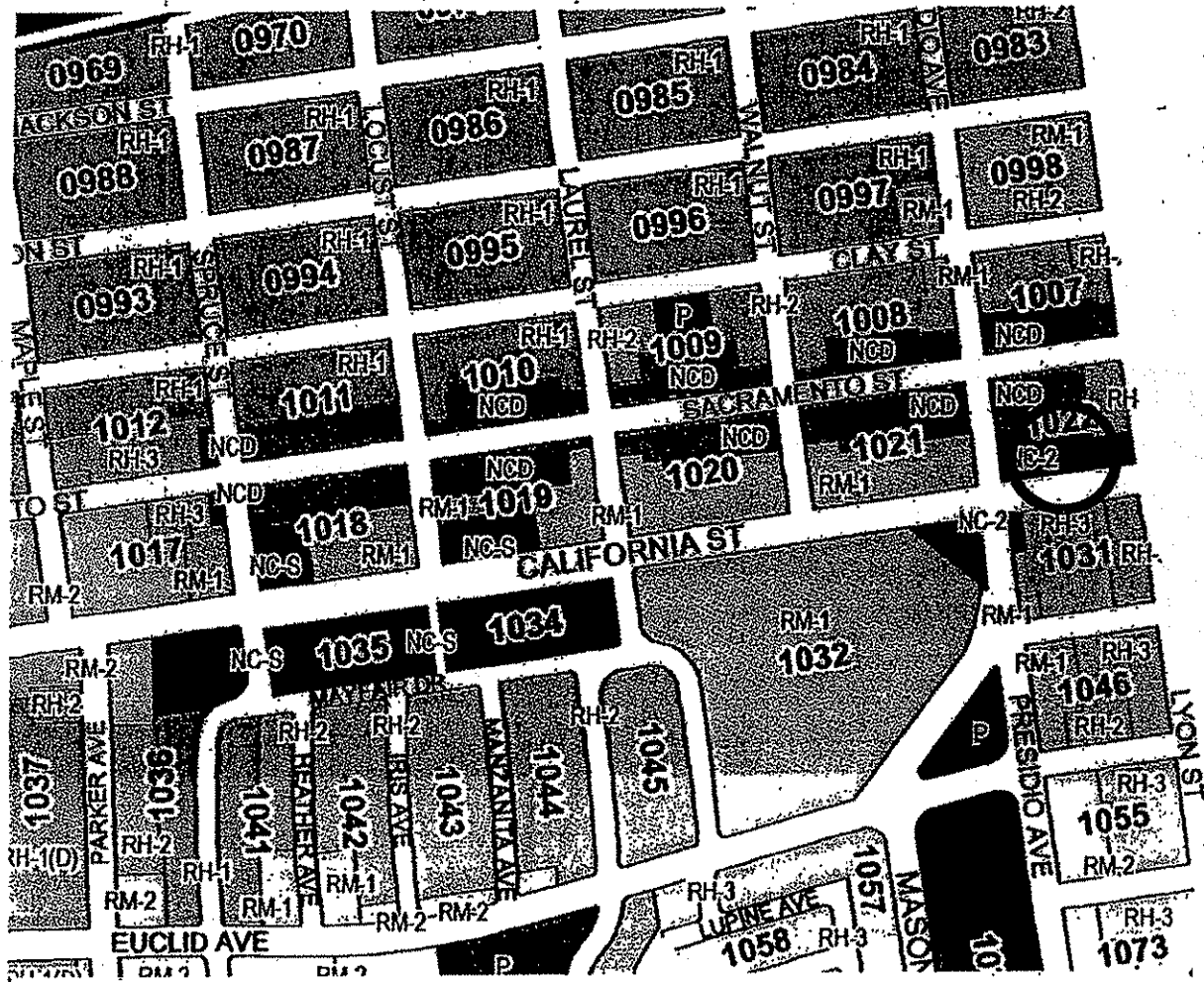
Aerial Photo



SUBJECT PROPERTY

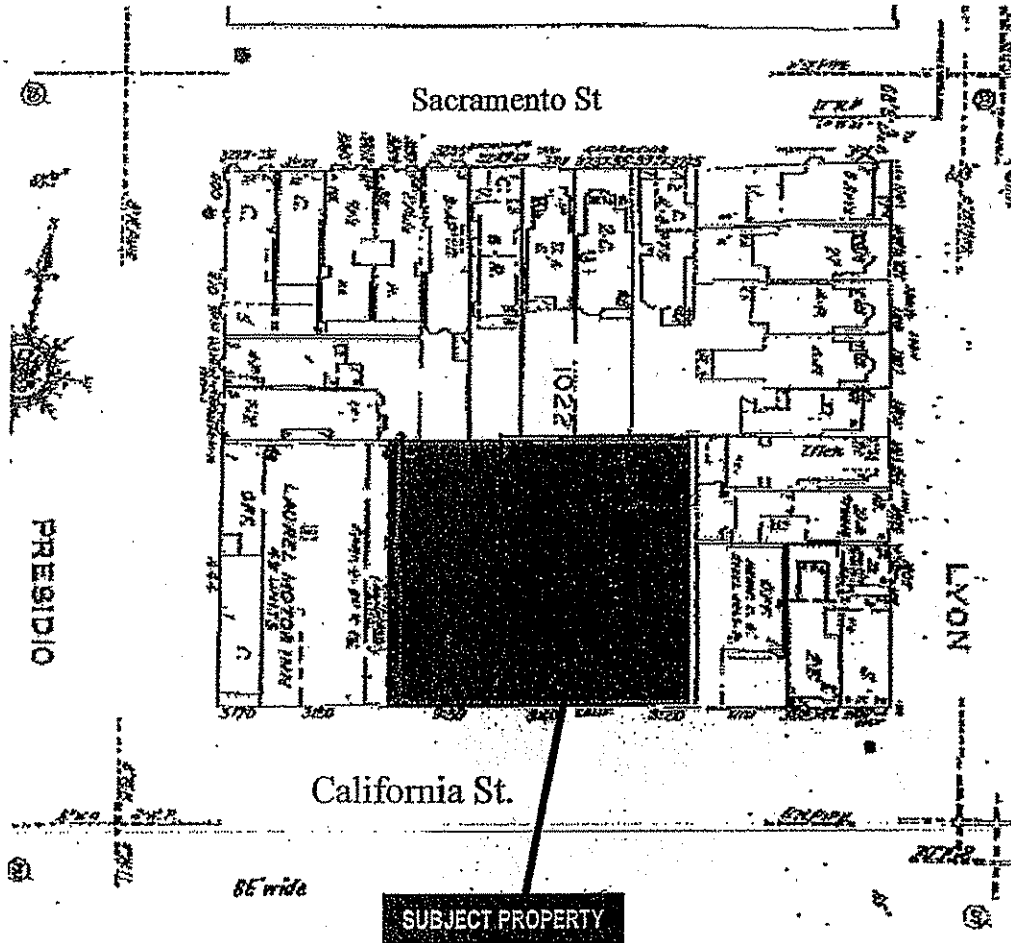


Zoning Map



Conditional Use Hearing
 Case Number 2010.0357C
 Formula Retail, Pet Food Express
 3150 California Street

Sanborn Map*



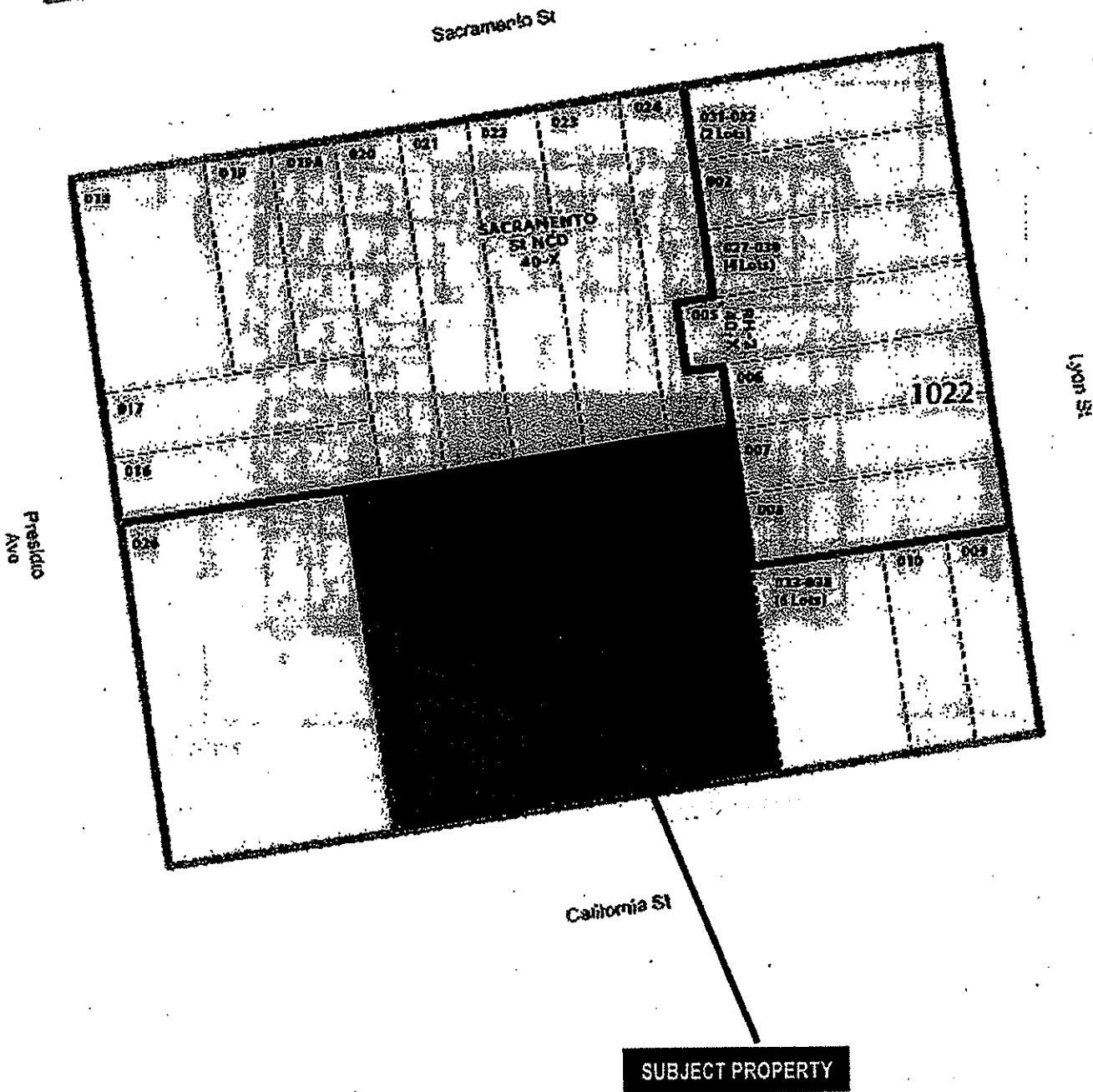
*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.

SAN FRANCISCO
PLANNING DEPARTMENT



Conditional Use Hearing
Case Number 2010.0357C
Formula Retail, Pet Food Express
3150 California Street

Parcel Map

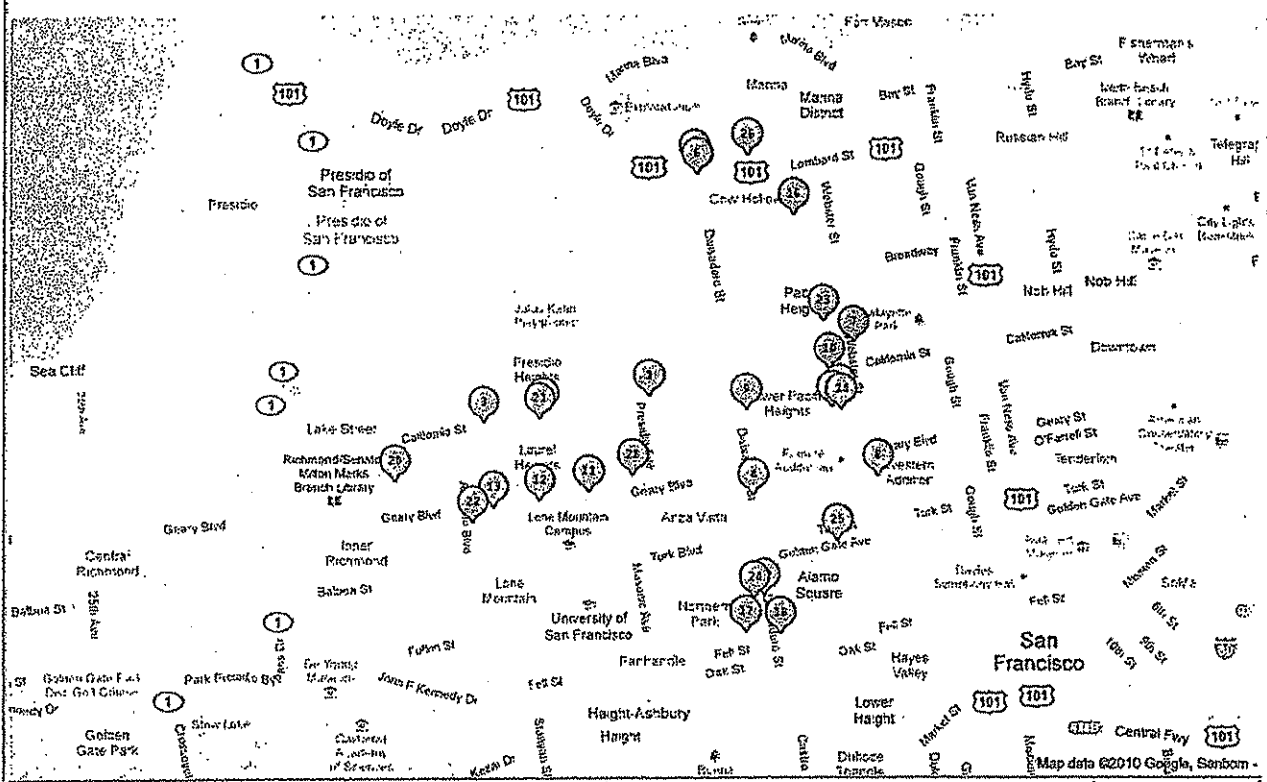


SUBJECT PROPERTY



Conditional Use Hearing
Case Number 2010.0357C
Formula Retail, Pet Food Express
3150 California Street

Pet Resources



Marker	Info	Marker	Info	Marker	Info
25	Pet Food Express Proposed new site - 3150 California St.	20	Walgreens - 0.4miles Pet Supplies	30	Walgreens - 0.6miles Pet Supplies
26	Walgreens - 0.5miles Pet Supplies	21	Walgreens - 0.7miles Pet Supplies	31	Walgreens - 0.8miles Pet Supplies
27	Walgreens - 0.8miles Pet Supplies	22	Safeway - 0.9miles Pet Supplies	32	Bella Bean Couture - 0.4miles Pet Supplies
28	George - 0.7miles Pet Supplies	23	Pet Source - 0.4miles Pet Supplies	33	Hollywood Dog Grooming - 0.6miles Grooming and supplies.
29	Drew's K-9 Corner - 0.7miles Pet Supplies	24	Barry For Pets - 0.7miles Pet Supplies	34	Russian Hill Dog Grooming - 0.7miles Grooming and Supplies
30	Cheengoo - 0.9miles Pet Supplies	25	Osso and Co - 1mile Pet Supplies	35	Taehee's Grooming and Pet Supply - 1mile Grooming and Pet Supplies
31	Kate's Cat and Dog Salon - 0.9miles Grooming	26	6th Avenue Aquarium - 0.9miles Fish Supplies	36	Presidio Way Vet - 0.4miles Vaccinations and Pet Supplies
32	Arguello Pet Hospital - 0.8miles Vaccinations and Pet Supplies	27	Pets Unlimited - 0.7miles Vaccinations and Pet Supplies.	37	San Francisco Pet Hospital - 0.8miles Vaccinations and Pet Supplies
33	Blue Cross Pet Hospital - 1mile Vaccinations and Pet Supplies	28	Catnip and Bones - 1mile Pet Supplies	38	Animal Connection II - 0.9miles Pet Supplies
34	Trader Joes - 0.3 miles Pet Supplies				



SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS



CITY AND COUNTY OF SAN FRANCISCO
GAVIN NEWSOM, MAYOR

July 6, 2010

President Ron Miguel
San Francisco Planning Commission
1660 Mission Street, Suite 400
San Francisco, California 94103

Re: Small Business Commission Legislation and Policy Committee recommendation to the Planning Commission to disapprove the formula retail request for Conditional Use Authorization for 3150 California Street

Dear President Miguel,

On June 28, 2010, the Small Business Commission's Legislation and Policy Committee met with the owners of three locally owned pet stores who are concerned that their business may be subject to harm should the request for a formula retail Conditional Use Authorization at 3150 California Street be approved. These businesses presented commissioners with over two thousand signatures of support and dozens of signed letters.

The Small Business Commission (SBC) voted on August 10, 2009 to recommend disapproval to the Planning Commission for a similar formula retail Conditional Use Authorization at 2460 Lombard Street, Planning Code 303(i) (1)(B). At that time, the SBC determined that the neighborhood was well served by this business sector, comprising of eight small business Pet Stores within an 8 block radius of that address. The Commission expressed concerns that these businesses would be negatively impacted by the opening of a similar formula retail use. The Planning Commission denied the Request for Conditional Use Authorization at 2460 Lombard Street on November 5, 2010. In denying the application, your Commission referenced the potential negative impact to locally-owned small businesses as being a strong factor in the decision.

At the June 28, 2010 Legislation and Policy Committee meeting, since this area is defined by multiple NC districts, the commissioners reviewed the impact within an 8 block radius of that address which indicated that there were seven pet stores and additional related businesses within that target area. Due to the similar potential for a negative impact to these small businesses, the commissioners unanimously voted to recommend disapproval to the Planning Commission. The Committee felt that the circumstances surrounding the 3150 California and 2640 Lombard sites closely resembled each other and that recommending disapproval was precedented.

Due to the meeting schedule for the full Small Business Commission (next meeting July 12,) the full Commission is unable to ratify the recommendation of the Legislation and Policy Committee in time for the July 8, 2010 Planning Commission hearing. It is to be noted that such matters generally come before the Legislation and Policy Committee before it heard before the full Small Business Commission.



SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS



CITY AND COUNTY OF SAN FRANCISCO
GAVIN NEWSOM, MAYOR

As part of the SBC's discussions on the 2460 Lombard project, commissioners directed staff to work with the Office of Economic and Workforce Development to help identify alternate locations for Pet Food Express. These efforts were summarized in our previous letter and include neighborhoods such as Lower Polk, Ocean Avenue and the Bayview. To date, Pet Food Express has not pursued working with the Office of Economic and Workforce Development in opening stores in these traditionally underserved, but fast growing San Francisco neighborhoods. The SBC still encourages Pet Food Express to strongly consider opening a store in at least one of these neighborhoods. Despite their objections that the neighborhood does not meet their demographics, we believe that there is a high degree of opportunity in the Southeast sector of the City. In addition to a number of pet day care facilities and increasing market potential in the Bayview and surrounding neighborhoods, there are several tax credits available for businesses in this part of the City through the State Local Enterprise Zone tax credits. These tax credits will provide an array of benefits to Pet Food Express, including helping to obtain financing, purchase of equipment and significant hiring incentives.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Regina Dick-Endrizzi'.

Regina Dick-Endrizzi
Director

X-ASG-Debug-ID: 1278546639-2bf400b40000-anfWwk
X-Barracuda-URL: http://odo.parc.com.net:8585/cgi-bin/mark.cgi
X-Barracuda-Envelope-From: rachel@thedeskset-sf.com
X-Barracuda-BBL-IP: nil
X-Yahoo-SMTP: Sj519z.swBBORGpjslv9.MLD6SLPNAv0hnWkvxt9PWBI
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GpkruXgXERRxCahl0eS93K8bL_RDryGOLF7X7d8MsJJolG9jFqlriWhhtqixPpNFs.QXEXMvyn69wh0
X-Yahoo-Newman-Property: ymail-3

Date: Wed, 07 Jul 2010 16:50:37 -0700

From: Rachel Lopez Metzger <rachel@thedeskset-sf.com>

To: c_olague@yahoo.com, rm@well.com, wordweaver21@aol.com, plangsf@gmail.com,
bill.lee@flysf.com, mooreurban@speakeasy.net, hs.commiss@yahoo.com,
Michela.Alioto-Pier@sfgov.org, David.Campos@sfgov.org, Carmen.Chu@sfgov.org,
Bevan.Dufty@sfgov.org, aaron.starr@sfgov.org, Eric.L.Mar@sfgov.org,
Ross.Mirkarimi@sfgov.org, John.Avalos@sfgov.org, David.Chiu@sfgov.org,
Chris.Daly@sfgov.org, Sean.Elsbernd@sfgov.org, Sophie.Maxwell@sfgov.org,
gavin.newsom@sfgov.org, "bobby@georgesf.com" <bobby@georgesf.com>,
Michael Williams <mfwassociates94123@yahoo.com>

X-ASG-Orig-Subj: Sacramento Street Merchants Association & Pet Food Express for July
8th Planning Meeting

Subject: Sacramento Street Merchants Association & Pet Food Express for July
8th Planning Meeting

X-Barracuda-Connect: smtp128.sbc.mail.spl.yahoo.com[69.147.65.187]

X-Barracuda-Start-Time: 1278546639

X-Barracuda-Virus-Scanned: by Parcom.net Anti-Spam and Anti-Virus System at
parcom.net

X-Barracuda-Spam-Score: 0.00

X-Barracuda-Spam-Status: No, SCORE=0.00 using per-user scores of TAG_LEVEL=3.5
QUARANTINE_LEVEL=2.0 KILL_LEVEL=7.0 tests=HTML_MESSAGE, UNPARSEABLE_RELAY

X-Barracuda-Spam-Report: Code version 3.2, rules version 3.2.2.28466

Rules breakdown below

pts rule name description

0.00 UNPARSEABLE_RELAY Informational: message has unparseable relay
lines

0.00 HTML_MESSAGE BODY: HTML included in message

X-SmarterMail-TotalSpamWeight: 0 (Authenticated)

Dear Planning Commission,

As the President of the Sacramento Street Merchants Association, I previously wrote
you a letter in support of Pet Food Express being granted a conditional use permit to
have a location at 3150 California Street. Based on further contact with the
merchants on Sacramento Street I am writing a new letter.

Overall, the merchants on Sacramento Street are opposed to giant/big box retail. The

main reason for this is that 95% of the business in the Sacramento Street Shopping District are small, independent businesses.

Many of our businesses are pet friendly establishments, ranging from shops where the owner's pet comes to work every day, to ones where dogs are welcome, and they know where the treats are and that there is fresh water to drink.

Bobby Wise from George on California Street, and with him other local pet stores, asked me to change my stance on Pet Food Express moving to 3150 California Street.

So, I asked the merchants on Sacramento Street via email (about 100 people) how they felt about Pet Food Express moving into 3150 California Street. In the 14 responses I received, 2 merchants gave a whole-hearted "yes", 3 abstained or were undecided and 8 were "no" (with 4 of those being a change from a previous yes). While this may not seem like a large number, nor a very scientific survey, it actually represents almost 10% of our merchants.

This is a delicate situation, and I know the majority of our merchants are all for getting more business in the neighborhood.

The Sacramento Street Merchants Association does not support Pet Food Express moving into 3150 California Street. We rescind the letter from June 21.

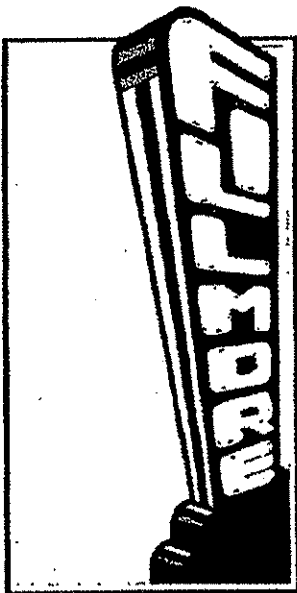
Sincerely,

Rachel Lopez Metzger

President, Sacramento Street Merchants Association

--
Rachel Lopez Metzger
The Desk Set
3252 Sacramento Street
San Francisco, California 94115
(415) 921-9575 voice
(415) 921-9576 fax
www.thedeskset-sf.com
read our blog

Rachel's In-Store Schedule
Monday 10 to 6
Wednesday, Friday & Saturday 1 to 6



**FILLMORE
MERCHANTS
ASSOCIATION**

2130 Fillmore Street #155
San Francisco, CA 94115
415.441.4093

*Dedicated to making the Fillmore a
still better place to live and do business*

PRESIDENT

Thomas Reynolds
Thomas Reynolds Gallery
441-4093 FAX: 441-4440
trr@thomasreynolds.com

VICE PRESIDENT

Joan O'Connor
Timeless Treasures
775-8366 FAX: 673-6479
janddoc@yahoo.com

SECRETARY

Beverly Weinkauff
Toujours Lingerie
346-3988 FAX: 346-2405
bev@toujourslingerie.com

TREASURER

Len Geyer, CPA
Dreyer, Lapidus, Geyer & Van Horn
292-2424 ext. *820 FAX: 928-2424
geyer@taxaction.com

www.FillmoreStreetSF.com

June 28, 2010

Mr. Ron Miguel, President
Planning Commission
City and County of San Francisco
1650 Mission Street, Suite 400
San Francisco, CA 94103

RE: Request for Conditional Use Authorization
Pet Food Express, Case No. 2010.0357C

Dear President Miguel and Commissioners:

I write to express strong support for the businesses in our neighborhood who are opposing Conditional Use Authorization for Pet Food Express at 3150 California Street. While this location is outside the Fillmore neighborhood commercial district, it could negatively impact two longtime businesses in our district: George, located at 2411 California, and Barry for Pets, located at 1840 Fillmore. Russian Hill Dog Grooming Express at 2178 Bush is a relative newcomer to the neighborhood that could also be negatively affected by Pet Food Express.

We're committed to maintaining the unique urban characteristics of our neighborhood, and feel that these three businesses contribute greatly to the ambience and unique urban fabric of the Fillmore. I hope you will listen carefully to their concerns.

Sincerely,

Thomas Reynolds
President

To: bobby@georgesf.com, animalconnect2@aol.com
From: "bobby@georgesf.com" <bobby@georgesf.com>
Subject: Fwd: Pet Food Express
Cc: Shireen Nyden <pawtrero@gmail.com>
Bcc:

Attachments:

From: Keith Goldstein <keithgg@me.com>
Date: Wed, Aug 25, 2010 at 3:02 PM
Subject: Pet Food Express
To: Michela.Alioto-Pier@sfgov.org, David.Campos@sfgov.org, Carmen.Chu@sfgov.org,
Bevan.Dufty@sfgov.org, Eric.L.Mar@sfgov.org, Ross.Mirkarimi@sfgov.org,
John.Avalos@sfgov.org, David.Chiu@sfgov.org, Chris.Daly@sfgov.org,
Sean.Elsbernd@sfgov.org, Sophie.Maxwell@sfgov.org, gavin.newsom@sfgov.org

Dear Board of Supervisors,

I am concerned at the Conditional Use permit granted to Pet Food Express, to open up a third store in San Francisco at the location 3150 California Street, block 1022, lot 013.

Pet Food Express is a chain store with 34 locations within the Bay Area. This location will be their fourth location in the City. This is obviously a threat to Locally-owned businesses. My understanding is that the City tries to encourage and support locally-owned businesses - this CU approval will make it harder for local pet shops to compete.

As president of the Potrero Hill Association of Merchants and Businesses, I urge you to overturn the Conditional Use Permit which has been granted to Pet Food Express.

By denying the permit you will be helping to safeguard the variety of smaller, locally owned and independent businesses that make up the backbone of our community.

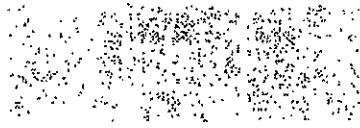
Sincerely,

Keith Goldstein

President, Potrero Hill Association of Merchants and Businesses

800 Kansas Street

94107



paws

Pets Are Wonderful Support

DEDICATED TO PRESERVING THE HUMAN-ANIMAL BOND

June 10, 2010

Dear Sir/Madam:

This letter is written to state the unequivocal support PAWS (Pets Are Wonderful Support) has received from both George and Mr. Bobby Wise over the past decade.

George has contributed to PAWS in a multitude of ways showing how strong a community partner this business is. Just a few of the ways George has contributed include –

- In Kind Donations of pet supplies, food and designer wares to the PAWS food bank
- Corporate support and sponsorship of PAWS signature event, Petchitecture, for over 9 years donating both goody bags and display space for event habitats
- Donation of a business vehicle directly resulting in much needed revenues to the organization
- Providing much needed community visibility and outreach by donating store space whenever needed

In addition, Bobby has personally greatly contributed to PAWS by joining their Board of Directors and serving consistently for over nine years. He has also been asked to Co-Chair Petchitecture for over seven years, bringing in additional corporate support from his colleagues in the industry.

We thank Bobby and George for their contribution over the years and know that their solid, long lasting commitment towards the San Francisco community will serve all of us for years to come.

Best Regards,

Kathleen Luzzi
Board Chair
PAWS

2309 California Street San Francisco CA 94115

1 July 2010

San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103-2414

Subject: Case No.2010.0357C, Pet Food Express, 3150 California St.

Dear Commissioners:

The issue of Formula Retail is complex, with each Formula Retail application surfacing new issues.

In the case of Pet Food Express's Conditional Use application for the 3150 California Street, a new issue arises for our neighborhood. In particular, I am reminded of the changes to, and disappearances of, corner markets that followed the introduction of supermarkets, which in turn was followed by the consolidation of supermarkets, leaving many neighborhoods without any local market.

Pet supplies are a neighborhood serving business. Some, in addition to providing the routine pet supplies, also serve as pet boutiques, with novel toys, collars and the like. These pet boutiques contribute to the appeal of an NCD such as the Upper Fillmore NCD.

However, like the corner market, they depend on the neighborhood customers for the bulk of their business – on such mundane items as kibble, litter and chew toys.

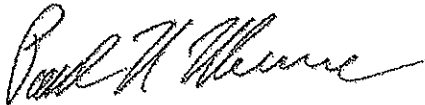
A Formula Retail operation with an advertized policy to undercut competitor's prices threatens the smaller existing local businesses. This is especially so when the Formula Retail does not actually have lower prices, but rather matches on a case by case basis, only when evidence of a lower price is provided by an individual customer. And, as someone who has shopped Pet Food Express, I do not find that their list price is better than that of many of the small pet stores. This type of low price guarantee is predatory.

And this is how corner markets were destroyed: Advertized lower prices at supermarkets drew away enough of the clientele that the small market was no longer profitable. On small profit margins, losing a small percentage of customers can be fatal. And then the small supermarkets were deemed less profitable, and consolidated into larger stores – removing the neighborhood serving businesses.

And, regardless of any commitments by the current owner of Pet Food Express, the reality is the businesses change owners. Personal commitments to remain in the neighborhood are not enforceable. Fewer, larger locations are more cost effective than multiple small, local locations.

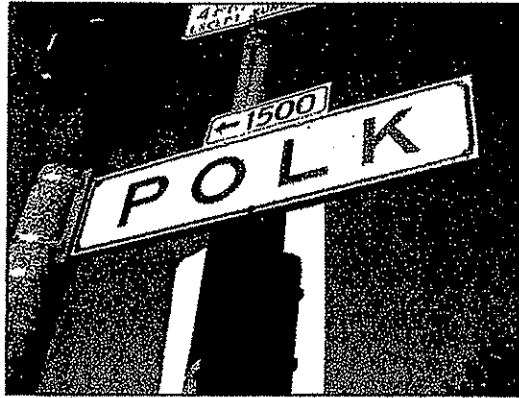
For this reason, I view the Pet Food Express Condition Use application with concern.

Sincerely yours,



Paul H Wermer

Cc: Bobby Wise, GEORGE



Polk District Merchants Association

12 August 2010

To: Board of Supervisors

I'm writing on behalf of the Polk District Merchants Association (PDMA) to request your support in overturning the decision to grant a conditional use permit for Pet Food Express at 3150 California Street.

The PDMA represents dozens of businesses in the Polk Street corridor; when we met to discuss this issue recently, there was unanimous opposition to the conditional use permit. Since the neighborhood feels that it is already being served by the existing pet-related businesses, there seems to be no reason to grant a chain, even a locally-owned one, a conditional use permit to operate in the neighborhood.

Sincerely,

Jennifer Farris
Polk District Merchants Association Leadership Team
Owner, STUDIO Gallery
1815 Polk Street
San Francisco, CA 94109

[Print Page | CL](#)

Natural Balance Pet Food

August 24, 2009

We were blessed with a visit from our Natural Balance Pet Food representative today. He even bought us lunch. We figured the visit was for a specific reason and not just to thank us for the tens of thousands of pounds of Natural Balance Pet Food we sell each year.

No, the reason was much more sinister. Did you know that manufacturers like **Natural Balance Pet Food** (<http://www.westcoastpetsupply.com/1/natural-balance-dog-food/>), with the pressure from corporate pet food retailer chains can force a smaller company like West Coast Pet Supply to sell their products at inflated prices. That's right. Natural Balance Pet Food bought us lunch and then told us their retail prices were too low and that we needed to raise them or Natural Balance Pet Food would require us to sell their dog and cat food.

We believe Natural Balance dog and cat food is one of the better quality foods on the market, but we don't think that they are not the only quality dog or cat food on the market. What would make them think they could dictate what our store sells Natural Balance Pet Food for? Why do they think that it would be fair for you the consumer, in these difficult financial times to pay upwards of 10% more for your food? Someone like Pet Food Express complained that we were selling Natural Balance Pet Food for less than what Pet Food Express wanted to sell it at.

Why not just let Pet Food Express sell it for whatever they want to sell it for and let West Coast Pet Supply sell it for what we want to sell it at?

There are only a few manufacturers that rely on this kind of price fixing practice and Natural Balance Pet Food is one of them. As independent retailers like West Coast Pet Supply and consumers like you need to stand up to this kind of bullying and say no. We will continue to sell Natural Balance Dog and Cat foods on our site at the price we deem fair until that day the big chains like Pet Food Express use their price fixing practices to force us to remove it from our offering. We will not allow another company to dictate what we sell our pet food and pet supplies for!

M.A.P. = Minimum Advertised Price. You should start asking about it wherever you spend your hard earned money. If the products you are purchasing have MAP pricing, you are paying too much. It's what the market would normally charge!

Think about this scenario. You are looking at a bag of **Taste of the Wild dog food** (<http://www.westcoastpetsupply.com/1/Taste-of-the-Wild-Dog-Food/>) and comparing it to a Natural Balance Duck and Potato. The Taste of the Wild dog food is priced at \$32.99 (fairly) and Natural Balance Duck and Potato is priced at the MAP pricing of \$49.99 (unfairly). These foods are comparable in quality. The Natural Balance Duck and Potato should be \$39.99 without MAP. That would be more in line with the Taste of the Wild dog food and you could weigh the differences between Natural Balance and the TOW ingredients and see that they were close, then make a decision. Because with MAP pricing in place you don't get a true picture of the Natural Balance Duck and Potato value. That's because now it is overpriced and not priced within its level of quality. If you were to choose the f

Balance you would be paying too much!

If this really gets under your skin we suggest you call or write Natural Balance Pet Food and tell them what you think. We did, to a deaf ear! But if enough of their Natural Balance customers tell them they want to pay higher prices for such an unreasonable and selfish reason maybe they will change their

Natural Balance Pet Foods
12924 Pierce Street
Pacoima, CA 91331
800-829-4493

The person that came up with this brilliant idea is Frank L. Koch the Executive Vice President of Natural Balance Pet Food. 818-897-2521

Best Wishes,

Glenn Matherly
WestCoastPetSupply.com

October 2, 2009 Update

Wow, who would of thought that just telling the truth about Natural Balance Pet Food and how they manipulate their retail pet food pricing would cause such a stir! We have received numerous calls and letters of support by not only our customers and Natural Balance Pet Food customers but also many retailers of Natural Balance Pet Food. In addition we have received calls from agents of Natural Balance Pet Food telling us to be careful. We had no idea this problem of M.A.P. (Minimum Advertised Price) so prevalent in our pet supply industry and was causing such a problem for small retailers nationwide.

West Coast Pet Supply will stand firm against such manipulation by Natural Balance Pet Food and any third party, multi box store hypocrites. When will people wake up and realize that we don't want corporate buffoon telling us what the minimum price we will pay for a bag of Natural Balance Pet Food or any other pet food or pet supply item. What happened to shopping for the best price and best service? When did I ask Natural Balance Pet Food to look out for me? Or who are they really looking out for? I tell you, it's the big box, multi store pet supply retailers that are trying to control the pet supply industry.

Let Natural Balance Pet Food and the others know how you feel about this disgraceful injustice. I know that though we sell Natural Balance Pet Food I am asking you to buy another pet food. One that offers fair trade, fair prices and retail integrity. There are many on the market and even some we don't carry. You need to look for a food that does not carry with it a Minimum Advertised Price. Find a pet food that is actually worth what you pay.

Best Wishes,

Glenn Matherly

<http://www.westcoastpetsupply.com/xnews.php?newsid=24>

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

file 101087
BOS-11, cpage

September 4, 2010

2010 SEP -7 PM 3:35


~~Dear~~ ^{Mr} Board of Supervisors,

I am a dog owner, and I live in San Francisco. I also have a car, so when I need to buy food or supplies for my dog, I can go to any pet store in any part of the city. However, I choose to shop at my neighborhood pet store on Washington St. at Polk. Not only can I walk my dog there when I need something for him, but I know that I am contributing to the economic vitality of my neighborhood at the community level. This is why I am writing to you in support of locally-owned independent pet stores in San Francisco, and asking that you overturn the Conditional Use Permit for The planned Pet Food Express at 3150 California Street.

One of the reasons why I love San Francisco is that it doesn't look like the rest of the country. It is creative and individual, due in large part to its

lack of big-box retail and its nurturing of locally-owned business. I think a lot of people like that about San Francisco,

There are already plenty of stores in the area around 3150 California, whether supermarkets or independent stores, that meet the needs of pet owners. I have shopped a time or two at Pet Foods Express before. It's not a bad store, but I don't think one more is needed at the proposed location. Our neighborhood pet stores add life to their communities. Please help them thrive by not allowing the addition of a Pet Foods Express.

Sincerely, 

MARK THOMAS
1534 Clay St. #5
San Francisco, 94109

BOS-11

C-page

File # 101-07

550 Davis Street, Apartment 29

San Francisco, California 94111

2010 SEP -7 PM 3:37

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

BY

RS

September 3, 2010.

To the S.F. Board of Supervisors:

We ^{are} strenuously opposed to allowing a chain of pet stores to open in San Francisco. Our local small pet stores not only do an excellent job of providing for our pets' needs, but they also are a valuable resource of personal and knowledgeable advice about animal care. Moreover, they relate to each of us on an individual basis, making every visit a friendly, pleasurable experience.

A chain store would provide none of this. The existing, small pet stores represent a highly desirable model for providing service and pet products to SF pets.

It would be a pity for us all - pets, pet owners, pet friends and the city itself - to lose this wonderful resource.

Sincerely,

Barbara and Dick Stewart

and
Kitzmiller and Lionel Stewart

cc: The Animal Connection II
1677 Washington Street
San Francisco 94109⁷⁵

File 101087
file, page, Bos-11

September 2, 2010

Joy Lamug
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, Ca. 94102-4689

To The Board of Supervisors,

I wish to express my concern over a new Pet Food Express store on California or frankly, anywhere else in San Francisco. They already have enough locations here and I believe that allowing them to have more will choke out the small independent shops. Chain stores have no place in San Francisco, that's what Colma is for!

I hope you deny this new store so that struggling small businesses with their unique personalities can flourish.



Gail Colombo
Founder / Owner
Cat Faeries
260 Hazelwood Av
San Francisco, CA 94127

www.catfaeries.com
gail@catfaeries.com

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2010 SEP -3 PM 4: 22
BY _____
AK

DEAR BOARD OF SUPERVISORS,

File 101007
File, page
BOS-11

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2010 SEP -2 PM 3:41
BY

IT HAS COME TO MY ATTENTION THAT PET FOOD EXPRESS IS AGAIN TRYING TO OPEN A THIRD STORE WITHIN SAN FRANCISCO, THIS TIME AT 3150 CALIFORNIA ST. I FEEL THAT ALL ^{THE} REASONS THAT LED THEM TO BE DENIED IN THEIR PREVIOUS ATTEMPT, STILL STAND.

THERE IS CERTAINLY NO NEED FOR THEM AT THIS LOCATION. THE AREA IS WELL SERVED BY A MIXTURE OF SMALL INDEPENDENT STORES AND ALSO LARGER STORES WITH PARKING, SUCH AS TRADER JOE'S AND SAFEWAY. IN FACT, WITHIN A MILE OF THE STORE THERE ARE 27 BUSINESSES THAT SUPPLY THE NEEDS OF THE AREA PETS.

SAN FRANCISCO TAKES PRIDE IN ITS SMALL BUSINESSES AND PROTECTING NOT ONLY THEM BUT ALSO THE FABRIC OF THE CITY, WAS WHY THE CONDITIONAL USE PERMIT WAS CREATED. PLEASE LISTEN TO THE PEOPLE WHO LOVE THIS CITY AS MUCH AS YOU DO AND OVERTURN THE CONDITIONAL USE PERMIT!

THANK YOU!

REGARDS LAUREN LANGFORD + RENEE TEELEY
FOUNDERS OF CITY TAILS PET CARE
19 RANCHO ALI ST # 4 SF CA 94132

August 31, 2010

Board of Supervisors
C/O: Joy Lamug
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, Ca. 94102-4689

FILE 1010.1
BOS-U
File page

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2010 SEP -2 PM 3:41
BY

To: Michela Alioto, David Campos, Carmen Chu, Bevan Dufty, Eric L. Mar, Ross Mirkarimi, John Avalos, David Chiu, Chris Daly, Sean Elsbernd, Sophie Maxwell, and Gavin Newsome

Dear Board of Supervisors,

My name is Debra Appleby. It is very difficult for me to type this letter to you because of a physical condition, but I feel it is for a very, very important cause. I lived in San Francisco for 17 years. I come to visit as often as I can, and am seriously considering moving back to the area.

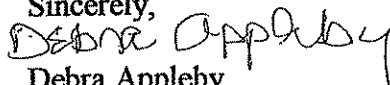
San Francisco is loved and cherished for its diversity and its special character. It is really a conglomeration of little niche communities, each having their own flair. A great deal of its charm has to do with small unique independent business's catering to the needs and whims of its' residents.

Living on the Central Coast has shown me even more of the importance of keeping big box stores away from small communities. For example, Atascadero has been inundated with larger stores and fast food franchises. Even Wal-Mart has been let in. The smaller stores and restaurants are dropping like flies. You can't even find what used to be the cute little center of town. The other little towns like Templeton and Paso Robles make sure that larger stores are on the outskirts of town, allowing them to keep their personality.

Big box stores will destroy ambiance and the livelihoods of many long time residents, loyal to San Francisco and their individual neighborhoods. There truly is something to be said for the personal service and relationship that one receives by walking into a locally owned smaller shop. One finds oneself identifying with the owner and giving back to the community by buying locally. People know each other. It is a friendship that really can't be described easily. But it is very, very vital to the charm and ambiance of San Francisco and its' inhabitants.

Please consider the fact that in this particular incidence there are 27 businesses that serve the needs of the areas pets. Pet Food express has already been denied once. They are not needed.

Thank you for taking the time to read this letter.

Sincerely,

Debra Appleby
PO Box 581
Avila Beach, California 934224

August 27th, 2010

File L01087, Bos-11
cpage: file

To Whom It May Concern,

As a concerned citizen, I

would like to emphatically state my

opposition to the proposed Pet Food

Express store for 3150 California Street.

Opening this large store would cause

many smaller pet shops to lose

their businesses. Please do not allow

Pet Food Express to have a permit

for opening.

Sincerely,

~~TRACIA VAN GORDEL~~

1250 CHAYE ST (APT. # 304)

San Francisco
BOARD OF SUPERVISORS

RECEIVED

80149

File 101087

Dear Jay Lanning, file page
10511

We need to support
our local independent

Pet Stores in San Francisco

I am opposed to the
Potential opening of

Pet Good Express on California
& Presidio in San Francisco

Sincerely,

Denise Shermer

Denise Shermer

2595 CLAY ST #6

SAN FRANCISCO CA 94115

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2010 AUG 31 PM 4:31

BY _____
AK

File # 101087

File, page

BOS 11

August, 2010

Attention: Joy Lamug
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, Ca. 94102-4689

To: Michela.Alioto-Pier	David.Campos
Carmen.Chu	Bevan.Duffy
Eric.L.Mar	Ross.Mirkarimi
John.Avalos	David.Chiu
Chris.Daly	Sean.Elsbernd
Sophie.Maxwell	Mayor Gavin.Newsom

Re: Opposition to Pet Food Express at 3150 California Street

Dear Board of Supervisors,

I am writing to express my concern regarding the application by Pet Food Express, to open up a third store in San Francisco proposed to be located at 3150 California Street, block 1022, lot 013.

I feel that the Fillmore, Richmond, Presidio and Marina are already well served by the existing infrastructure. Within a one-mile radius of the proposed location, there are already 27 pet supply shops and/or groomers. This additional store is not necessary or desired by local pet owners.

As a resident of San Francisco and a faithful customer of small neighborhood pet shops, I urge you to overturn the Conditional Use Permit which has been granted to Pet Food Express. By denying the permit you will be helping to safeguard the variety of smaller, locally owned and independent businesses that make up the backbone of any community.

Regards,

Whitney Wright

Whitney Wright
962 Carolina St
San Francisco, CA 94107-3337

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2010 AUG 31 PM 4:32
AK

File 101087
file, cpage, B&S-11

August 27, 2010

Attention: Joy Lamug
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, Ca. 94102-4689

To: Michela.Alioto-Pier	David.Campos
Carmen.Chu	Bevan.Duffy
Eric.L.Mar	Ross.Mirkarimi
John.Avalos	David.Chiu
Chris.Daly	Sean.Elsbernd
Sophie.Maxwell	Mayor Gavin.Newsom

Re: Opposition to Pet Food Express at 3150 California Street

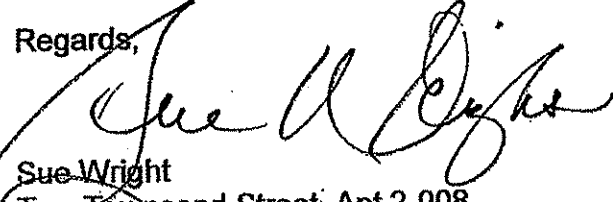
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Regards,



Sue Wright
Two Townsend Street, Apt 2-908
San Francisco, CA 94107

BY _____ AK

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2010 AUG 31 PM 4: 32

BOS-11
C-page

August 27, 2010

#101087

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1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, Ca. 94102-4689

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2010 AUG 30 PM 3:10
BY _____
Rz

To: Michela.Alioto-Pier	David.Campos
Carmen.Chu	Bevan.Duffy
Eric.L.Mar	Ross.Mirkarimi
John.Avalos	David.Chiu
Chris.Daly	Sean.Elsbernd
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Regards,



Web Otis
Two Townsend Street, Apt 2-913
San Francisco, CA 94107

BOS-11
c-page

August 27, 2010

File # (D) - E

Attention: Joy Lamug
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, Ca. 94102-4689

To: Michela.Alioto-Pier	David.Campos
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Eric.L.Mar	Ross.Mirkarimi
John.Avalos	David.Chiu
Chris.Daly	Sean.Elsbernd
Sophie.Maxwell	Mayor Gavin.Newsom

RECEIVED
 BOARD OF SUPERVISORS
 SAN FRANCISCO
 2010 AUG 28 10:13 AM
 BY BY

Re: Opposition to Pet Food Express at 3150 California Street

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Regards,

Virginia B. Otis

Virginia B. Otis
Two Townsend Street, Apt 2-913
San Francisco, CA 94107

To: President David Chiu and file page BPS-11
the San Francisco Board of Supervisors

My name is Gregory Wait and I live in Fresno, CA. I enjoy visiting San Francisco at least half a dozen times a year. What attracts me to your city is the many diverse neighborhoods and the small shops that offer such a great variety of choices and the very personal service you get from small owner-operated businesses.

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BOARD OF SUPERVISORS
SAN FRANCISCO

2010 SEP 11 PM 3:09

I know that there has been a real effort by San Franciscans to keep your city small scale and unique and I applaud you for this.

Fresno long ago adopted the Los Angeles model of growth and this can be seen with the large number of mega stores throughout the city. Along with their discount prices they offer very limited variety and virtually no customer service.

It is such a pleasure to visit San Francisco and experience the close personal contact that can only come from a small store.

I sincerely urge you to keep resisting the continual pressure to allow more mega stores into your fine city. I can tell you from experience that Fresno got to be the way it is one mega store at a time.

Please vote against the conditional use permit for Pet Food Express.

Yours Truly
Gregory Wait
2004 N. Maple Ave
Fresno, CA. 93703

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()

()

2010 SEP 1 PM 3:10
Board of Supervisors

BY AK

C/O Jay Lamug, \$

I live in Santa Clara but am a frequent shopper for my pets in San Francisco. It has come to my

attention that Pet Food Express is trying to open a third store on California St. (3150) Please consider the impact it has on the small businesses. There is no need to open another store at that location

It has been a source of great pleasure for me to drive to San Francisco and shop. These small businesses are a source of pride for me when I bring my out of state guests.

San Francisco is diverse and unique.

Putting more chain stores will →

12/20/11
12-2-11

suffocate the small businesses and
take away the reason why I drive
up here to shop. Please ~~overturn~~
the Conditional Use Permit.

Sincerely, Andrea Wilder

Andrea Wilder

2350 Postia Ave

Santa Clara

95050