



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use – Formula Retail

HEARING DATE: MARCH 23, 2017

Date: March 13, 2017
Case No.: **2016-015957CUA**
Project Address: **2213 Fillmore Street**
Zoning: Upper Fillmore Neighborhood Commercial District
40-X Height and Bulk District
Block/Lot: 0630/007
Project Sponsor: Janet Crane, Freebairn-Smith & Crane
442 Post St., Suite 600
San Francisco, CA 94102
Staff Contact: David Weissglass – (415) 575-9177
David.weissglass@sfgov.org
Recommendation: **Approval with Conditions**

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PROJECT DESCRIPTION

The project sponsor proposes to establish a Formula Retail limited restaurant/cafe (dba "Joe & the Juice") in a currently vacant approximately 1,520 square-foot retail space located at 2213 Fillmore Street. The space was most recently occupied by "Noah's Bagels," a Formula Retail café. The café would be open daily between the hours of 7AM and 9PM. The applicant intends for the Café to act as a family-friendly "third space" outside of the home and workplace for relaxation. Customers will have the opportunity to purchase coffee, fresh-squeezed juices, and light food items such as sandwiches and handmeals. The project also includes minor interior tenant renovations and new exterior signage. The existing tenant space measures approximately 1,520 square feet, which includes 1,325 square feet on the ground floor and 195 square feet of storage for the café in the basement. The size would not change as part of the project.

Because Conditional Use Authorization was not necessary at the time "Noah's Bagels" began operation, the change in operation from one Formula Retail use to another is determined to be an intensification as per Planning Code Section 186.1(c)(3)(d). Per Planning Code Section 178(c), a new Conditional Use Authorization is required.

The proposal requires a Conditional Use Authorization pursuant to Planning Code Sections 303, 303.1, 703.4, and 718.43 to establish a Formula Retail use within the Upper Fillmore NCD Zoning District.

SITE DESCRIPTION AND PRESENT USE

The project site is located on the west side of Fillmore Street, between Clay Street and Sacramento Street, Block 0630, Lot 007. The subject property is located within the Upper Fillmore Neighborhood Commercial District ("NCD") and the 40-X Height and Bulk District. The property is approximately 2,262.5 square feet in area and occupied by a three-story mixed-use building, with one retail tenant space below four residential units on the second and third stories. The tenant space at 2213 Fillmore Street is currently vacant, but was previously occupied by a Formula Retail café (dba "Noah's Bagels").

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The area surrounding the project site is mixed-use in character. The Upper Fillmore Neighborhood Commercial District covers approximately six blocks of Fillmore Street between Jackson Street to the north and Bush Street to the south, as well as portions of California Street and Pine Street. A variety of commercial establishments are located within ground floor storefronts in the Upper Fillmore NCD, including restaurants, bars, apparel stores, convenience stores, and other types of retailers. Buildings in the vicinity typically range from one to three stories in height. Upper floors of buildings are generally occupied by offices or residential units. The Upper Fillmore NCD is intended to provide convenience goods and services to the surrounding neighborhoods as well as certain goods and services for a wider trade area. Commercial businesses are active during the day and evening and include a number of bars, restaurants, and specialty retail and clothing stores. The surrounding zoning is primarily RM-1 (Residential Mixed, Low Density), RH-2 (Residential House, Two-Family), and RH-3 (Residential House, Three-Family). The Fillmore Street Neighborhood Commercial District (NCT) is located to the south.

ENVIRONMENTAL REVIEW

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

HEARING NOTIFICATION REQUIREMENTS

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	March 3, 2017	March 1, 2017	22 days
Posted Notice	20 days	March 3, 2017	March 3, 2017	20 days
Mailed Notice	30 days	February 21, 2017	February 21, 2017	30 days

The required Section 312 neighborhood notification process was conducted as part of this Project's Conditional Use notice.

PUBLIC COMMENT/COMMUNITY OUTREACH

- The Planning Department has received a letter of support from the Fillmore Merchants Association, attached in Exhibit A. The Pacific Heights Residents Association has a neutral position towards the proposal. There is no known opposition to the project.
- The project sponsor held a pre-application community outreach meeting on November 28, 2016.

ISSUES AND OTHER CONSIDERATIONS

- Conditional Use Authorization: The proposal requires Conditional Use Authorization from the Planning Commission, pursuant to Planning Code Sections 303, 303.1, 703.4, and 718.43 to establish a Formula Retail Limited Restaurant use at the ground floor of a commercial building located in the Upper Fillmore Neighborhood Commercial District and a 40-X Height and Bulk District.
- Formula Retail Use (Joe & the Juice): The proposed establishment (dba Joe & the Juice) is considered a Formula Retail use with approximately 176 locations worldwide with 14 more in development. The proposed location would be the third in San Francisco. Formula Retail findings are included in the Draft Motion for the Commission to consider. There are 161 ground floor retail establishments within the district, 43 of which are Formula Retail establishments, amounting to a concentration of approximately 26.7%. The proposed establishment would increase this figure slightly to approximately 27.3%. Of the 161 commercial uses within the Upper Fillmore NCD Zoning District, 9 are Limited Restaurants, of which 3 are considered Formula Retail. These calculations do not include non-retail establishments, such as institutions, parking, or public services.

REQUIRED COMMISSION ACTION

For the project to proceed, the Commission must grant Conditional Use authorization to establish a Formula Retail use (dba “Joe & the Juice”) in the Upper Fillmore NCD Zoning District, pursuant to Planning Code Sections 303, 303.1, 703.4, and 718.43.

BASIS FOR RECOMMENDATION

- The project would fill an existing vacancy and continue the limited restaurant use of the subject tenant space.
- Considering the most recent use of the now vacant tenant space was a legally nonconforming Formula Retail limited restaurant (dba “Noah’s Bagels”), the project would not result in a long-term increase in the concentration of Formula Retail limited restaurants.
- The proposed use would only slightly increase the Formula Retail concentration within the district and ¼ mile vicinity.
- The subject site is within close access to public transit, including Muni lines 1, 3, and 22.
- The project meets all applicable requirements of the Planning Code.
- The project meets the requirements of the Planning Commission’s Performance-Based Design Guidelines.
- The project is desirable for and compatible with the surrounding neighborhood and has the support of the Fillmore Merchants Association.

RECOMMENDATION:	Approval with Conditions
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Attachments:

Block Book Map
Sanborn Map
Zoning Map
Aerial Photograph
Site Photograph
Map of Formula Retail Locations in the Vicinity
Project Sponsor Submittal
Reduced Plans

Exhibit Checklist

- | | |
|---|---|
| <input checked="" type="checkbox"/> Executive Summary | <input checked="" type="checkbox"/> Project sponsor submittal |
| <input checked="" type="checkbox"/> Draft Motion | Drawings: <u>Existing Conditions</u> |
| <input type="checkbox"/> Environmental Determination | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u> |
| <input type="checkbox"/> Height & Bulk Map | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Block Book Map | <input type="checkbox"/> Health Dept. review of RF levels |
| <input checked="" type="checkbox"/> Sanborn Map | <input type="checkbox"/> RF Report |
| <input checked="" type="checkbox"/> Aerial Photos | <input type="checkbox"/> Community Meeting Notice |
| <input type="checkbox"/> Context Photo | <input type="checkbox"/> Public Correspondence |
| <input checked="" type="checkbox"/> Site Photo | |

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

WF
Planner's Initials



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|--|--|
| <input type="checkbox"/> Affordable Housing (Sec. 415) | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412) | <input type="checkbox"/> Other |

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Planning Commission Draft Motion

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ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 303.1, 703.4, AND 718.43 OF THE PLANNING CODE TO ALLOW THE ESTABLISHMENT OF A FORMULA RETAIL LIMITED RESTAURANT (DBA “JOE & THE JUICE”), WITHIN THE UPPER FILLMORE NEIGHBORHOOD COMMERCIAL DISTRICT (NCD) AND THE 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On December 14, 2016, Janet Crane (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Section(s) 303, 303.1, 703.4, and 718.43 to allow the establishment of a Formula Retail use (dba “Joe & the Juice”), located within the Upper Fillmore Neighborhood Commercial District and the 40-X Height and Bulk District. The property, now vacant, last operated as a Formula Retail Limited Restaurant (dba “Noah’s Bagels”).

Joe & the Juice is a Danish café concept with approximately 176 locations open worldwide with another 14 in development. The proposed location would be the third in San Francisco.

On March 23, 2017, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2016-015957CUA

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

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2016-015957CUA, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description.** The project site is located on the west side of Fillmore Street between Clay Street and Sacramento Street in the Western Addition neighborhood, Assessor's Block 0630, Lot 007. The parcel is approximately 2,262.5 square feet in area and is occupied by a three-story building containing one ground floor tenant space below two floors of residential units constructed circa 1900. The subject tenant space is approximately 1,520 square feet, including 1,325 square feet of space for the café on the ground floor and 195 square feet of storage space in the basement. The last use of the subject tenant space was a Formula Retail café (dba "Zinc Noah's Bagels"). Because Conditional Use Authorization was not necessary at the time "Noah's Bagels" began operation, the change in operation from one Formula Retail use to another is determined to be an intensification as per Planning Code Section 186.1(c)(3)(d). Per Planning Code section 178(c), a new Conditional Use Authorization is required.
3. **Surrounding Neighborhood.** The project site is located on the Fillmore Street commercial corridor on the west side of Fillmore Street. The Upper Fillmore Neighborhood Commercial District covers approximately six blocks of Fillmore Street between Jackson Street in the north and Bush Street in the south, as well as portions of Pine and California Streets. The site is within 1/4-mile of the 1, 1AX, 1BX, 22, 24, 3, 31AX, 31BX, 38AX, 38BX, and NX MUNI bus lines. Cycling can be encouraged due to the site's proximity within 250 feet of the Clay Street Bike route. This district is daytime-oriented, and weekends are this area's busiest shopping days. The surrounding development consists of a variety of commercial and mixed-use buildings mostly featuring residential uses above ground-floor commercial establishments. The scale of development in the area consists of a mix of two- to four-story structures mostly built between 1900 and the 1930s. The Upper Fillmore NCD is intended to provide convenience goods and services to the surrounding neighborhoods as well as comparison shopping goods and services on a specialized basis for a wider trade area. Commercial businesses are active during the day and evening and include a number of bars, restaurants, specialty groceries, and specialty clothing stores. The surrounding zoning is primarily RM-1 (Residential Mixed, Low Density), RH-2

(Residential House, Two-Family), RH-3 (Residential House, Three-Family), and the Fillmore Street Neighborhood Commercial Transit District (NCT).

Project Description. This is a request for Conditional Use Authorization pursuant to Planning code Sections 303, 303.1, 703.4, and 718.43 to authorize a 1,520 square-foot Formula Retail Limited Restaurant use (dba “Joe & the Juice”) previously occupied by a Formula Retail Limited Restaurant (dba “Noah’s Bagels”) on the ground floor of the three-story structure located at 2213 Fillmore Street within the Upper Fillmore Neighborhood Commercial District (“NCD”) and 40-X Height and Bulk District. The store would be open between the hours of 7AM and 9PM daily, seven days a week. Joe & the Juice is a Danish café concept which currently operates 176 locations worldwide with 14 more in development. The proposed location would be the third in San Francisco. Minor façade changes and sign alterations are the only exterior changes proposed. The proposal requires a change of use, and Section 312-neighborhood notification was conducted in conjunction with the Conditional Use Authorization process. The proposed use is a neighborhood-serving use. The proposed retailer plans to employ approximately 6 full-time and 6 part-time employees, the majority of whom would likely live in the immediate surrounding area and take transit to get to work.

4. **Public Comment.** The Planning Department has received a letter of support from the Fillmore Merchants Association, attached in Exhibit A. The Pacific Heights Residents Association has a neutral position towards the proposal. There is no known opposition to the project.
5. **Planning Code Compliance:** The Commission finds that the project is consistent with the relevant provisions of the Planning Code in the following manner:

A. Formula Retail. A *Formula Retail Use* is defined under Planning Code Section 303.1 as a type of retail sales or service activity or retail sales or service establishment that has eleven or more other retail sales establishments in operation, or with local land use or permit entitlements approved for operation, located anywhere in the world. In addition to the eleven establishments either in operation or with local land use or permit entitlements approved for operation, the business maintains two or more of the following features: a standardized array of merchandise, a standardized façade, a standardized décor and color scheme, uniform apparel, standardized signage, a trademark or a servicemark.

The current proposal is to allow the establishment of a Formula Retail Limited Restaurant use (dba Joe & the Juice) in the approximately 1,520 square-foot vacant commercial space on the project site.

Planning Code Section 703.3 provides additional criteria for the Planning Commission to consider when considering any discretionary review pursuant to Section 703.3, Formula Retail Uses:

- a. The existing concentrations of Formula Retail uses within the district.

There are 43 existing ground story Formula Retail establishments out of 161 commercial establishments within the district. The existing intensity of Formula Retail uses is approximately

26.7% of all businesses within the district, and 26.6% of the total commercial retail street frontage. The proposed establishment would increase these figures slightly to 27.3% and 27.0% respectively.

Based on an evaluation of all retail locations located within a ¼ mile of the subject property, 46 of 193 commercial establishments are Formula Retail. This comprises approximately 23.8% of the businesses and 25.1% of the commercial street frontage at the ground floor. The proposed establishment would increase these figures slightly to 24.4% and 25.4% respectively.

- b. The availability of other similar retail uses within the district.

Within the district there are 9 Limited Restaurants, 3 of which are considered Formula Retail. These figures are identical within the ¼ mile vicinity of the tenant space.

- c. The compatibility of the proposed Formula Retail use with the existing architectural and aesthetic character of the district.

The project will occupy an existing tenant space and proposes only minor façade changes and new signage.

- d. The existing retail vacancy rates within the district.

There are currently 8 vacancies out of 161 commercial locations within the district, equating to a vacancy rate of approximately 5.0%. The proposed establishment would fill one of these existing vacancies, reducing the vacancy rate to approximately 4.3%.

- e. The existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the district.

Approximately 40% (65 locations) of the ground floor commercial uses in the district are "Daily-Needs," or neighborhood-serving; of these, 20 are Formula Retail. Approximately 60% (96 locations) of ground floor commercial uses in the district are considered "Citywide-serving." The proposed use is considered a "Daily-Serving" use, resulting in a slight shift to approximately 41% Daily-Needs and 59% Citywide-serving.

- f. Additional data and analysis set forth in the Performance-Based Design Guidelines adopted by the Planning Commission.

The proposed use is consistent with the existing character of the district, which is composed of many Formula Retailers who specialize in a variety of goods and services.

Table 1. District and Vicinity Ground Floor Frontage Breakdown per Land Use¹

LAND USE TYPE	TOTAL STREET FRONTAGE IN UPPER FILLMORE NCD (FT)	PERCENTAGE OF DISTRICT	TOTAL STREET FRONTAGE IN ¼ MILE VICINITY	PERCENTAGE OF VICINITY
Automotive	464	6.8%	464	5.7%
Bar	25	0.4%	59	0.7%
Entertainment	33	0.5%	33	0.4%
Financial Services (incl. Limited)	218	3.2%	218	2.7%
Pet Services	242	3.6%	242	3.0%
Personal Service	374	5.5%	659	8.1%
Professional Service	876	12.9%	1243	15.4%
Restaurant	1028	15.1%	1112	13.7%
Limited Restaurant	455	6.7%	514	6.4%
Retail, Other	2816	41.4%	3261	40.3%
Vacant	268	3.9%	285	3.5%
Total	6799	100%	8090	100%

The use mix is varied in the district. Other Retail, the use category of the proposed establishment, makes up the largest percentage of the district at approximately 45%. These calculations do not include non-retail establishments, such as institutions, parking, or public services.

- g. For Formula Retail uses of 20,000 square feet or more, except for General or Specialty Grocery stores as defined in Articles 2, 7, 8 of this Code, the contents of an economic impact study prepared pursuant to Section 303(i) of the Planning Code.

As the subject retail use is less than 20,000 square feet, an economic impact study is not required for this project.

B. Street Frontage in Neighborhood Commercial Districts. Planning Code Section 145.1 requires that within NC Districts space for active uses shall be provided within the first 25 feet of building depth on the ground floor and 15 feet on floors above from any facade facing a street at least 30 feet in width. In addition, the floors of street-fronting interior spaces housing non-residential active uses and lobbies shall be as close as possible to the level of the adjacent sidewalk at the principal entrance to these spaces. Frontages with active uses that must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building. The

¹ The Upper Fillmore NCD Ground Floor Frontage Breakdown per Land Use table was developed using data collected by the Project Sponsor and reviewed by Planning Department Staff in 2016.

use of dark or mirrored glass shall not count towards the required transparent area. Any decorative railings or grillwork, other than wire mesh, which is placed in front of or behind ground floor windows, shall be at least 75 percent open to perpendicular view. Rolling or sliding security gates shall consist of open grillwork rather than solid material, so as to provide visual interest to pedestrians when the gates are closed, and to permit light to pass through mostly unobstructed. Gates, when both open and folded or rolled as well as the gate mechanism, shall be recessed within, or laid flush with, the building facade.

The first 25' of building depth on the ground floor is devoted to an active retail use. The primary façade of the subject storefront is glazed and the proposed storefront design would respect the existing storefront transparency. No obscured glazing or other elements that would reduce the level of transparency at the ground floor will be used. The project does not propose any decorative railings or grillwork in front of or behind existing windows.

- C. Off-Street Parking.** Section 151 requires retail uses to provide one parking space for every 500 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.

The project does not occupy more than 5,000 square feet of floor area, and therefore does not require the provision of off-street parking. No off-street parking is proposed.

- D. Loading.** Section 152 requires off-street freight loading for uses above a certain size. Eating Retail uses up to 10,000 square feet in gross floor area are not required to provide off-street freight loading.

The project is less than 10,000 square feet in gross floor area and is therefore not required to provide off-street freight loading. No off-street freight loading is proposed.

- E. Use Size.** Section 718.21 establishes size limits on nonresidential uses in the Upper Fillmore NCD. Within the District, conditional use authorization is required for any nonresidential use that exceeds 2,499 square feet.

The subject space occupies less than 2,499 square feet; therefore the Project does not require Conditional Use authorization for use size.

- F. Hours of Operation.** Pursuant to Sections 718.27 of the Code, the principally permitted hours of operation are from 6 a.m. to 2 a.m.

The proposed hours of operation are 7 a.m. to 9 p.m., seven days a week.

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

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

The proposed project is desirable because it will fill an existing vacancy and add a unique product line that complements the diverse offerings along Fillmore Street, particularly given the low number of limited restaurants in the District. The Pacific Heights Residents Association has a neutral position on the project, and the proposed project has received support from the Fillmore Merchants Association.

- 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:

Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The size and shape of the site and the size, shape and arrangement of the building will not be altered as part of this project. The proposed work will not affect the building envelope.

- c. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

The project will not affect public transit or overburden the existing supply of parking in the neighborhood. The project may attract residents and visitors from outside of the neighborhood; however, this area is well serviced by transit, including Muni lines 1, 3, and 22.

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

The project will not produce noxious or offensive emissions related to noise, glare and dust.

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

The project would not alter the site's landscaping, open spaces, parking and loading areas, service areas, and lighting. Any new signage will be required to comply with the requirements of the Planning Code.

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

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

- g. That the use as proposed would provide development that is in conformity with the purpose of the applicable Zoning District.

The proposed project is consistent with the stated purpose of the Upper Fillmore NCD Zoning District in that the intended use will provide a compatible use and is compliant with the limitations on certain uses within the district.

8. **General Plan Compliance.** The project is consistent with the Objectives and Policies of the General Plan:

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1:

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

Policy 1.2:

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

Policy 1.3:

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

The proposed project will provide a desirable service to the neighborhood and will provide resident employment opportunities to those in the community. The conditions of approval will ensure that the use meets minimum, reasonable performance standards. Further, the project site is located within a Neighborhood Commercial District and is thus consistent with activities in the commercial land use plan.

OBJECTIVE 2:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1:

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

The project will fill an existing vacancy with commercial activity similar to the one that most recently occupied the site, and will help maintain the diverse economic base of the City.

OBJECTIVE 3:

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

Policy 3.1:

Promote the attraction, retention, and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

The Project will authorize a Formula Retail use to locate within the neighborhood, maintaining employment opportunities for unskilled and semi-skilled workers.

Policy 3.4:

Assist newly emerging economic activities.

The Project will allow an existing vacant storefront to change to a Formula Retail Limited Restaurant use that will enhance the diverse economic base of the City.

COMMERCE AND INDUSTRY

Objectives and Policies

OBJECTIVE 6:

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1:

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

Policy 6.2:

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

The ground floor Formula Retail use would activate the pedestrian realm by maintaining an active use at the ground floor.

Policy 6.3:

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

No commercial tenant will be displaced as the tenant space was previously vacant. The Project will not prevent the District from achieving optimal diversity in the types of goods and services available in the neighborhood. The Project will provide the neighborhood with a Formula Retail Limited Restaurant providing food and beverages to employees and residents.

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

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

The proposal is considered a neighborhood-serving use and fills a vacancy that was last occupied by a neighborhood-serving 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 project would not affect the character or diversity of the neighborhood.

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

The project would not have any effect 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 would not adversely affect public transit or place a burden on the existing supply of parking in the neighborhood. The Project Site is well-served by public transit, including Muni lines 1, 3, and 22.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The project will not displace any service or industry establishment. The project will not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses will not be affected by this project.

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

This proposal will not affect the property's ability to withstand an earthquake. Further, the store will implement an earthquake preparedness plan for employees and customers in the case of an emergency.

G. That landmarks and historic buildings be preserved.

The existing building is not a landmark. Exterior improvements are not proposed other than new signage and minor façade improvements.

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

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

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

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2016-015957CUA** under Planning Code Sections 303, 303.1, 703.4, and 718.43 to authorize a 1,520 square-foot Formula Retail Limited Restaurant (dba "Joe & the Juice") subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated **February 3, 2017**, 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.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on March 23, 2017.

Jonas Ionin
Commission Secretary

AYES:

NAYS:

ABSENT:

Motion No. XXXXXX
March 23, 2017

CASE NO. 2016-015957CUA
2213 Fillmore Street

ADOPTED: March 23, 2017

EXHIBIT A

AUTHORIZATION

This authorization is for a **Conditional Use Authorization** pursuant to Planning Code Sections 303, 303.1, 703.4, and 718.43 to authorize a 1,520 square-foot Formula Retail Limited Restaurant use (dba "Joe & the Juice") located at 2213 Fillmore Street, Block 0630, Lot 007, within the **Upper Fillmore NCD (Neighborhood Commercial District) Zoning District**, and a **40-X** Height and Bulk District; in general conformance with plans, dated **February 3, 2017** and stamped "EXHIBIT B" included in the docket for Case No. **2016-015957CUA** and subject to conditions of approval reviewed and approved by the Commission on **March 23, 2017** under Motion No. **XXXXX**. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on **March 23, 2017** under Motion No. **XXXXX**.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **XXXXX** shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

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

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

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

3. **Diligent pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

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

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

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

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

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

DESIGN

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

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

MONITORING

2. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

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

OPERATION

3. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the tenant space and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

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

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

4. **Lighting.** All project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.

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

MONITORING - AFTER ENTITLEMENT

5. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

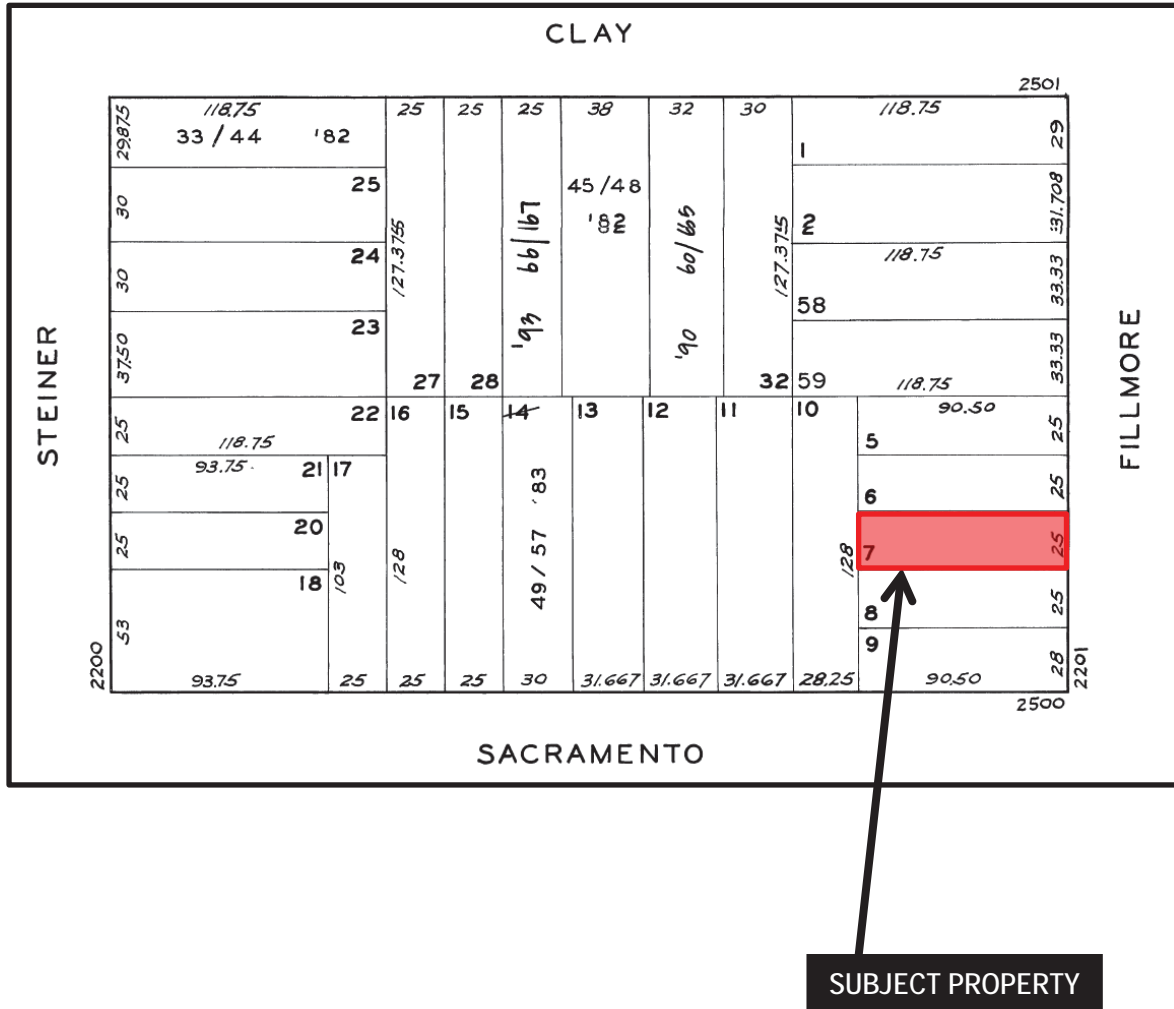
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

6. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the

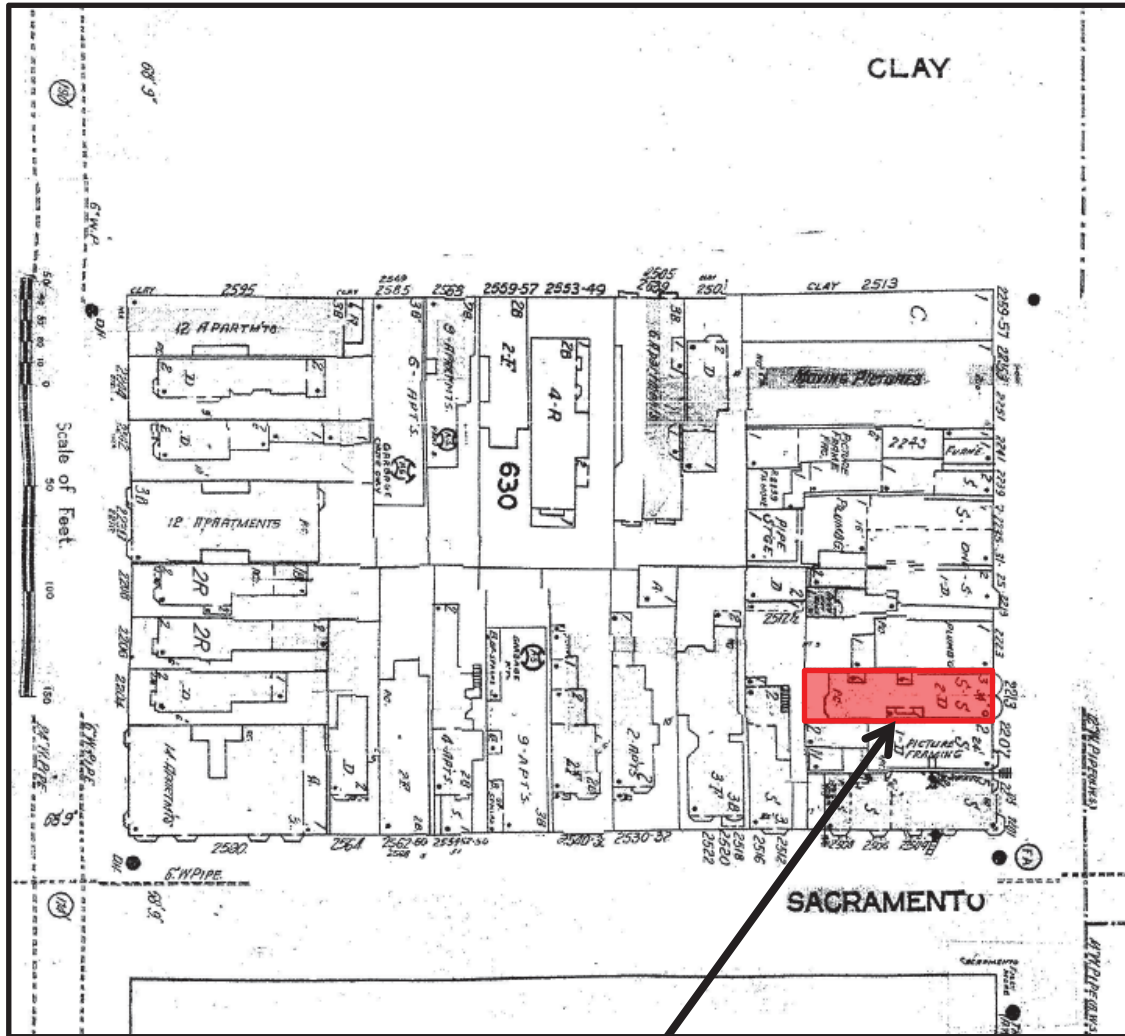
specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

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

Block Book Map



Sanborn Map



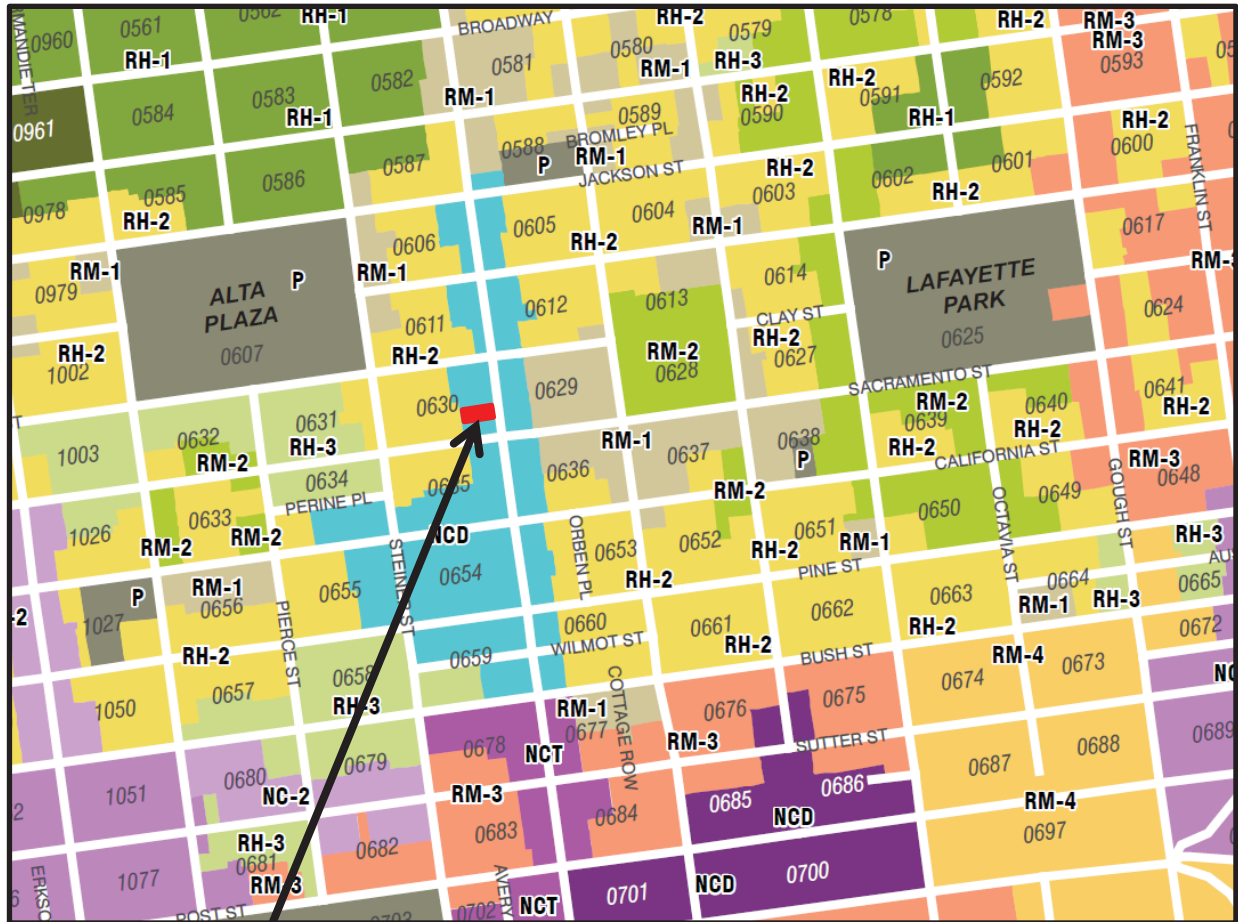
SUBJECT PROPERTY

SAN FRANCISCO
PLANNING DEPARTMENT



Conditional Use Hearing
Case Number 2016-015957CUA
2213 Fillmore Street
Block 0630 Lot 007

Zoning Map



SUBJECT PROPERTY

SAN FRANCISCO
PLANNING DEPARTMENT



Conditional Use Hearing
Case Number 2016-015957CUA
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Aerial Photo



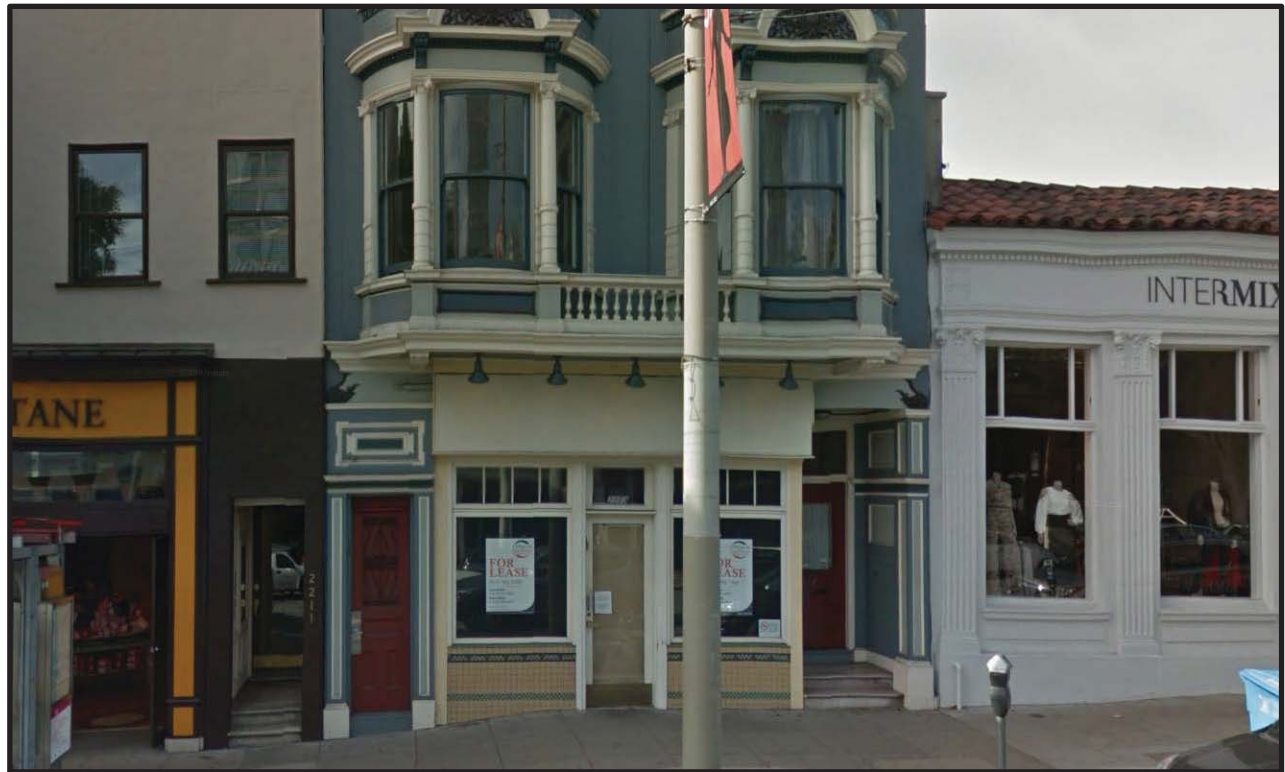
SUBJECT PROPERTY

SAN FRANCISCO
PLANNING DEPARTMENT



Conditional Use Hearing
Case Number 2016-015957CUA
2213 Fillmore Street
Block 0630 Lot 007

Site Photo

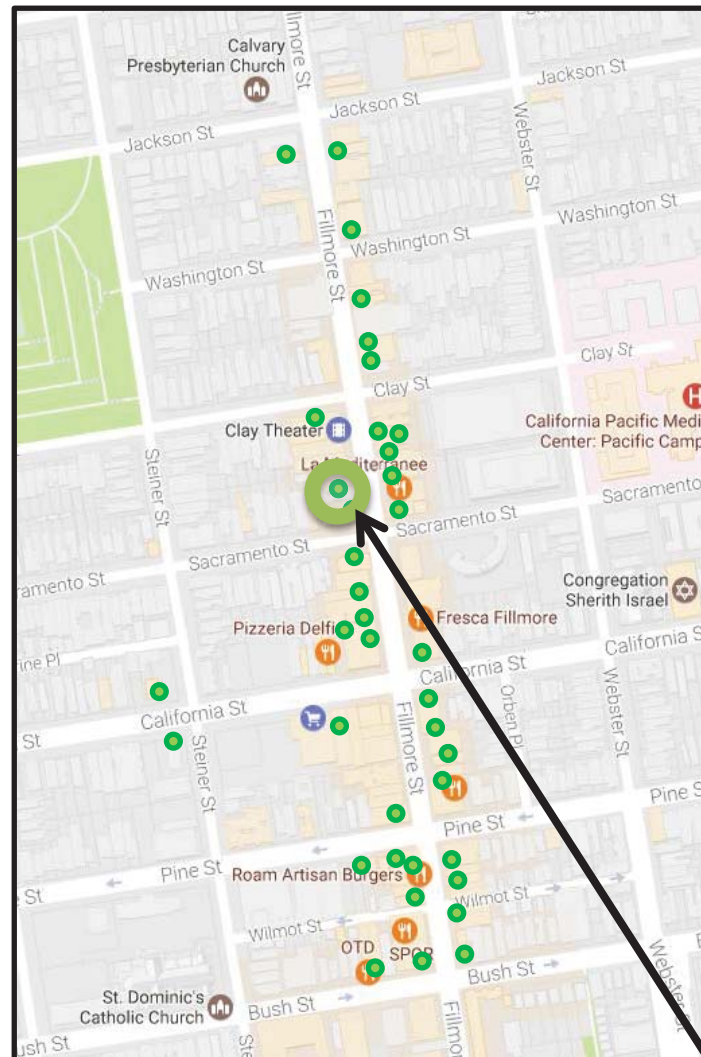


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PLANNING DEPARTMENT



Conditional Use Hearing
Case Number 2016-015957CUA
2213 Fillmore Street
Block 0630 Lot 007

Formula Retail Locations Within Upper Fillmore NCD



SUBJECT PROPERTY

● Formula Retail Establishments

SAN FRANCISCO
PLANNING DEPARTMENT



Conditional Use Hearing
Case Number 2016-015957CUA
2213 Fillmore Street
Block 0630 Lot 007

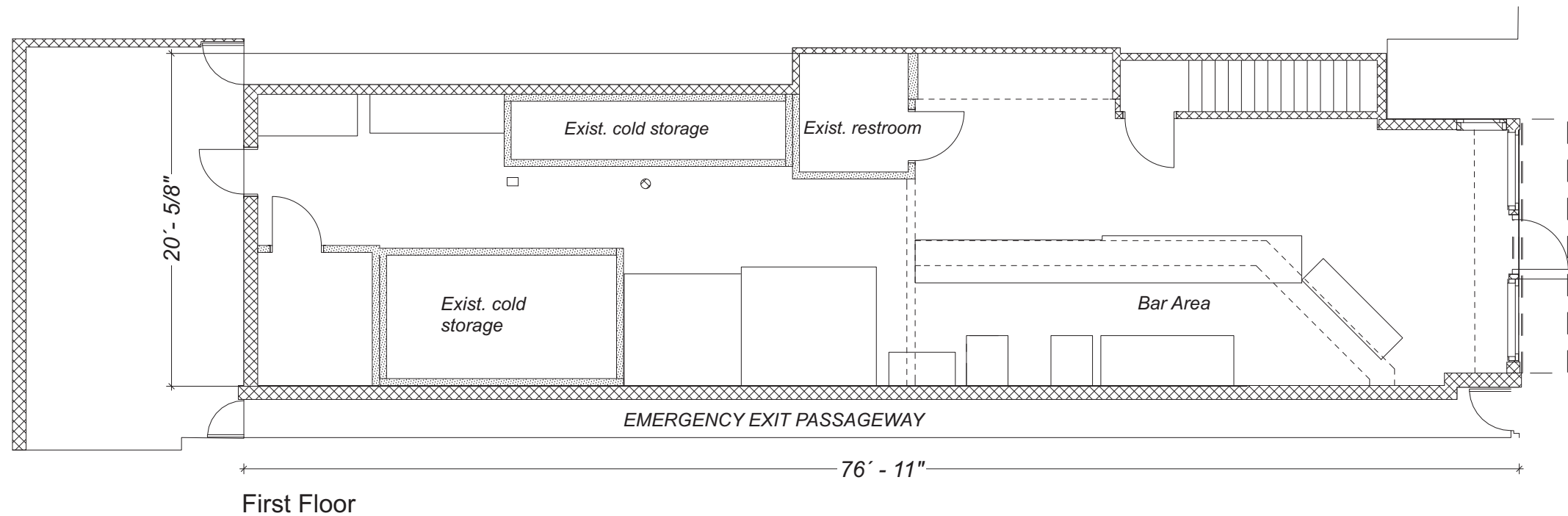
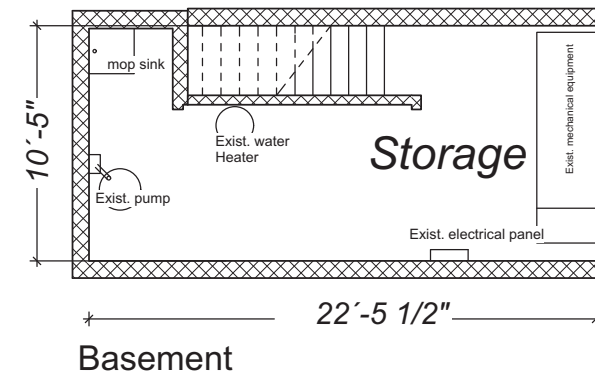
Dear President Hillis and Members of the Planning Commission,

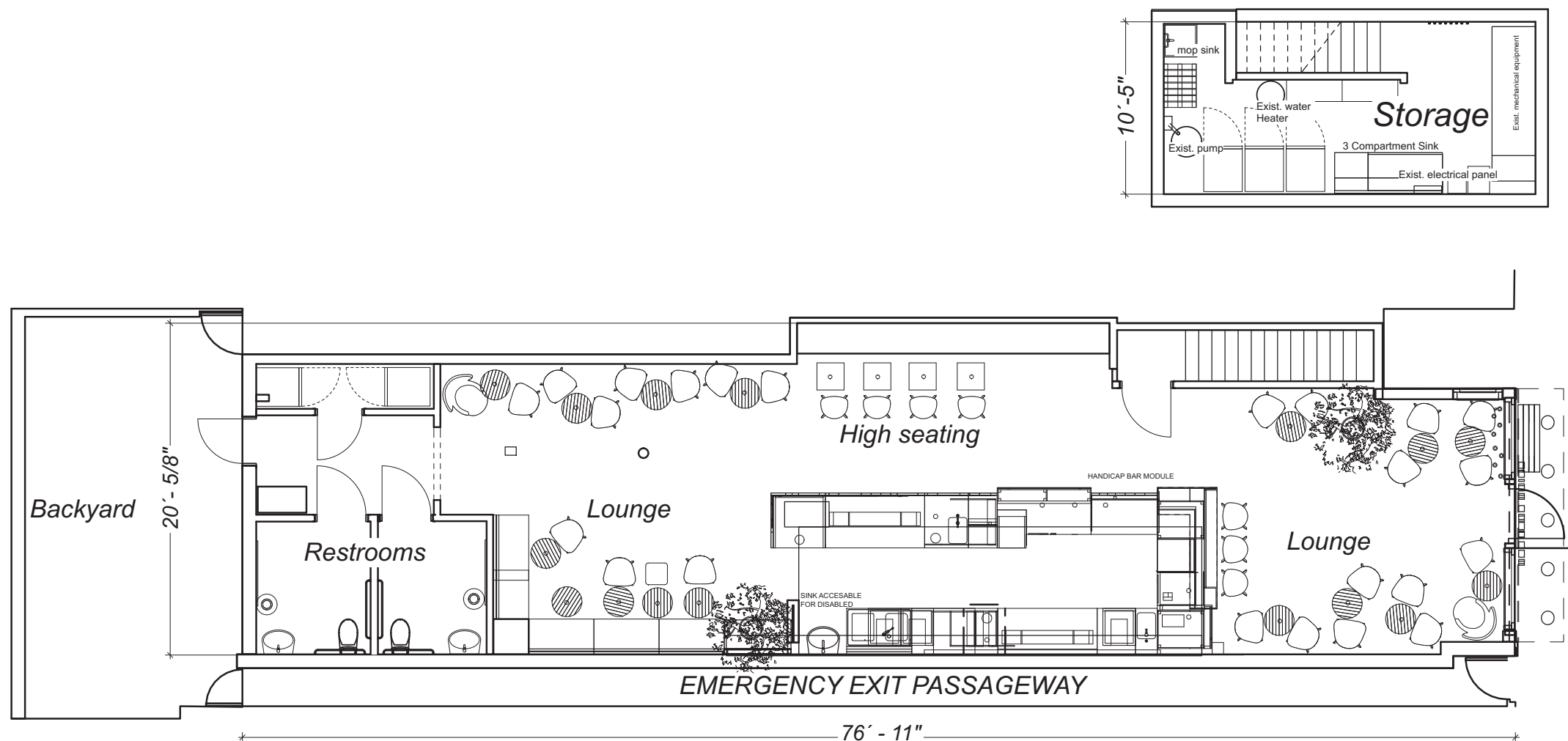
On Wednesday, March 8th 2017, project sponsor Valdemar Halbye from Joe and The Juice spoke with representatives from the Fillmore Merchants Association and presented their proposal for a new Joe and The Juice location at 2213 Fillmore Street. After careful review, we believe the project will be an excellent addition to Fillmore Street, and will provide much-needed fast casual options from coffee to fresh squeezed juices to made-to-order sandwiches.

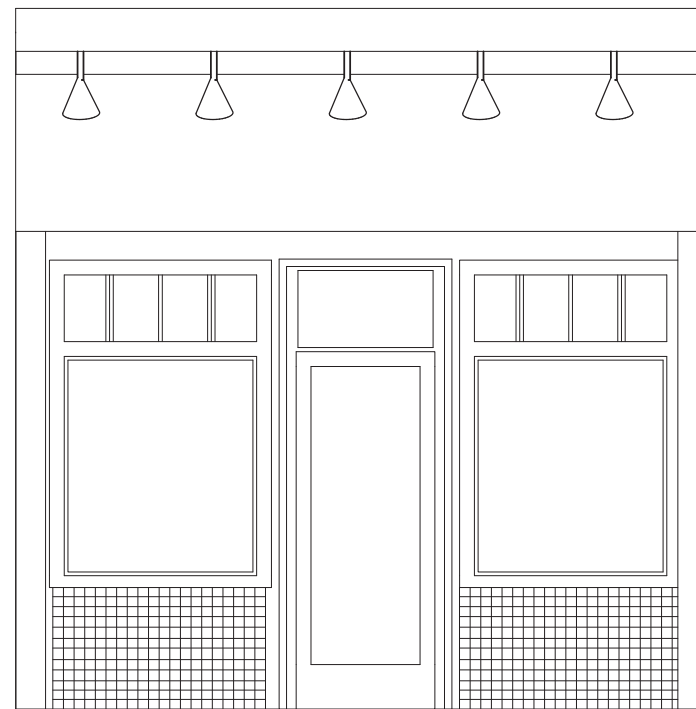
The Joe and The Juice team has been very communicative over these past several months with the Fillmore Merchants Association and other residents and neighborhood associations in the area. They will be proactive members of the FMA, and have already generously pledged sponsorship of the 2017 Fillmore Street holiday lights.

Please do not delay in approving their application. We look forward to their presence on Fillmore Street.

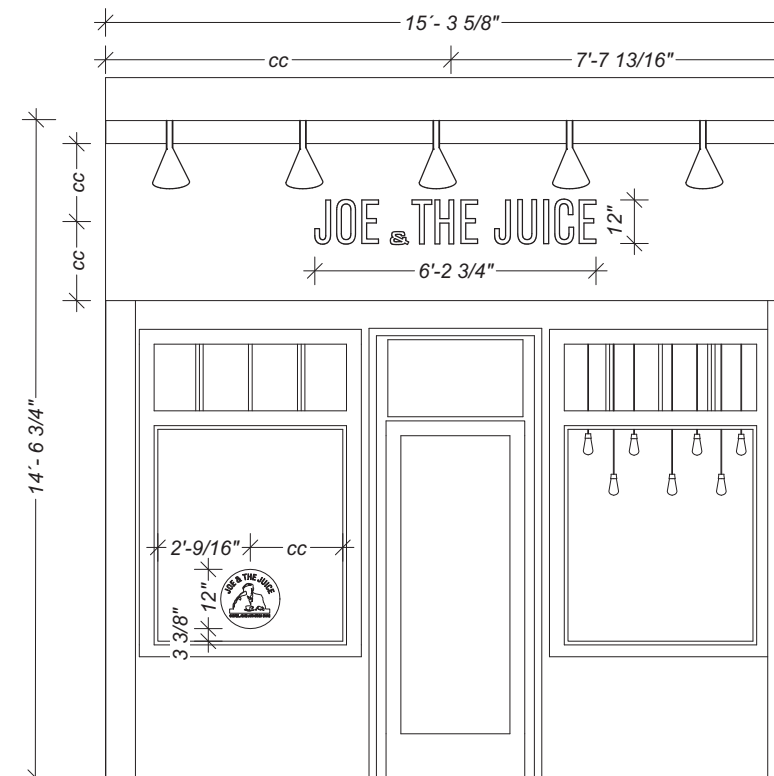
Sincerely,







EXISTING FRONT ELEVATION



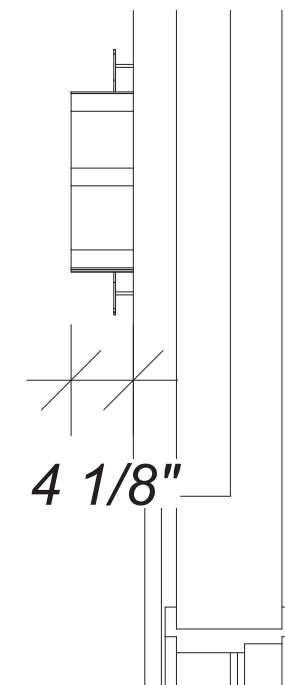
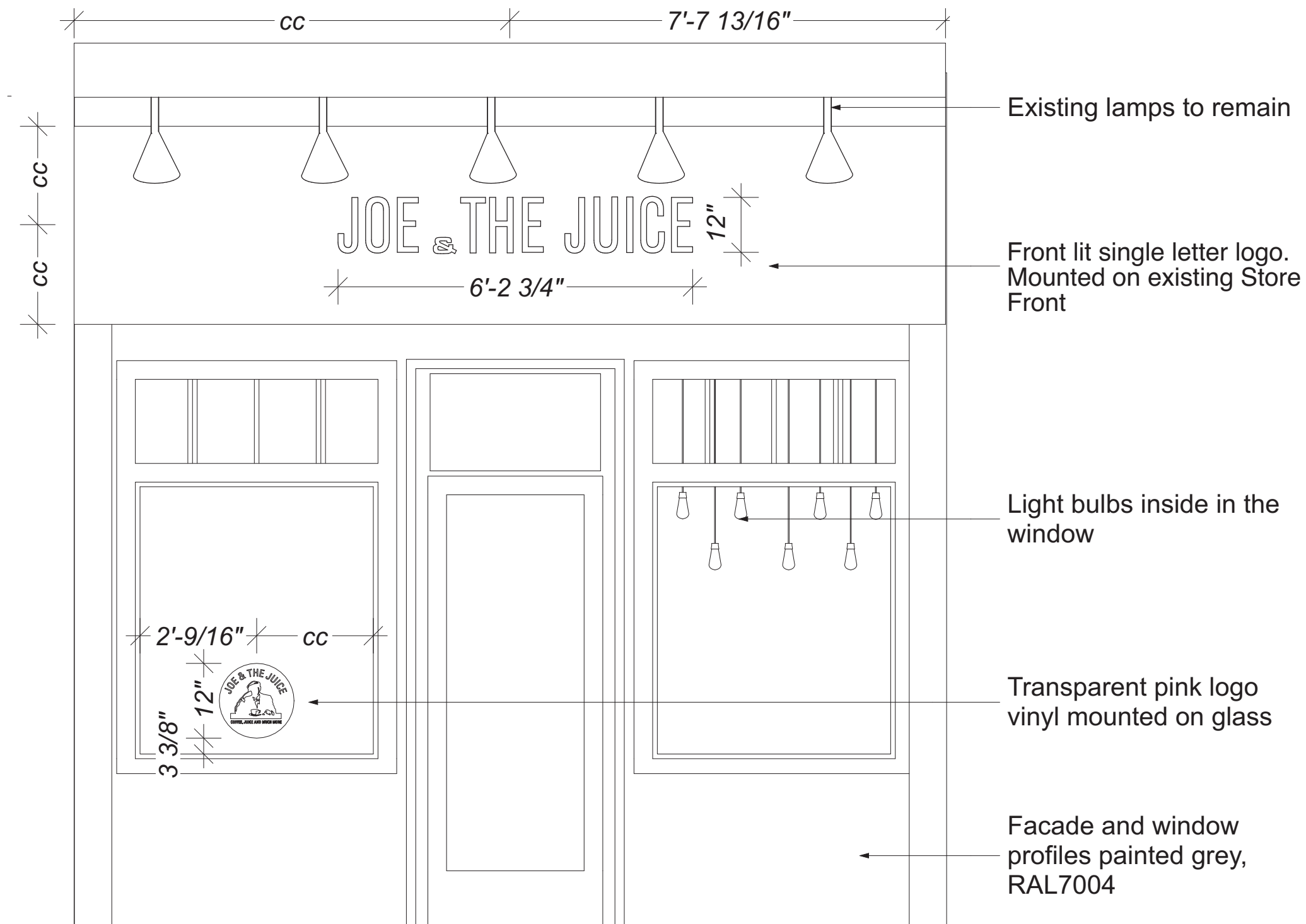
PROPOSED FRONT ELEVATION



RIIS RETAIL A/S

GEJLHAVEGAARD 31 . DK-6000 KOLDING
T +45 70 24 31 00 F +45 70 24 31 01
MAIL RIIS-RETAIL.COM - WWW.RIIS-RETAIL.COM

20116955 - San Francisco 2213 Fillmore St.
Facade 1/4" = 1'0"
02 - 03 - 2017



0.DS-2 Section single letter logo 1" = 1'-0"



Transparent pink logo vinyl

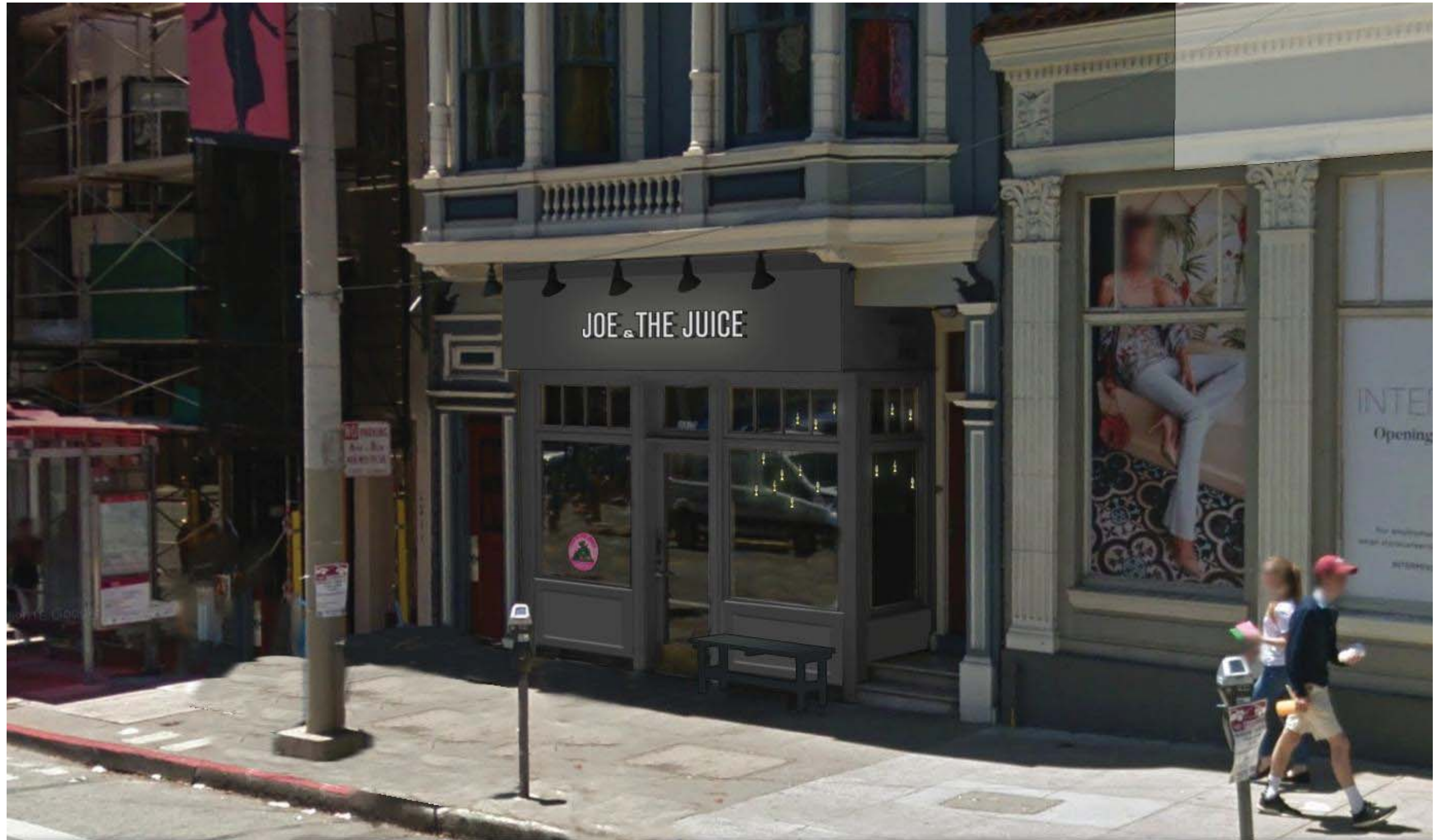
RIIS

RIIS RETAIL A/S

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20116955 - San Francisco 2213 Fillmore St.
Proposed Front Elevation 1/2" = 1'-0", Section single letter logo 1" = 1'-0"
02 - 03 - 2017

A4



RIIS

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20116955 - San Francisco 2213 Fillmore St.
Exterior Sketch
02 - 03 - 2017

A5