



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. 18540

HEARING DATE: FEBRUARY 9TH, 2012

Date: February 2nd, 2012
Case No.: **2011.1219C**
Project Address: **2138 IRVING STREET**
Zoning: NC-2 (Small-Scale Neighborhood Commercial) District,
 Irving Street Restaurant and Fast-Food Subdistrict and a 65-A
 Height and Bulk District
Block/Lot: 1728/024
Project Sponsor: Roy Lam
 2154 Irving Street
 San Francisco, CA 94122
Staff Contact: Tom Wang – (415) 558-6335
thomas.wang@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 711.44, 781.2 AND 790.91 TO ALLOW A SMALL SELF-SERVICE RESTAURANT (D.B.A. STICKS) WITHIN THE NC-2 (SMALL-SCALE NEIGHBORHOOD COMMERCIAL) DISTRICT, THE IRVING STREET RESTAURANT AND FAST-FOOD SUBDISTRICT AND A 65-A HEIGHT AND BULK DISTRICT AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On October 27th, 2011, Roy Lam (hereinafter "Project Sponsor"), made an application (hereinafter "Application") for Conditional Use authorization on the property at 2138 Irving Street, Assessor's Lot 024 in Block 1728 (hereinafter "Property") to convert a vacant ground floor commercial space into a small self-service restaurant (d.b.a. Sticks) under Planning Code Sections 711.44, and 781.2 and 790.91, in the NC-2 (Small-Scale Neighborhood Commercial) District, the Irving Street Restaurant and Fast-Food Subdistrict, and a 65-A Height and Bulk District, in general conformity with plans filed with the Application and labeled "EXHIBIT B" (hereinafter "Project").

On February 9th, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No.2011.1219C.

The Application was determined by the San Francisco Planning Department (hereinafter "Department") to be exempt from environmental review pursuant to Title 14, Class 1(a) of Category 15301 (Existing Facilities) of the California Administrative Code. The Commission has reviewed and concurs with said determination.

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

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2011.1219C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The Project Site is at 2138 Irving Street, north side between 22nd and 23rd avenues, in the Outer Sunset Neighborhood. The Property is currently occupied by a three-story, mixed-use building with five ground floor commercial spaces, and a total of eight residential units at the second and third floors. The subject commercial space is currently vacant and has been for approximately one year. It was most recently occupied by a cellular phone retail sales and services store. The subject ground floor commercial space contains approximately 500 square feet of gross floor area and occupies 21 feet of the Property's 95 feet wide frontage along Irving Street.
3. **Surrounding Properties and Neighborhood.** The Property is in the NC-2 District, which is defined in Section 711.1 of the Planning Code. The NC-2 District is intended to serve as the City's Small-Scale Neighborhood Commercial District. These districts are linear shopping streets that 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. The NC-2 Districts are commonly located along both collector and arterial streets which have transit routes.

Most new commercial development is permitted at the ground and second stories, and neighborhood-serving businesses are strongly encouraged. Eating, drinking and entertainment uses, however, are confined to the ground story. The second story may be used by some retail stores, personal services, medical services, and business and

professional offices. Limits on late-night activity, drive-up facilities, and other automobile uses protect the livability within and around the district, and promote continuous retail frontage. Existing residential units are protected by limitations on demolition and upper-story conversions.

This Property is also within the Irving Street Restaurant and Fast-Food Subdistrict, which is defined in Section 781.2 of the Planning Code, permits a small self-service restaurant at the first story or below with conditional use authorization, and does not permit any new full-service or large fast-food restaurants. The Irving Street Restaurant and Fast-Food Subdistrict spans the NC-2 zoned portion of Irving Street between 19th and 27th avenues. It was established in order to preserve the mix and variety of goods and services provided to the Sunset neighborhoods and City residents, prevent further proliferation of restaurant uses, and prevent further aggravation of parking and traffic congestion in this district.

4. **Project Description.** The Project proposes to establish a small self-service restaurant (d.b.a. Sticks) in a vacant ground floor commercial space. No exterior alterations to the existing building are proposed as part of this Project; however, interior tenant improvement will occur. The subject commercial space measures approximately 500 square feet of gross floor area and has an approximately 21 feet wide frontage on Irving Street.

The proposed small self-service restaurant, which would sell Asian B.B.Q., is not a Formula Retail use, defined under the Formula Retail provisions of Planning Code Sections 703.3 and 703.4, but rather an independent, locally owned business. The Project is designed to mainly serve residents from the surrounding neighborhood and patrons of other businesses on Irving Street. The Project will create three job openings. The proposed hours of operation are between 11:00 a.m. to 10:00 p.m. seven days a week. Both eat-in and take-out dining will be available at the proposed small self-service restaurant.

5. **Public Comment.** The Department is not aware of any opposition to the Project. The Department received one letter from The Outer Sunset Merchants and Professional Association in 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. **Land Use.** Planning Code Section 711.44 allows a small self-service restaurant, as defined in Planning Code Section 790.91*, in the NC-2 District. However, a Conditional Use authorization is required for a small self-service restaurant, if it is also in the Irving Street Restaurant and Fast-Food Subdistrict, as described in Planning Code Section 781.2**.

***Planning Code Section 790.91 defines a small self-service restaurant as follows:**

(a) A retail eating or eating and drinking use which provides ready-to-eat food for consumption on and off the premises and which may or may not provide seating. Such use exhibits the following characteristics:

- (1) Contains fewer than 50 seats and less than 1,000 square feet of gross floor area;
- (2) A limited menu of ready-to-eat food prepared in advance of customer orders, or food which is able to be quickly prepared for consumption on or off the premises;
- (3) Food served in disposable wrappers or containers;
- (4) Food is ordered and served at customer service counter;
- (5) Food is paid for prior to consumption;
- (6) Public food service area, including queuing areas and service counters without fixed seats, which counters are designed specifically for the sale and distribution of food and beverages; and
- (7) Food available upon a short waiting time.

It does not include retail grocery stores with accessory take-out food activity, as described in Section 703.2(b)(1)(C) of this Code, self-service specialty food use, as described in Section 790.93 of this Code, or retail uses which sell prepackaged or bulk ready-to-eat foods with on-site food preparation area, such as confectionery or produce stores. When a fast-food restaurant operates within and in conjunction with another retail use, such as a retail grocery store, the area of the fast-food restaurant use shall be measured to include the area devoted to food preparation and service, seating and separate public food service counters, excluding fish, poultry and meat counters.

(b) It may provide off-site beer, wine and/or liquor sales for consumption off the premises (with ABC licenses 20 or 21) or on-site beer and/or wine sales for drinking on the premises (with ABC licenses 40, 41 or 60). If it serves liquor for drinking on the premises (with ABC licenses 47 or 48) or does not admit minors (with ABC licenses 42 or 61), then it shall also be considered a bar, as defined in Section 790.22 of this Code.

(c) It shall be conducted in accordance with the following conditions:

- (1) All debris boxes shall be kept in enclosed structures.
- (2) The operator shall be responsible for cleaning the sidewalk within a one-block radius daily to maintain the sidewalk free of paper or other litter during its business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code.
- (3) Noise and odors shall be contained within the premises so as not to be a nuisance to nearby residents or neighbors.

****Planning Code 781.2 describes the Irving Street Restaurant and Fast-Food Subdistrict as follows:**

In order to preserve the mix and variety of goods and services provided to the Sunset neighborhoods and City residents, prevent further proliferation of restaurant uses and prevent further aggravation of parking and traffic congestion in this district, there shall be an Irving Street Restaurant and Fast-Food Subdistrict, generally applicable for the NC-2-zoned portion of Irving Street located between 19th and 27th Avenues, as designated on Sectional Maps 5SU and 6SU of the Zoning Map. The following provisions shall apply within such subdistrict:

- (a) Small self-service restaurants, as defined in Section 790.91 of this Code, are permitted as conditional uses on the first story and below.
- (b) Full-service restaurants and large fast-food restaurants, as defined in Section 790.92 and Section 790.90 of this Code, shall not be permitted in this subdistrict.
- (c) The provisions of Sections 180 through 186.1 of this Code shall govern full-service restaurants and large fast-food restaurants which existed lawfully at the effective date of this Code in this subdistrict.

The Project Sponsor seeks Conditional Use authorization to allow a small self-service restaurant in a vacant ground floor commercial space with approximately 500 square feet of gross floor area on the Property in an NC-2 District that is subject to a specific provision-the Irving Street Restaurant and Fast-Food Subdistrict.

The Commerce and Industry Element of the General Plan contains Guidelines for Specific Uses in a single district. For eating and drinking establishments, the Guidelines state, "the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage."

Based upon a Department staff survey performed in January 2012, The Irving Street Restaurant and Fast-food Subdistrict, which spans the NC-2 zoned portion of Irving Street between 19th to 27th avenues, currently contains thirty nine eating and drinking establishments, not including the proposed small self-service restaurant. Approximately 14.1% of the total occupied commercial frontage in this Subdistrict is currently dedicated to eating and drinking establishments.

By the addition of the proposed small self-service restaurant, there will be forty eating and drinking establishments in this Subdistrict. Approximately 14.6% of the total occupied commercial frontage in this Subdistrict will be dedicated to eating and drinking establishments, which is well below the 20% threshold, pursuant to eating and drinking establishments guidelines as described in the Commerce and Industry Element of the General Plan.

- B. Hours of Operation.** Planning Code Section 711.27 permits hours of operation from 6a.m. to 2 a.m., as defined in Planning Code Section 790.48.

The proposed small self-service restaurant will be open from 11 a.m. to 10 p.m. seven days a week, which complies with this requirement.

- C. **Neighborhood Commercial Permit Review.** Planning Code Section 312 requires neighborhood notification of a change in use from a vacant commercial space to a small self-service restaurant, as defined in Planning Code Section 790.91, on lots within the NC-2 District and the Irving Street Restaurant and Fast-Food Subdistrict.

The Project Sponsor proposes to establish a small self-service restaurant in a currently vacant ground floor commercial space on the Property within the NC-2 District and the Irving Street Restaurant and Fast-Food Subdistrict. Section 312 neighborhood notification was conducted in conjunction with the conditional use authorization notification.

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

The subject ground floor commercial space measures approximately 500 square feet in gross floor area and thus is not required to provide any off-street parking.

- E. **Street Frontage in Neighborhood Commercial Districts.** Planning Code Section 145.1 requires that NC Districts containing specific uses, including large fast-food restaurants, have at least ½ the total width of the new or altered structure at the commercial street frontage devoted to entrances to commercially used space, windows or display space at the pedestrian eye-level. Such windows shall use clear, un-tinted glass, except for decorative or architectural accent. Any decorative railings or decorated grille work, other than wire mesh, which is placed in front or behind such windows, shall be at least 75 percent open to perpendicular view and no more than six feet in height above grade.

The subject ground floor commercial space has an approximately 21 feet wide frontage on Irving Street with approximately 19 feet devoted to either the restaurant entrance or window space. The proposed windows will be clear and unobstructed. There are no changes proposed to alter the existing commercial frontage.

- F. **Signage.** Currently, the Project Sponsor has not filed a sign permit application for the proposed small self-service restaurant with the Department. However, any future proposed signage will be subject to the Department's review and approval.
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 comply with said criteria in that:
- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The size and intensity of the Project will be compatible with many other storefronts on the subject and opposite block-faces. The proposed small self-service restaurant will not cause an

impact on traffic or street parking in this neighborhood because it is designed to mainly serve residents from the surrounding neighborhood and patrons of other businesses on Irving Street within walking distance and is not intended to be a destination restaurant. The Project will be a development that is desirable and necessary because it will compliment the mix of goods and services currently available in this neighborhood and contribute to the economic vitality of the neighborhood by occupying a currently vacant storefront.

- 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 Project does not include any proposal to modify the exterior of the existing building on the Property.

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

The Planning Code does not require off-parking or loading to be provided for a 500 square feet small self-service restaurant. Current traffic conditions and off-street parking availability in this district should remain substantially unaltered by this Project because it is designed as a neighborhood-serving use, frequented via walking by residents from the surrounding neighborhood and patrons of other businesses on Irving Street. The Property is also well served by public transit, being near the 16AX-Noriega 'A' Express, 16BX-Noriega 'B' Express, 28-19th Avenue, 28L-19th Avenue Limited, 29-Sunset, 71-Haight-Noriega, 71L-Haight-Noriega Limited, and the N-Judah MUNI lines.

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

The Project is subject to the standard conditions of approval for small self-service restaurants and outlined in Exhibit A. Conditions 8 and 9 specifically obligate the Project Sponsor to mitigate odor and noise generated by the proposed small self-service restaurant.

- 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 changes proposed to the exterior of the existing structure. Off-street parking and loading areas are not required for the Project because it contains a gross floor area

less than 5,000 square feet. All signage for the Project will be reviewed by the Department under a separate permit.

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

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

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

The Project is consistent with the stated purpose of the NC-2 District and the Irving Street Restaurant and Fast-Food Subdistrict in that the intended use is located at the ground floor and will provide a compatible convenience service for the surrounding neighborhood.

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

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.2:

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

Policy 1.3:

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

The Project will provide desirable goods and services to the neighborhood as well as employment opportunities to residents in the community. Permitting a 500 square feet small self-service restaurant will not result in undesirable consequences for the neighborhood. The Project Site is 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 retain commercial activity within the NC-2 zoned portion of Irving Street by occupying an existing vacant storefront. The Project will help enhance the diverse economic base of the City.

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.

The subject ground floor commercial space is currently vacant; therefore, no commercial tenant would be displaced and the Project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.

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 Project is sponsored by an independent entrepreneur who seeks to fill a need for the demand of a certain type of food in this neighborhood.

The following guidelines, in addition to others in this objective for neighborhood commercial districts, should be employed in the development of overall district zoning controls as well as in the review of individual permit applications, which require case-by-case review and City Planning Commission approval. Pertinent guidelines may be applied as conditions of approval of individual permit applications. In general, uses should be encouraged which meet the guidelines; conversely, uses should be discouraged which do not.

Eating and Drinking Establishments

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

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

In districts where the proliferation of eating and drinking establishments could generate problems, the following guidelines should be employed in the consideration of new establishments, relocations, changes from one kind of eating and drinking establishment to another (e.g. from self-service restaurant to full-service restaurant), expansion or intensification of existing establishments:

- The establishment should not add to an overconcentration of eating and drinking establishments in a single district. The balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage. Proposals for eating and drinking establishments which would increase the proportion of total occupied commercial frontage above 20% should be reviewed to ensure that they would not reduce the variety of neighborhood-serving uses; nor create substantial noise, traffic, parking problems, or other nuisances in the district or surrounding neighborhood. Those establishments that would do the above should not be permitted. Except in districts with an established pattern of service to a broad market, such as North Beach, such establishments should not occupy more than 25% of the total commercially-occupied frontage in a district. To minimize the problems they can create, eating and drinking uses should generally be at least 100 feet apart from each other, unless there are factors making clustering of uses appropriate. For example, a configuration of clustered eating and drinking uses where off-street parking is shared might be more appropriate than an even distribution of such establishments.
- New, expanding or relocating eating and drinking uses should not impose significant adverse impacts on traffic and transit volumes and circulation and parking congestion. If such impacts are anticipated, especially on transit-preferential streets, the proposed use, expansion or relocation should be redesigned to mitigate such impacts, or it should be prohibited. (See Auto-Oriented Facilities section and Policy 9 of this Objective for more specific guidelines on parking).
- Eating and drinking uses should be adequately soundproofed or insulated for noise and operated so as to reasonably protect adjoining and surrounding upper-story residences from disturbances. Fixed source equipment noise should not exceed the decibel levels specified in the Noise Control Ordinance.

Fast Food Restaurants and Self-Service Restaurants

Fast food restaurants and self-service restaurants including take-out food establishments are retail uses which provide quick food service for consumption on or off the premises, which are often designed to serve a high volume of customers at a high turnover rate. As a result, this use can generate problems in traffic and pedestrian circulation, parking congestion, litter, noise and odors. All guidelines for eating and drinking establishments should apply to fast food restaurants and self-service restaurants in addition to the guidelines stated below.

- Large fast food restaurants occupying more than 1000 square feet of floor area are discouraged in neighborhood commercial cluster districts, small-scale neighborhood commercial districts and those individual districts where such discouragement is noted in their description and purpose statements. Large fast food restaurants of that size usually are designed to attract high volumes of customers from a large trade area. Such volumes of customers can generate various nuisance problems for the surrounding residential neighborhoods, especially parking congestion, traffic and pedestrian circulation, litter and late-night activity.
- The proposed use should not add to an overconcentration of fast food restaurants in a single district. As a general rule, fast food restaurants should be evenly distributed throughout the district. However, in certain locations, clustering may be more appropriate. For example, a configuration of clustered fast food restaurants where sufficient off-street parking is shared between them might make more efficient use of land than an even distribution of fast food restaurants throughout the district. The number of large fast food restaurants and small self-service restaurants should not exceed the maximum number that would be allowed if all fast food restaurants in the district were at least 500 feet from each other.
- To avoid potential pedestrian-vehicle conflicts where large numbers of children are present, fast food restaurants should not be within 500-foot walking distance of an elementary or secondary school.
- New or expanding large fast food restaurants should provide a detailed analysis of their anticipated impacts on transportation systems. If problems are anticipated, especially on transit-preferential streets, the proposed use should be reduced in size and/or redesigned to mitigate the above impacts, or prohibited. If the estimated parking demand for the use cannot be accommodated by existing or new off- or on-street parking facilities, the use should provide ample off-street parking on the site or within a reasonable walking distance of the site to provide for the parking demand; otherwise the use should be prohibited (see Auto-Oriented Facilities section and Policy 9 of this Objective for detailed guidelines).
- The use should provide adequate waiting space for walk-in patrons.
- The use should be equipped with sufficient outdoor and indoor trash receptacles to avoid litter problems in the surrounding neighborhood.
- The operator of the use should be responsible for maintaining the sidewalk within a one-block radius of the site free of paper or litter.

- The use should be designed and operated to contain fumes and odors within the cooking areas, so that such fumes and odors will not spread to adjacent or upper-story uses.
- The new or expanding use should close at 12:00 Midnight or earlier.

Based upon a Department staff survey performed in January 2012, The Irving Street Restaurant and Fast-food Subdistrict, which spans the NC-2 zoned portion of Irving Street between 19th to 27th avenues, currently contains thirty nine eating and drinking establishments, not including the proposed small self-service restaurant. Approximately 14.1% of the total occupied commercial frontage in this Subdistrict is currently dedicated to eating and drinking establishments.

By the addition of the proposed small self-service restaurant, there will be forty eating and drinking establishments in this Subdistrict. Approximately 14.6% of the total occupied commercial frontage in this Subdistrict will be dedicated to eating and drinking establishments, which is well below the 20% threshold, pursuant to the eating and drinking establishments guidelines as described in the Commerce and Industry Element of the General Plan.

The Project is not within a 500-foot walking distance of an elementary or secondary school. The nearest elementary or secondary school is Jefferson Elementary School, at 1725 Irving Street, and is approximately 1,056 feet from the Project Site. Additionally, the proposed small self-service restaurant is not designed to be a destination restaurant, but rather a neighborhood-serving establishment, frequented via walking by residents from the surrounding neighborhood and patrons of other businesses on Irving Street.

The proposed small self-service restaurant provides adequate space for walk-in patrons and the conditions or approval help ensure that the area around the Project Site will be kept clean. The Project Sponsor proposes to operate daily from 11:00 a.m. to 10:00 p.m., which are within the recommended hours of operation, pursuant to Planning Code Sections 711.27 and 790.48.

Off-street parking is not required in this District for uses that occupy less than 5,000 square feet of gross floor area. Traffic impacts are not anticipated because the Project is designed to mainly serve residents from the surrounding neighborhood and patrons of other businesses on Irving Street within walking distance. It is not intended to be a destination restaurant. Further, the Project Site is well served by public transit so that patrons and employees alike can arrive by means other than driving private automobiles.

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 Project would enhance the existing neighborhood-serving retail uses by providing a small self-service restaurant in this district that is not over concentrated by restaurants. The

proposed small self-service restaurant would be locally owned and would offer three employment opportunities for the neighborhood residents.

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

The Project does not include any modifications to the physical character of the existing structure or any change to the existing housing units at the Property. The Project is further in keeping with the small-scale, independently-owned commercial establishments in this district.

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

This Project does not affect housing affordability.

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

Due to the nature and size of the Project, it will not impede MUNI transit service or overburden the streets or neighborhood parking. It is presumable that many neighborhood residents and patrons of other businesses on Irving Street will frequent the proposed small self-service restaurant by walking or public transit.

- 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.

This Project will not displace any industrial or service sector uses or related employment opportunities since the subject ground floor commercial space is currently vacant.

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

This Project will not diminish the City's preparedness to protect against injury and loss of life in an earthquake because the Project will be designed and constructed to conform to the structural and seismic safety requirements of the City's Building Code.

- G. That landmarks and historic buildings be preserved.

There are no exterior alterations to the existing structure proposed as part of this Project. Further, the existing structure is not an architecturally rated building nor is it included on any architectural survey. No historic buildings or landmarks will be adversely affected by the Project.

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

The Project will not adversely affect any parks and open space and their access to sunlight and vistas. No exterior alterations to the existing structure are proposed as part of this Project.

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. 2011.1219C** subject to the following conditions attached hereto as "EXHIBIT A" 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. 18540. 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 February 9th, 2012.

Linda Avery
Commission Secretary

AYES: Commissioners Miguel, Antonini, Borden, Moore, Fong, Sugaya

NAYES: None

ABSENT: None

ADOPTED: February 9th, 2012

Exhibit A

Conditions of Approval

AUTHORIZATION

This authorization is for a Conditional Use Authorization to allow a small self-service restaurant (d.b.a. Sticks) located at 2138 Irving Street, Assessor's Block 1728, Lot 024, pursuant to Planning Code Sections 711.44, 781.2 and 790.91, within the NC-2 (Small-Scale Neighborhood Commercial) District, the Irving Street Restaurant and Fast-Food Subdistrict and a 65-A Height and Bulk District; in general conformance with plans dated October 27th, 2011 and labeled "EXHIBIT B" included in the docket for **Case No. 2011.1219C** and subject to conditions of approval reviewed and approved by the Commission on February 9th, 2012 under Motion No. 18540. 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 Application 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 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 February 9th, 2012 under Motion No. 18540.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the "Exhibit A" of this Planning Commission Motion No. 18540 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building Permit Application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

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

CHANGES AND MODIFICATIONS

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

Conditions of Approval, Compliance, Monitoring, and Reporting PERFORMANCE

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. A Building Permit Application from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Conditional Use authorization is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a Site or Building Permit has not been obtained within three (3) years of the date of the Motion approving the Project. Once a Site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

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

2. **Extension.** This authorization may be extended at the discretion of the Zoning Administrator only where failure to issue a permit by the Department of Building Inspection to perform said tenant improvements is caused by a delay by a local, State or Federal agency or by any appeal of the issuance of such permit(s).

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

DESIGN

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

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

MONITORING - AFTER ENTITLEMENT

4. **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

5. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

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

OPERATION

6. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed off pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, www.sfdpw.org

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

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, www.sfdpw.org

8. **Noise Control.** The premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.

For information about compliance with the fixed mechanical objects such as rooftop air conditioning, restaurant ventilation systems, and motors and compressors with acceptable noise levels, contact the Environmental Health Section, Department of Public Health at 415 252-3800, www.sfdph.org

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

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

9. **Odor Control.** While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed and maintained to prevent any significant noxious or offensive odors from escaping the premises. The building permit application to implement the Project shall include air cleaning or odor control equipment details and manufacturer specifications on the plans.

For information about compliance with odor or other chemical air pollutants emission standards and air quality regulations contact the Bay Area Air Quality Management District (BAAQMD),

1-800-334-ODOR (6367), www.baaqmd.gov and Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

10. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor. *For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org*

