



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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

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Planning Commission Motion No. 18998

HEARING DATE: OCTOBER 10, 2013

Date: October 10, 2013
Case No.: **2013.0224C**
Project Address: **3331 24th Street**
Zoning: 24th Street – Mission NCT (Neighborhood Commercial Transit) District
Mission Alcoholic Beverage Special Use District
Fringe Financial Service Restricted Use District
55-X Height and Bulk Designation
Block/Lot: 6516/025
Project Sponsor: Ahmad Mohazab
2747 19th Street
San Francisco, CA 94110
Staff Contact: Danielle J. Harris – (415) 575-9102
danielle.j.harris@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 145.2, 303 AND 736.24 OF THE PLANNING CODE TO OPERATE AN OUTDOOR ACTIVITY AREA AS PART OF AN EXISTING RESTAURANT (D.B.A. RUSTIC) WITHIN THE MISSION NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT AND A 55-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On February 28, 2013 Ahmad Mohzab (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Section(s) 145.2, 303 and 736.24 to operate an Outdoor Activity Area as part of an existing restaurant (d.b.a. Rustic) within the Mission – NCT (Neighborhood Commercial Transit) Zoning District, the Mission Alcoholic Beverage Special Use District, and a 55-X Height and Bulk designation.

On October 10, 2013, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0224C.

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

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

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2013.0224C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project is located on the south side of 24th Street, between Bartlett and Osage Streets, Lot 025 in Assessor's Block 6516. The subject lot is 5,750 square feet and occupies the southwest corner of the intersection of 24th and Osage Streets. The lot is developed with a one-story, four-unit commercial building fronting onto 24th Street. The subject restaurant (d.b.a. Rustic) occupies the most westerly commercial storefront. The other commercial storefronts include a café, notary, and bakery. The proposed Outdoor Activity Area will replace the accessory off-street parking provided at rear with vehicular access from Osage Street.
3. **Surrounding Properties and Neighborhood.** The project site is located on the southern side of the 3300 block of 24th Street. The immediate neighborhood context along 24th Street is characterized by two- and three-story mixed use buildings and three- and four-story residential buildings. The 24th Street BART Station plaza is directly across Osage Street to the east. A blank wall of a one-story garage is located on the southern property line of the project with a three-story residential located directly behind the garage. On the western property line of the proposal is a residential courtyard of a three-story residential building, which is partially buffered by the restaurant building. Two- and three-story mixed use buildings are located directly across 24th Street to the north. Ground floor commercial activities include a mixture of food establishments, personal services, and small retail establishments. Beyond the commercial corridor are RTO-M (Residential Transit-Oriented - Mission) Zoning Districts.
4. **Project Description.** The applicant proposes an approximately 1,175 square-foot Outdoor Activity Area that includes a wood deck with 4 tables and bench seating, a picnic table and two sand bocce ball courts, allowing a capacity for 49 patrons. The proposal includes a solid wood fence along the west and east of the Outdoor Activity Area. The existing restaurant (d.b.a. Rustic) would connect to the proposed Outdoor Activity Area at the rear. The commercial tenant space has been occupied by Rustic since May 2013 and serves Country Italian cuisine. The existing

commercial space is approximately 1,135 square feet and contains 22 seats. Restaurant patrons will be able to eat and drink in the proposed Outdoor Activity Area. Smoking will not be permitted.

5. **Public Comment.** The Project Sponsor has provided 28 letters in support and a petition with 354 signatures supporting the project. The Department has received numerous phone calls, petition, six emails, and 20 letters in opposition from neighbors, adjacent property owners, attorneys, Mission residents, and Calle 24 Merchants and Neighbors Association/Coalition. The following concerns have been raised.
- Proximity to numerous residential units
 - Hours of operation
 - Noise
 - Light
 - Smoking
 - Music
 - Construction without permit
 - Rooftop mechanical equipment proximity to residences
 - Intimidation and threats by owners
 - Marketing of “beer garden,” “full on party,” and “bocce ball tournaments”

Opposition letters received recommended disapproval, noise controls, and reduced hours of operation.

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. **Neighborhood Commercial Permit Review.** Planning Code Section 312 requires neighborhood notification to establish an Outdoor Activity Area for lots within a Neighborhood Commercial District.

The Project Sponsor is proposing an Outdoor Activity Area at the rear of an existing restaurant (d.b.a. Rustic) within the Mission- NCT (Neighborhood Commercial Transit) District. Section 312 notification was conducted in conjunction with the Conditional Use authorization notification.

- B. **Outdoor Activity Area.** Planning Code Section 736.24 states that a Conditional Use Authorization is required for an Outdoor Activity Area, as defined by Planning Code Section 790.70.

The Project Sponsor requests Conditional Use authorization for an Outdoor Activity Area per Planning Code Section 736.24. The proposed Outdoor Activity Area is 1, 175 square feet consisting of seating and two sand bocce ball courts to replace the existing accessory parking area. The Project Sponsor proposes tables and bench seating to accommodate 49 additional patrons (the restaurant currently has 22 seats inside). Restaurant patrons will be able to eat and drink in the proposed

Comment [DH1]: needs to be confirmed

Outdoor Activity Area. Smoking will not be permitted in the proposed Outdoor Activity Area. The Outdoor Activity Area would be used both day and night.

- C. **Formula Retail Use.** Planning Code Section 703.4 requires Conditional Use authorization from the Planning Commission to establish a formula retail use, as defined in Section 703.3, in any Neighborhood Commercial District.

The existing restaurant use (d.b.a. Rustic) is not identified as a formula retail use.

- D. **Hours of Operation.** Planning Code Section 736.27 does not limit hours of operation within the Mission – NCT (Neighborhood Commercial Transit) District. Planning Code Section 145.2 restricts the hours of operation of the Outdoor Activity Area are limited so that the activity does not disrupt the viability of surrounding uses.

The existing hours of operation for Rustic are 11:00 a.m. to 12:00 a.m. Sunday to Wednesday and 11:00 a.m. to 2:00 a.m. Thursday to Saturday. This Conditional Use Authorization is for an Outdoor Activity Area only. As part of the conditions for approval, a nine month trial of limited hours of operation will be placed on the Outdoor Activity Area to determine the initial impacts of the new use. The Planning Commission finds that hours should be restricted in the outdoor activity area from 11:00 a.m. to 9:00 p.m. for a period of nine months. Bocce ball shall be further restricted to 8:00 p.m. After the nine month period, the case would return to the Planning Commission as an Informational Presentation where then Zoning Administrator would have the discretion to extend or reduce hours as directed. The existing hours of operation within the restaurant will not be affected.

- E. **Rear Yard Requirement.** Planning Code Section 134 does not require a rear yard setback for non-residential uses in a Neighborhood Commercial Transit District.

The proposal does not include a rear yard.

- F. **Off-Street Parking.** Planning Code Sections 151 and 151.1 limit the amount of off-street parking allowed for a restaurant within a NCT District to 1 space per 1,500 square-feet of occupied area, or 1 space per every 200 square-feet of occupied area above 5,000 square-feet.

The subject property is located within a NCT District and is thereby not required to provide off-street parking. Presently there are four off-street parking spaces provided on-site that are to be removed and a replaced with the Outdoor Activity Area. No new off-street parking is proposed.

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 use will complement the mix of goods and services currently available in the neighborhood and will contribute to the economic vitality of the neighborhood. Outdoor seating areas have been shown to be a desirable amenity in the neighborhood commercial and adjoining districts. The limited hours will ensure the proposal is compatible with the neighborhood. The Outdoor Activity Area has a capacity limit of 49 occupants and is intended to be an addition of a reasonable amenity to the restaurant. The proposed addition of an Outdoor Activity Area to a local neighborhood serving restaurant will not impact traffic or parking in the neighborhood because it accessible by multiple public transit routes.

Comment [DH2]: Wait for Scott Interp

B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

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

The height and bulk of the existing building will remain the same. The proposal will not alter the built character of the project's vicinity. The proposed work will not affect the building envelope, yet the conversion from parking to an Outdoor Activity Area seating will alter the use of 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 parking in the Mission Zoning District. The proposed use should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide. The proposed use is adjacent to the 24th Street BART Station and six MUNI bus lines; therefore, reducing the need for parking.

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

The proposed use is subject to the standard conditions of approval for an Outdoor Activity Area outlined in Exhibit A, including trial hours to monitor initial impacts of the new use. The Project Sponsor shall propose adequate sound buffering to meet requirements of the San Francisco Noise Ordinance. The Project Sponsor shall operate the proposed Outdoor Activity Area such that noise is kept at reasonable levels so as not to unduly disturb neighboring businesses and residents. Conditions of Approval 6, 7, 8, 14, and 15, as outlined in Exhibit A, specifically obligates the Project Sponsor to mitigate odor and noise generated by the restaurant use.

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

The proposed Outdoor Activity Area shall secure proper permits as required by Department of Building Inspection. The Department shall review all lighting and signs proposed for the new use in accordance with Planning Code requirements.

- 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 and applicable requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.

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

The proposed project is consistent with the stated purpose of the Mission - NCT Districts in that the intended Outdoor Activity Area is located at the ground floor, and will provide a compatible convenience service for the immediately surrounding neighborhoods and will contribute to the street's mixed-use character and activity in the evening hours. Parking is not required in the Mission - NCT District.

8. **Additional Criteria for Outdoor Activity Areas 145.2(a)(2).** An Outdoor Activity Area is subject to additional criteria that the Planning Commission shall find that:

- A. The nature of the activity operated in the Outdoor Activity Area is compatible with surrounding uses;

The subject property is located within the Mission – NCT District which is characterized by a mixture of uses with neighborhood-serving uses occupying the ground floor and residential units on upper stories. The proposed use is in keeping with the other ground floor commercial use establishments on the property and within the broader neighborhood, and is the only outdoor seating area on this block of 24th Street.

- B. The operation and design of the Outdoor Activity Area does not significantly disturb the privacy or affect the livability of adjoining or surrounding residences;

The Outdoor Activity Area is enclosed by 10-foot high wall along southern edges abutting the adjacent residential buildings which will help to buffer noise and reduce potential privacy issues. The proposal includes a 6-foot tall wood wall along the western property line to buffer noise and reduce potential privacy issues for the neighboring six residential units. Furthermore, the Outdoor Activity Area is located closest to Osage Street, which minimizes impact to residents of adjacent properties. The patron seating is located furthest from the adjacent southern and western residences, in order to reduce noise and ensure privacy for neighboring residents. As a condition of approval, the Project Sponsor shall propose adequate sound buffering to meet requirements of the San Francisco Noise Ordinance and operate the proposed Outdoor Activity Area such that noise is kept at reasonable levels so as not to unduly disturb neighboring businesses and residents.

- C. The hours of operation of the activity operated in the Outdoor Activity Area are limited so that the activity does not disrupt the viability of surrounding uses.

During the first nine months of operation, the Outdoor Activity Area will operate within restricted trial hours. The Outdoor Activity Area will be limited to 11:00 a.m. to 9:00 p.m. during the initial nine month trial. Bocce ball shall be further restricted to 8:00p.m. The trial period will allow for proper monitoring of potential impacts to the neighborhood.

Comment [DH3]: is this where i mention the hours will be reduced as a pilot?

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

COMMERCE AND INDUSTRY

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 development will add a reasonable amenity to a use that serves the neighborhood and will provide five additional employment opportunities to those in the community. The expanded scope of the existing business to include an Outdoor Activity Area will complement the existing business. The proposed activity is unique and will thus enhance the business. Further, the Project Site is located within a Neighborhood Commercial Transit District and is 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 and enhance an existing commercial activity and will enhance 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.

Policy 3.2:

Promote measures designed to increase the number of San Francisco jobs held by San Francisco residents.

The Proposed Project will provide five employment opportunities, including entry-level employment opportunities, for the area's unskilled and semi-skilled workers.

Neighborhood Commerce

OBJECTIVE 6:

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

Policy 6.1:

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

No commercial tenant would be displaced and the project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood. The Project retains the existing commercial tenant's ability to enhance their business services and strengthen their presence in the 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.

There is a concern with noise impacts on the surrounding neighborhood. In an effort to reduce noise and provide privacy to residents the Project Sponsor shall propose adequate sound buffering to meet requirements of the San Francisco Noise Ordinance. The proposed Outdoor Activity Area shall be operated in such a way that that noise is kept at reasonable levels so as not to unduly disturb neighboring businesses and residents. Furthermore, reduced pilot hours have been drafted for the first nine months of operation. The Outdoor Activity Area will operate within restricted trial hours to allow for proper monitoring of potential impacts to the neighborhood.

Comment [DH4]: is this where i mention the hours will be reduced as a pilot?

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.

A locally owned business is sponsoring the proposal. The proposed use is a neighborhood serving use. This is not a Formula Retail use.

MISSION AREA PLAN

Objectives and Policies

Land Use

OBJECTIVE 1.1:

STRENGTHEN THE MISSION'S EXISTING MIXED USE CHARACTER, WHILE MAINTAINING THE NEIGHBORHOOD AS A PLACE TO LIVE AND WORK.

Policy 1.1.3:

Maintain the successful Mission Street, 24th Street, and Valencia Street Neighborhood Commercial districts; recognize the proximity to good transit service by eliminating density limits and minimum parking requirements.

Policy 1.1.6:

Permit and encourage small and moderate size retail establishments in neighborhood commercial areas of the Mission, while allowing larger retail in the formerly industrial areas when part of a mixed-use development.

The proposed addition of an Outdoor Activity Area will help preserve a neighborhood serving use as a restaurant. It will provide the neighborhood with an outdoor dining experience within walking distance. The Outdoor Activity Area will be located within the Mission Street Neighborhood Commercial Transit Zoning District. The use will compliment this district. The location and size of the Outdoor Activity Area will serve to enhance and promote a thriving small business. Traffic and parking will not be affected by adding the Outdoor Activity Area to the existing restaurant.

OBJECTIVE 1.5 :

MINIMIZE THE IMPACT OF NOISE ON AFFECTED AREAS AND ENSURE GENERAL PLAN NOISE REQUIREMENTS ARE MET.

Policy 1.5.1:

Reduce potential land use conflicts by providing accurate background noise-level data for planning.

Policy 1.5.2:

Reduce potential land use conflicts by carefully considering the location and design of both noise generating uses and sensitive uses in the Mission.

The proposed use is subject to the standard conditions of approval for an Outdoor Activity Area as outlined in Exhibit A. The Project Sponsor shall propose adequate sound buffering to meet requirements of the San Francisco Noise Ordinance. The Project Sponsor shall operate the proposed Outdoor Activity Area such that noise is kept at reasonable levels so as not to unduly disturb neighboring businesses and residents.

OBJECTIVE 1.8:

MAINTAIN AND STRENGTHEN THE MISSION'S NEIGHBORHOOD COMMERCIAL AREAS.

Policy 1.8.2:

Ensure that the Mission's neighborhood commercial districts continue to serve the needs of residents, including immigrant and low-income households.

No commercial tenant would be displaced and the Proposed Project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.

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

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

The proposal is a reasonable addition to the restaurant and would enhance the commercial district. The nine-month trial hours of operation for the Outdoor Activity Area and required sound buffering will protect the quality of life for surrounding residence. Furthermore, the business is locally owned and the addition of seating for more patrons will provide greater employment opportunities, including entry-level employment opportunities, for the area's unskilled and semi-skilled workers.

Comment [DH5]: Scott Interp?

Comment [DH6]: need to confirm

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

The conditions requiring sound buffering and a trial period to monitor initial effects provide a mechanism to protect neighborhood character.

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

No housing is removed for this Project.

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

The site is on 24th Street and is well served by transit. The site is adjacent to the 24th Street BART Station and along six MUNI bus lines. It is presumable that the employees and patrons would commute by transit; therefore, effects on street parking should be minimized.

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.

As this is a proposal for an Outdoor Activity Area, the proposal would not affect earthquake preparedness.

G. That landmarks and historic buildings be preserved.

A landmark or historic building does not occupy the Project site.

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

The project will have no negative impact on existing parks and open spaces. The Project does not have an impact on open spaces.

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

Motion No. 18998
October 10, 2013

CASE NO. 2013.0224C
3331 24th Street

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2013.0224C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated October 10, 2013, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 18998. 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 October 10, 2013.

Jonas P. Ionin
Acting Commission Secretary

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

NAYES: None

ABSENT: None

ADOPTED: October 10, 2013

EXHIBIT A

AUTHORIZATION

This authorization is for a Conditional Use to establish an Outdoor Activity Area at the rear of an existing restaurant (d.b.a. Rustic) located at 3331 24th Street, Block 6516, Lot 025 pursuant to Planning Code Section(s) 145.2, 303 and 736.24 within the Mission Neighborhood Commercial Transit Zoning District and a 55-X Height and Bulk designation; in general conformance with plans, dated October 10, 2013, and stamped "EXHIBIT B" included in the docket for Case No. 2013.0224C and subject to conditions of approval reviewed and approved by the Commission on October 10, 2013, under Motion No. **18998**. 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 October 10, 2013 under Motion No. **18998**.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **18998** 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

6. **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 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, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org*
7. **Noise.** The Planning Department will not approve any Building Permit application for the Outdoor Activity Area until the Project Sponsor demonstrates that adequate sound buffering is proposed to meet the requirements of the San Francisco Noise Ordinance. Plans submitted with the building permit application for the approved project shall incorporate acoustical insulation and other sound proofing measures to control noise.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
8. **Odor Control Unit.** In order to ensure any significant noxious or offensive odors are prevented from escaping the premises once the project is operational, the building permit application to implement the project shall include air cleaning or odor control equipment details and manufacturer specifications on the plans. Odor control ducting shall not be applied to the primary façade of the building.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
9. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the architectural addenda. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the building.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

MONITORING

10. **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

11. **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

12. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards. *For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org/>*

13. **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.

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14. **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

15. **Hours of Operation.** The Outdoor Activity Area will operate pilot hours for the first nine months of opening, with hours of operation set as 11:00 a.m. to 9:00 p.m. Sunday through Saturday. Patrons will not be permitted to play Bocce ball past 8:00 p.m. No patrons may remain in the Outdoor Activity Area after closing time. Staff may remain as necessary for cleaning and other duties related to the operations of the Outdoor Activity Area one hour past the closing hour stated above. No employees may be in the Outdoor Activity Area after the clean-up time.

After the nine month trial, the case will return to the Planning Commission as an Informational Presentation where an acoustical report shall be presented. The Zoning Administrator would have the discretion to extend or reduce hours as directed. The existing hours of operation within the restaurant will not be affected.

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

ADDITIONAL CONDITIONS

16. **Sound Wall.** The Project Sponsor shall install a sound wall along the western and southern property line. This sound wall will be 9' tall with a 45 degree angled 3' tall fin wall. Both will be backed with an acoustical product designed for sound deadening.
17. **Parapet Wall.** Per acoustical consultant's guidance, the Project Sponsor shall install a solid plywood parapet wall to the height of 3' above our rear roofline and over the rear roofline of the bakery. This will eliminate "line-of-sight" sound transmission to the upper levels of the adjacent building to the West.
18. **Rooftop Mechanical Equipment Enclosure.** The Project Sponsor shall install a rooftop mechanical equipment enclosure, after servicing, to minimize noise transmission.
19. **Bocce Ball Courts.** As an additional precaution, the Project Sponsor shall provide rubber flooring at the bocce alcove where there is exposed concrete for further acoustical dampening effect.
20. **Music.** Music shall not be permitted within the Outdoor Activity Area.
21. **Noise.** The Project Sponsor shall locate signage asking patrons to keep noise to a minimum. In addition, the applicant will proactively enforce this.
22. **Acoustical Consultant.** An acoustical consultant shall prepare an acoustical report prior to occupancy of the Outdoor Activity Area to document existing conditions prior to occupancy. The consultant shall also monitor the operation and shall report findings after the nine month trial period.
23. All required permits shall be obtained.