



SAN FRANCISCO PLANNING DEPARTMENT

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| <input type="checkbox"/> Downtown Park Fee (Sec. 139) | <input type="checkbox"/> Other |

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Planning Commission Motion 18026

HEARING DATE: FEBRUARY 4, 2010

Date: January 28, 2010
Case No.: **2009.0798 C**
Project Address: **659 COLUMBUS AVENUE**
Zoning: North Beach Neighborhood Commercial District
40-X Height and Bulk District
Block/Lot: 0101/003(45)
Project Sponsor: Marsha Garland
PO Box 330166
535 Green Street
San Francisco, CA 94133
Staff Contact: Rick Crawford – (415) 558-6358
rick.crawford@sfgov.org

ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 722.42 AND 722.21 OF THE PLANNING CODE TO ALLOW THE EXPANSION OF THE EXISTING FULL-SERVICE RESTAURANT (D.B.A. PELLEGRINI RESTAURANT) AND A NONRESIDENTIAL USE SIZE GREATER THAN 1,999 SQUARE FEET WITHIN NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On August 26, 2009 Marsha Garland (Project Sponsor) filed an application with the Department for Conditional Use Authorization under Planning Code Sections 722.21 and 722.42 to allow a nonresidential use greater than 1,999 square feet in area and the expansion of an existing Full-Service Restaurant (d.b.a. Pellegrini Restaurant) within the North Beach Neighborhood Commercial District and a 40-X Height and Bulk District.

On January 14, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2009.0798C and continued the hearing to February 4, 2010.

The Project was determined by the San Francisco Planning Department (hereinafter "Department") to be categorically exempt from environmental review under class 1(a). The Commission has reviewed and concurs with said determination.

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

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2009.0798C, 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 at the southwest corner of Columbus Avenue and Filbert Street between Filbert and Powell Streets in the heart of the North Beach Neighborhood Commercial District and a 40-X height and bulk district. The property is developed with a one story commercial building occupied by the subject restaurant. The site also includes an adjacent 15 stall parking lot that includes a space for a car-share service vehicle. The restaurant and parking lot cover 100% of the property. The restaurant currently has an outdoor seating area in a row of tables and chairs across the front of the building.
3. **Surrounding Properties and Neighborhood.** The surrounding neighborhood is mix of small to medium sized residential buildings and one to three story mixed use buildings with ground floor commercial space and upper floor residential uses. Commercial uses include a variety of neighborhood and tourist serving retail, restaurants and night clubs. Washington Square Park is located across Columbus Avenue from the subject property. Land uses along the adjacent block of Filbert Street are primarily residential. The surrounding properties are located within an RM-2 (Residential Mixed, Moderate Density) District or the North Beach Neighborhood Commercial District.
4. **Project Description.** The applicant proposes to legalize the placement of a 124 square foot "cable car" trailer in the parking lot for the take-out portion of the restaurant's business and develop a 540 square foot patio for the placement of tables and chairs for restaurant customers within the existing parking lot on the property.
5. **Public Comment.** The Department has received one comment from the public objecting to this project because of traffic concerns and a letter from North Beach Neighbors in support.. The Department contacted Telegraph Hill Dwellers, a Neighborhood Association holding a Block

Book Notification request on property on this block. Telegraph Hill Dwellers had no objection to the project.

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

- A. **Full Service Restaurant.** Planning Code Section 722.42 states that a Conditional Use Authorization is required for a Full Service Restaurant, as defined by Planning Code Section 790.92 and that such uses are permitted only on the ground floor of a building.

The Project Sponsor intends to expand the existing full-service restaurant by locating a trailer in the adjacent parking lot to serve the restaurant's take out customers. The trailer has been designed to appear as a cable car. The space occupied by the addition is not used and was not recently used by a Basic Neighborhood Retail or Service use but is a vacant lot occupied by a surface parking lot. The project will not alter the exterior of the building.

- B. **Nonresidential Use Size.** Planning Code Section 722.21 states that a Conditional Use Authorization is required for a nonresidential use between 2,000 square feet and 3,999 square feet in area. In addition to the criteria of Planning Code Section 303c) such uses must also meet the criteria in Section 121.4.

- i. The intensity of activity in the district is not likely to foreclose the location of other needed neighborhood-serving uses in the area.

The proposal is to expand an existing restaurant with the addition of a trailer for take-out food adjacent to the building occupied by the restaurant. The use would expand from 3,054 square feet to 3,178 square feet. The additional floor area comes out of the area of the adjacent parking lot and will not foreclose the future development of the property for another neighborhood serving use.

- ii. The proposed use will serve the neighborhood in whole or in significant part and the nature of the use requires a larger size in order to function.

The existing and proposed use of the property is a full service restaurant with Italian cuisine. The restaurant currently serves as a neighborhood restaurant with some tourist business supplementing the neighborhood base. The sponsor estimates that approximately 75% of the clientele are from the neighborhood. The new take-out facility is expected to have a similar split between locals and tourists.

- iii. The building in which the use is to be located is designed in discrete elements which respect the scale of development in the district.

The project will not alter the building on the property but will locate a trailer on the site for the expansion of the business. This discrete element of the development can be easily removed from the property in the future to provide for alternate development of the property.

- C. **Parking.** Planning Section 151 of the Planning Code 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 restaurant proposes to occupy a total of 3,178 square feet of floor. Parking is not required for this use. The existing 15 stall parking lot owned by the restaurant is not required parking. The parking lot was rearranged with the placement of the trailer in the lot and the new configuration did not result in any loss of parking. The owner proposed to continue to lease a space in the parking lot for car-share operations.

- D. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code 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 restaurant has approximately 36 feet of frontage on Columbus Avenue with the entire frontage devoted to either the restaurant entrance or window space. The windows are clear and obstructed only by open signs and menus for the restaurant. There are no changes proposed to the commercial frontage.

- E. **Outdoor Activity Area.** Section 722.24 provides for Outdoor Activity Areas accessory to uses in the North Beach Neighborhood Commercial District. The area is a principally permitted use if located in front of the principal use of the lot.

The project includes an Outdoor Activity area in front of the proposed take-out trailer addition to provide an outdoor seating area for patrons. The proposed patio would cover approximately 540 square feet of the parking lot along side the sidewalk and would be entirely on private property.

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 Project will be located in a parking lot adjacent to the building and will not affect the building size, shape or arrangement on the property. The reduction in the size of the parking lot will not significantly change the intensity of development of the property.

- 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 be increased by the addition of a 124 square feet cable car trailer. The increase in size and activity are minimal and should not alter the character of the project vicinity.

- 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 or loading for a full-service restaurant of this size. The proposed use is designed to meet the needs of the immediate neighborhood with some tourist traffic and should not generate a significant amount of new vehicular trips. The property is well served by transit.

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

The project sponsor shall maintain appropriate odor control equipment to prevent any significant noxious or offensive kitchen odors from escaping the premises and shall operate the proposed restaurant such that noise is kept at reasonable levels so as not to unduly disturb neighboring businesses and residents. The Department has not received any complaints regarding the operations of the existing restaurant on the site.

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

The proposed addition to the full-service restaurant does not require any additional tenant improvements or signage beyond the existing signs.

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

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 proposed project is consistent with the stated purposes of North Beach Neighborhood Commercial District in that the intended use is located at the ground floor, will provide a compatible convenience service for the immediately surrounding neighborhoods during daytime and evening hours.

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 1.1:

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 provide desirable services to the neighborhood and will provide resident employment opportunities to those in the community. The Project Site is located within a Neighborhood Commercial District and is consistent with intent and purpose of that district. The business is expected to draw 75% of its business from the surrounding neighborhood.

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 an existing commercial activity and will expand a neighborhood serving use to 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.

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 restaurant is now and will continue to be a primarily a neighborhood restaurant with 75% of their clientele coming from the surrounding 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.

An independent entrepreneur is sponsoring the proposal. The proposed use is a neighborhood serving use with approximately three quarters of the customers for the restaurant coming from the surrounding neighborhood. The business is not a Formula Retail Use.

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 proposed use is a neighborhood serving use with approximately 75% of the customers for the restaurant coming from the surrounding neighborhood. The business is not a Formula Retail Use. The business is locally owned.

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

The existing housing in the surrounding neighborhood would not be adversely affected. The proposed outdoor seating area is well buffered from neighboring residential uses by existing buildings and parking area.

- 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 Columbus Avenue and is well served by transit. It is presumable that the employees would commute by transit thereby mitigating possible impacts on street parking.

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

The Project will not displace any service or industry establishment. The project will not affect industrial or service sector uses or related employment or ownership opportunities.

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

The Project will not alter the existing building and will not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

The building was surveyed as part of the North Beach Survey and is considered a potential resource. No further evaluation as occurred and the building is not a landmark building. The proposed use will not change the exterior of the building and will not effect the building's consideration as a potential historic resource in the future.

- 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.

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 and that the project is desirable as it project replaces a nonconforming use with a use that complies with the Planning Code.

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. 2009.0798C** 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.

18026. 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 4, 2010.

Linda D. Avery
Commission Secretary

AYES: Antonini, Bordon, Lee, Miguel, Olague, Sugaya

NAYS: None

ABSENT: Moore

ADOPTED: February 4, 2010

Exhibit A

Conditions of Approval

1. This authorization is for a Conditional Use Authorization under Planning Code Section 723.42, and 723.27 of the Planning Code to allow a full-service restaurant (d.b.a. Pellegrini Restaurant) with extended hours of operation, at 1400 California Street within the North Beach Neighborhood Commercial District and a 40-X Height and Bulk District, in general conformance with plans filed with the Application as received on November 10, 2009 and stamped "EXHIBIT B" included in the docket for **Case No. 2009.0798C**, reviewed and approved by the Commission on February 4, 2010.
2. Prior to the issuance of the Building Permit for the Project the Zoning Administrator shall approve and order the recordation of a notice in the Official Records of the Recorder of the City and County of San Francisco for the premises (Assessor's 0249, Lot 007), which notice shall state that construction has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied.
3. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines in accordance with Planning Code Section 176.
4. Should monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(e)(1).
5. The property owner shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.
6. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before any changes.
7. The Project Sponsor shall maintain an attractive storefront providing visibility of the restaurant interior through the storefront windows.
8. The project sponsor shall maintain appropriate odor control equipment to prevent any significant noxious or offensive kitchen odors from escaping the premises.
9. The project sponsor shall operate the proposed restaurant such that noise is kept at reasonable levels so as not to unduly disturb neighboring businesses and residents.

10. An enclosed garbage area shall be provided within the establishment. All garbage containers shall be kept within the building until pick-up by the disposal company.
11. The tables and chairs for the outdoor patio shall be arranged so as not to block the public sidewalk.
12. The authorization and right vested by virtue of this action shall be deemed void and canceled if, within 3 years of the date of this Motion, a site permit or building permit for the Project has not been secured by Project Sponsor. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a city, state, or federal agency or by appeal of the issuance of such permit.
13. The hours of operation for the "cable car" trailer addition portion of the restaurant shall be until 10:00 p.m. when service to the public from the "cable car" trailer addition portion of the restaurant shall cease.