



SAN FRANCISCO PLANNING DEPARTMENT

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| <input type="checkbox"/> Inclusionary Housing (Sec. 315) | <input type="checkbox"/> First Source Hiring (Admin. Code) |
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| <input type="checkbox"/> Downtown Park Fee (Sec. 139) | <input type="checkbox"/> Other |

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Planning Commission Motion 18058

HEARING DATE: MARCH 25, 2010

Date: March 18, 2007
Case No.: **2009.1013C**
Project Address: **2735 Hyde Street**
Zoning: NC-1, Small Scale Neighborhood Commercial District
40-X Height and Bulk District
Block/Lot: 0025/003B
Project Sponsor: Kelly Waters
Y.A. Studio
2407 Harrison Street #2
San Francisco, CA 94110
Staff Contact: Rick Crawford – (415) 558-6358
rick.crawford@sfgov.org

ADOPTING FINDINGS RELATED TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303 AND 161(j) OF THE PLANNING CODE TO ALLOW THE ELIMINATION OF AN EXISTING OFF-STREET RESIDENTIAL PARKING SPACE (GARAGE) TO ENABLE DEVELOPMENT OF THE SPACE AS A FULL-SERVICE RESTAURANT (DBA D AND D BISTRO) AT 2735 HYDE STREET ON ASSESSOR'S BLOCK 0025, LOT 003B, LOCATED WITHIN THE NC-1, SMALL SCALE NEIGHBORHOOD COMMERCIAL DISTRICT AND WITHIN THE 40-X HEIGHT AND BULK DISTRICT

PREAMBLE

On October 26, 2009 Kelly Waters of Y.A. Studios (Project Sponsor) filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 303 and 161(j) of the Planning Code to allow the elimination of an existing off-street residential parking space (garage) to enable development of the space for a full-service restaurant (dba D and D Bistro) within an NC-1, Small Scale Neighborhood Commercial District and within a 40-X Height and Bulk District.

On March 25, 2010 the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2009.1013C.

The project was determined by the Planning Department (hereinafter "Department") to be Categorically Exempt from the California Environmental Quality Act ("CEQA") as a Class 1a exemption under CEQA Guidelines. 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. 2009.1013C, 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 west side of Hyde Street between North Point and Beach Streets, Assessor's Block 0025, Lot 003B within an NC-1, Small Scale Neighborhood Commercial District and within the 40-X Height and Bulk District. The property is approximately 27 feet wide and 85 feet in depth with a lot area of 2,295 square feet. The project site is occupied by a circa 1927 three-story two-unit building located at the front property line of the lot, with a one-car garage on the ground floor and one dwelling unit on each of the two upper floors. The ground floor of the subject building is approximately 1,460 square feet in area. The ground floor contains a one-car garage, stairs to the dwelling units on the second and third floors, and 475 square feet of residential storage.
3. **Surrounding Properties and Neighborhood.** The subject block features primarily three-story buildings most of which are mixed use with a few residential buildings containing one to four residential units. Two garages on the subject block face have been converted to commercial uses, offices at 2751 Hyde and a retail store at 2765 Hyde. The remainder of the block face includes Blazing Saddles bicycle shop/rental business that also rents small gas powered vehicles for tours, and three restaurants. The project site and the adjacent building to the north are the only buildings on the block face that do not have a commercial unit.

The uses across Hyde Street from the project site include two large three-story office buildings, one with an internal parking garage, and three three-story residential buildings with two to three dwelling units each. The project site is approximately one block east of Ghirardelli Square and one-half block south of Aquatic Park and the Hyde Street Cable Car turn-around. The Hyde Street Cable Car operates on Hyde Street in front of the project site.

4. **Project Description.** The project proposes to eliminate the existing off-street parking space in the garage of the subject building and develop the space as a full-service restaurant (dba D and D

Bistro) with seating for approximately 20 people. The project would eliminate the one existing off-street parking space in this two-unit residential building but would not affect the size or configuration of the existing dwelling units. In addition to the garage, the ground floor of the subject building contains approximately 475 square feet of residential storage. The storage area would be reduced to approximately 370 square feet in area to accommodate the new restaurant. The existing garage door would be replaced with a wood or painted metal-framed glass commercial storefront. The existing curb cut would be eliminated and the curb restored thereby creating an on-street parking space. With the exception of the new storefront, all construction for the project is internal to the existing building and the building footprint will not be altered by the project.

5. **Public Comment.** As of March 18, 2010, the Department has received 1 phone call inquiring about the project and supporting the restaurant. No other public comment has been received.
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.** Section 710.42 allows full-service restaurants as a principally permitted use on the first floor in the NC-1 District if the property is more than $\frac{1}{4}$ mile away from any Neighborhood Commercial District with more restrictive controls.

The project entails development of a full-service restaurant on the first floor of the subject building. The project is more than $\frac{1}{4}$ mile away from any Neighborhood Commercial District with more restrictive controls.

- B. **Formula Retail.** Section 703.3 places notification requirements and other restrictions on formula retail uses.

The restaurant proposed to occupy the space vacated by the parking garage is not considered to be a Formula Retail Use as defined by Section 703.3 of the Planning Code.

- C. **Permit Review for NC Districts.** Section 312 of the Planning Code requires notification of building permit applications for changes of use to a full-service restaurant in Neighborhood Commercial Districts. Notification shall be mailed to all property owners and residents within 150 feet of the subject property.

Notification of the building permit for the proposed change of use from residential parking to a full-service restaurant was mailed to all property owners and residents within 150 feet of the project site.

- D. **Street Frontages, Neighborhood Commercial Districts.** Section 145.1(2) requires that certain uses in the NC Districts shall have at least $\frac{1}{2}$ the total width of such new or altered structures at the commercial street frontage be devoted to entrances to commercially used space, windows or display space at the pedestrian eye-level. Such windows shall use clear, untinted glass, except for decorative or architectural accent. Any decorative railings or decorative grille work, other than wire mesh, which is placed in front of 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 building on the project site is 27 feet wide with 13.5 feet of that frontage proposed to be devoted to the commercial storefront and the remaining 13.5 feet devoted to residential entrances. The commercial storefront represents 50% of the total width of the building. The storefront includes windows in wood or painted metal frames with a total area of 76.5 square feet of this area 13.75 square feet is obscured by a panel at the bottom of the windows. The remaining 62.75 square feet, or 82% of the storefront is clear unobstructed glass.

- E. **Exceptions From Off-Street Parking.** Section 161(j) grants the Commission the authority to permit the reduction in the off-street parking for dwelling units as a Conditional Use. In acting upon such an application the Commission shall consider the criteria set forth in the Section in lieu of the criteria set forth in Section 303.

The project requests authorization to eliminate the one existing off-street parking space in the subject building to allow the establishment of a full-service restaurant in the space vacated by the garage.

- i. The reduction in the parking requirement is justified by the reasonably anticipated auto usage by residents of and visitors to the project.

None of the current residents of the dwelling units in the building use the off-street parking space to park a vehicle. The existing garage is currently used for storage by residents. The elimination of the off-street parking space is reasonable as it creates the opportunity for a new commercial space on the ground floor in a district that encourages the use of the ground floor for commercial uses. In addition, the elimination of the off-street parking space and the closure of the existing curb cut on the property could create an additional on-street parking space that would increase parking availability in the area.

- ii. The reduction in the parking requirement will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity.

The reduction in the parking requirement would not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity as the area is well served by public transit and a number of commercial parking facilities are available in the vicinity to provide parking for customers. The closure of the existing curb cut on the property could create an additional on-street parking space that would increase parking availability for persons residing or working in the vicinity.

- iii. The project is consistent with the existing character and pattern of development in the area.

The pattern of development on this block is primarily ground floor commercial uses and residential uses on the upper floors. A few solely residential buildings exist on the block as well as

a couple of solely commercial buildings but the prevailing pattern is mixed-use buildings without residential parking. The project complies with that pattern.

- iv. The project is consistent with the description and intent of the neighborhood commercial district in which it is located.

The intent of the NC-1, Small Scale Neighborhood Commercial District, is in part to encourage the full range of neighborhood-serving convenience retail sales and services at the first story provided that the use size generally is limited to 3,000 square feet. Commercial uses and features which could impact residential livability are prohibited and eating and drinking establishments are restricted, depending upon the intensity of such uses in nearby commercial districts. The project would develop a neighborhood-serving eating establishment of 625 square feet in area on the ground floor of the existing building. Residential entrances and support facilities in the subject building will be protected from encroachment of the commercial use by limiting that use to the ground floor and retaining most of the existing area designated for residential storage. The garage is not now used for parking so the elimination of the off-street parking space will not impact the current residents of the subject building or the area. Finally a new restaurant in this location will not lead to an over concentration of eating and drinking establishments. In this NC-1 District, eating and drinking establishments represent only 23 percent of the total developed lot frontage and 37% of the total nonresidential lot frontage.

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

COMMERCE AND INDUSTRY ELEMENT

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 which has substantial undesirable consequences that cannot be mitigated.

The project will provide net benefits because the proposed use will enhance neighborhood commercial opportunities in the area. The location of the project in close proximity to public transit and several commercial parking garages will mitigate any traffic and parking effects on the area.

OBJECTIVE 3:

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

Policy 3.1:

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

The project represents an expansion of commercial opportunities in the neighborhood to better serve the residents of the neighborhood and would provide additional opportunities for local business ownership and employment of 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 project will provide enhanced opportunities for employment of neighborhood residents.

OBJECTIVE 6:

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

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 and not a Formula Retail use.

TRANSPORTATION ELEMENT

OBJECTIVE 1:

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

Policy 1.3:

Give priority to public transit and other alternatives to the private automobile as the means of meeting San Francisco's transportation needs, particularly those of commuters.

The project is well located in proximity to transit providing a logical alternative to auto use for accessing the project.

OBJECTIVE 11:

ESTABLISH PUBLIC TRANSIT AS THE PRIMARY MODE OF TRANSPORTATION IN SAN FRANCISCO AND AS A MEANS THROUGH WHICH TO GUIDE FUTURE DEVELOPMENT AND IMPROVE REGIONAL MOBILITY AND AIR QUALITY.

Policy 11.3: Encourage development that efficiently coordinates land use with transit service, requiring that developers address transit concerns as well as mitigate traffic problems.

The project will not interfere with transit service operations. The project site is well served by the MUNI cable car line on Hyde Street as well as by MUNI bus lines on Northpoint Street, Polk Street, Van Ness Avenue and Columbus Avenue within ¼ mile the project site. Developing the project without off-street parking will encourage the free flow of transit and auto traffic and will better protect pedestrians.

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

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

The project will enhance the neighborhood commercial district by converting under-utilized garage space for a neighborhood-serving commercial use owned by 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 will conserve the residential units in the subject building. Elimination of the off-street parking space will not impact the residential uses as the space is currently used for storage not parking.

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

The project would not have any impacts on the City's supply of affordable housing.

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

The project would not adversely impact public transit or place a burden on the existing supply of parking in the neighborhood. The project Site is well-served by public transportation.

- 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.

There is no commercial office development associated with the project. No industrial or service sector uses would be displaced.

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

The project will be designed and constructed to meet the current City and State Codes pertaining to seismic safety.

- G. That landmarks and historic buildings be preserved.

The project building was constructed circa 1927 and was identified in a survey as a potential historic resource. The impact of the project on the potential historic nature of the building has been evaluated

and found to be of no impact provided the new storefront is made of compatible materials and will fit within the existing opening for the garage door. The project complies with these requirements.

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

Construction for the project will be primarily internal to the existing building and will not impact public parks.

9. 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.
10. On balance, 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. 2009.1013C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans filed with the Application as received on January 20, 2010 and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 18058. 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 March 25, 2010.

Linda D. Avery
Commission Secretary

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

NAYS: None

ABSENT: None

ADOPTED: March 25, 2010

Exhibit A

Conditions of Approval

1. This authorization is for a Conditional Use Authorization under Planning Code Section 161(j) of the Planning Code to allow the elimination of an existing off-street residential parking space (garage) to enable the development of the space as a full service restaurant (dba D and D Bistro) within an NC-1, Small Scale Neighborhood Commercial District and within a 40-X Height and Bulk District., in general conformance with plans filed with the Application as received on October 26, 2009 and stamped "EXHIBIT B" included in the docket for **Case No. 2009.1013C**, reviewed and approved by the Commission on March 25, 2010.
2. Prior to the approval of a building permit for the proposed restaurant 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 0025, Lot 003B), which notice shall state that the change has been authorized by and is subject to the conditions of this Motion.
3. The operator of the establishment shall maintain the main entrance and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at minimum, daily sweeping and litter pickup and disposal and washing or steam/pressure cleaning of the main entrance and abutting sidewalks at least once every two weeks.
4. 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 up to \$250 a day in accordance with Planning Code Section 176.
5. 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).
6. The project Sponsor shall maintain an attractive storefront providing visibility of the restaurant interior through the storefront windows.
7. The project shall appoint a Community Liaison Officer to address issues of concern to neighbors related to the operation of this project. The project Sponsor shall report the name and telephone number of this Officer to the Zoning Administrator and the neighborhood for reference. The Applicant will keep the above parties apprised should a different staff liaison be designated.
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 restaurant such that noise is kept at reasonable levels so as not to unduly disturb neighboring businesses and residents.

10. Refuse containers shall be provided both inside and outside the establishment for use by patrons of the restaurant. 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.
11. 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.
12. The existing curb cut shall be eliminated and the curb restored before the opening of the restaurant.
13. The encroachment of the entry landing for the commercial space into the public right of way shall be no larger than the minimum necessary to comply with ADA requirements.
14. The proposed storefront system shall be no larger than the existing opening for the garage door and shall be framed in wood or painted metal compatible with the character of the building.
15. 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.