



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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

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## Planning Commission Motion 18060

HEARING DATE: MARCH 25, 2010

*Date:* March 18, 2007  
*Case No.:* **2010.0036C**  
*Project Address:* **1760 Polk Street**  
*Zoning:* Polk Street Neighborhood Commercial District  
65-A Height and Bulk District  
*Block/Lot:* 0620/020  
*Project Sponsor:* Oren Rubinstein  
3085 24<sup>th</sup> Street Suite 201  
San Francisco, CA 94110  
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*Reviewed By:* Mark Luellen– (415) 558-6478  
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**ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION TO EXPAND THE HOURS OF OPERATION FOR THE EXISTING FULL BAR USE AND FULL-SERVICE RESTAURANT (D.B.A “LA PARRILLA GRILL”) AT 1760 POLK STREET ON ASSESSOR’S BLOCK 0620, LOT 020, LOCATED WITHIN THE POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT AND A 65-A HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On January 20, 2010 Oren Rubinstein (Project Sponsor) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Sections 723.41, and 723.42 of the Planning Code to allow expansion of hours of operation limited under Planning Commission Motion 17551 for an existing full-service restaurant and bar (d.b.a. “La Parrilla Grill”) within the Polk Street Neighborhood Commercial District and a 65-A Height and Bulk District.

On July 31, 2007, Vladimir Abramov (Project Sponsor) applied for a Conditional Use, Application No. 2007.0827C, on the property at 1760 Polk Street, Lot 020 in Assessor’s Block 0620 (Project Site), to add a full bar use as defined in Planning Code Section 790.22 to the existing full-service restaurant (dba “La Parrilla Grill”). There would be no physical expansion of the existing building. The site is within the Polk Street NCD and a 65-A Height and Bulk District.

On January 24, 2008, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2007.0827C. At that hearing the Commission authorized the use in Motion 17551 but required the business to close at 10:00 p.m.

On March 25, 2010 the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2010.0036C.

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. 2010.0036C, 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-east corner of the intersection of Polk Street and Washington Street, Assessor's Block 0620, Lot 020. The property is located within the Polk Street Neighborhood Commercial District, and a 65-A Height and Bulk District. The Project Site is occupied by a single-story Art Moderne style building built in 1939 with three retail spaces all fronting on Polk Street. All three commercial spaces in the subject building are occupied by eating and drinking establishments. The storefront closest to the subject storefront, 1754 Polk Street, is occupied by a restaurant (DBA "Amelie") holding a type 41 ABC license (on-sale beer and wine in an eating place). The farther storefront, at 1750 Polk Street, is occupied by a bar (DBA "Bigfoot Lodge") holding a type 47 ABC license (on-sale beer, wine and liquor). The subject storefront is in the corner location, with windows on both Polk Street and Washington Street. The storefront is occupied by the subject full-service restaurant holding a type 41 ABC license (on-sale beer and wine in an eating place).
3. **Surrounding Properties and Neighborhood.** The Polk Street NCD provides convenience goods and services to residents of the Polk Gulch neighborhood, the western slopes of Nob and Russian Hills, the Van Ness corridor and the eastern portion of Pacific Heights. The numerous apparel and specialty stores also draw customers from further afield, while the restaurants, bars and

nighttime entertainment venues form a lively, city-wide destination. This mix of uses, and the proximity to dense residential areas, contribute to the active, urban character of the district.

The surrounding development is a variety of multi-story, mixed-use buildings. Nearby ground-floor uses include eating and drinking establishments, retail stores, and nighttime entertainment. The upper stories are generally occupied by office space, apartments, and residential hotels. The scale of development throughout the area consists of low- and mid-rise buildings (one- to four-story structures). The three other corners of the intersection of Polk Street and Washington Street are occupied by a dry cleaning establishment, a café and a restaurant.

4. **Project Description.** The project proposes to expand the hours of operation for the restaurant from 10:00 p.m. to 2:00 a.m. There would be no physical expansion of the building, nor any storefront or interior alterations. The use is an independent use and locally owned, and is not a Formula Retail use.
5. **Public Comment.** As of March 18, 2010, the Department has received a letter of support from the Polk District Merchants Association and has spoken with a representative of the Middle Polk Neighbors Association which opposes the project. Middle Polk Neighbors opposes the project, because of concerns late night activity and cleanliness of the existing storefront. The SFPD also is opposed in support of the Middle Polk group and as it would increase late evening activity the Polk NCD. Polk District Merchants Association supports the project because to activates the corner and because they feel the restaurant operator is a good and responsible person. The Latin Business Network and many of the neighboring businesses support the extended hours. The Department has received a total of one letter in opposition and 47 letters and 300 signatures on a petition supporting 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. **Hours of Operation.** Section 723.27 allows hours of operation from 6:00AM until 2:00AM as of right and requires conditional use authorization to operate between the hours of 2:00 a.m. and 6:00 a.m.

*The Project Sponsor is not requesting conditional use authorization to operate between the hours of 2:00 a.m. and 6:00 a.m.*

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

*The Project is not considered to be a Formula Retail Use as defined by Section 703.3 of the Planning Code. This location is one of six existing outlets for this particular business, and no future outlets are planned.*

- C. **Use Size.** Section 121.2(a) establishes size limits on nonresidential uses in all NCDs. In the Polk Street NCD, conditional use authorization is required for any nonresidential use that exceeds 1,999 square feet.

*While the subject restaurant is 2,190 square feet in size, its operation predates the current Code provisions requiring conditional use authorization for uses exceeding 1,999 square feet, and therefore does not require conditional use authorization for use size.*

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 proposes no new uses or buildings only an extension of hours within that which is principally permitted. The continued operation of the restaurant use at this location is desirable. The use activates a corner site in a neighborhood commercial district and promotes the success of businesses in the district.*

- 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 size and shape of the site and the size, shape and arrangement of the building are adequate for the Project.*

- 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 Project will not adversely impact public transit or overburden the existing supply of parking in the neighborhood. The Project is intended to be a walk-in facility for pedestrian traffic. Furthermore, the Project site is well-served by public transportation running on Polk Street and Van Ness Avenue. Off-street parking and loading is not required for the Project.*

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

*Given the nature of the Project (a full bar within a full-service restaurant), it would not emit any substantial amount of noise or odor. Nevertheless, a condition of approval is included in Exhibit A to this motion to ensure that noise, glare and odor are properly contained within the building.*

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

*The project site is completely built-out at the commercial ground level, therefore, no landscaping will need to be provided. All lighting and signage would be required to comply with the requirements of the Planning Code and the Urban Design Element of the General Plan.*

- 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 the applicable requirements of the Planning Code and is in conformity with the Priority Policies and Commerce and Industry Element of the General Plan.*

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

*The Polk Street commercial area functions as both a neighborhood-serving and citywide marketplace and dining district. The purpose of the NCD is to maintain a balance of businesses that supports both functions, and the proposal does not change the existing balance between entertainment and retail uses. Expanded hours of operation for the subject restaurant would activate this corner storefront later into the evening and make it more compatible with the operations of other eating and drinking establishments in the area.*

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

## **COMMERCE AND INDUSTRY ELEMENT**

### **Neighborhood Commerce**

#### **OBJECTIVE 6:**

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

#### **Policy 1:**

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

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.

*In order for a neighborhood commercial district to remain viable and serve the needs of the surrounding neighborhood, it must exhibit a healthy balance of different types of commercial uses. This proposal does not significantly alter the existing balance in the Polk Street NCD, and provides a desirable and appropriate ancillary use for the existing business.*

This policy includes guidelines for specific uses. In order to maintain the balance of commercial uses, eating and drinking establishments should not occupy more than 20 percent of the commercial frontage in a district. Proposals for eating and drinking establishments which would increase the proportion of total occupied commercial frontage above 20 percent should be reviewed to ensure that they would not reduce the variety of neighborhood-serving uses or create substantial noise, traffic, parking problems, or other nuisances. In districts with an established pattern of service to a broad market, such as the Polk Street, such establishments may occupy more than 25 percent of the total commercially-occupied frontage in a district.

*The Polk Street NCD has a long-established pattern of serving as a dining and drinking destination. This proposal does not add to the total commercial footage occupied by eating and drinking establishments in the Polk Street NCD.*

**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. This 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 proposal does not change the amount of neighborhood serving retail in the NCD. It will potentially enhance the viability of the existing business, thereby preserving and increasing opportunities for resident employment.*

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

*The Project would not adversely impact the character and economic diversity of Polk Street, and has no impact on housing. It will potentially strengthen an existing local neighborhood-serving restaurant.*

- 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.

*No physical alterations of any kind are proposed with this project.*

- 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, which does not include any physical expansion of the existing building envelope, and would not impact any parks or open spaces or their access to sunlight.*

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. 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. 2010.0036C** 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. 18060. 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, Olague, Sugaya

NAYS: Moore

ABSENT: None

ADOPTED: March 25, 2010



## Exhibit A

# Conditions of Approval

1. This authorization is for a Conditional Use Authorization under Planning Code Sections 723.41 and 723.42 to expand the hours of operation at the existing restaurant/bar (dba, La Parrilla Grill) on the property at 1760 Polk Street within the Polk Street Neighborhood Commercial District and within the 65-A Height and Bulk District to 12:00 midnight, in general conformance with plans filed with the Application as received on January 20, 2010 and stamped "EXHIBIT B" included in the docket for Case No. 2010.0036C, reviewed and approved by the Commission on March 25, 2010.
2. Prior to the initiation of the extended hours of operation 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 0620, Lot 020), which notice shall state that the change has been authorized by and is subject to the conditions of this Motion.
3. Under this Conditional Use Authorization, the bar shall be operated solely in conjunction with a full-service restaurant. Any establishment at this location shall not be operated solely as a bar at any time. All alcoholic beverages shall be served in conjunction with meals, and all meals shall be served on china with metal eating utensils. Meals shall be ordered and served at tables or to customers seated at the bar counter, and shall be paid for after consumption. The operations of the restaurant shall conform to the requirements for a "bona-fide eating place" as defined in Planning Code Section 790.142
4. 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.
5. 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.
6. 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).
7. The sponsor shall replace the broken windows on the store front within 6 months of the date of the approval of this motion.
8. The Project Sponsor shall maintain an attractive storefront providing visibility of the restaurant interior through the storefront windows.

9. 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.
10. The project sponsor shall maintain appropriate odor control equipment to prevent any significant noxious or offensive kitchen odors from escaping the premises.
11. 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.
12. 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.
13. 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.
14. The Planning Department will conduct a public information hearing at the Commission on the operations of the restaurant during the extended hours period (10 p.m. to 12 midnight) 6 months after the recording of the required Notice of Special Restrictions for the project. After this public information hearing and with the advice and input of the Planning Commission, the Zoning Administrator may limit, or otherwise restrict hours of operations.
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.