



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Inclusionary Housing (Sec. 315)
- Jobs Housing Linkage Program (Sec. 313)
- Downtown Park Fee (Sec. 139)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 314)
- Other

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Planning Commission Motion No. 18062

HEARING DATE: MARCH 25, 2010

Date: March 19, 2010
Case No.: **2009.1079C**
Project Address: **658 VALLEJO STREET**
Zoning: North Beach Neighborhood Commercial District (NCD)
 40-X Height and Bulk District
 North Beach Special Use District (SUD)
Block/Lot: 0131/026
Project Sponsor: Ahmad Larizadeh
 71 Blake Street
 San Francisco, CA 94118
Staff Contact: Kevin Guy– (415) 558-6163
 kevin.guy@sfgov.org
Recommendation: **Approval with Conditions**

ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATING THE ESTABLISHMENT OF A "SPECIALTY FOOD, SELF SERVICE" USE AT 658 VALLEJO STREET WITHIN ASSESSOR'S BLOCK 0131, LOT 026, LOCATED WITHIN THE NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT, THE 40-X HEIGHT AND BULK DISTRICT, AND THE NORTH BEACH SPECIAL USE DISTRICT.

RECITALS

1. On November 18, 2009, Ahmad Larizadeh ("Project Sponsor") submitted a request with the City and County of San Francisco Planning Department ("Department") for a Conditional Use authorization (Application No. 2009.1079C) to establish a Specialty Food, Self Service use, as defined in Planning Code Section ("Section") 790.93, located at 658 Vallejo Street ("Project Site"), within the North Beach Neighborhood Commercial District ("NCD") and the North Beach Special Use District (collectively, "Project"). This authorization is requested to allow a business offering specialty foods, a take-out deli, and catering services. No other alterations are proposed for the exterior of the storefront.
2. The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption.

3. On March 25, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2009.1079C, at which time the Commission reviewed and discussed the findings for approval prepared for its review by Department staff.
4. The Commission has reviewed and considered reports, studies, plans and other documents pertaining to the Project.
5. The Commission has heard and considered the testimony presented at the public hearing and has further considered the written materials and oral testimony presented on behalf of the Project Sponsor, Department staff, and other interested parties.
6. **MOVED**, that the Commission hereby approves the Conditional Use Authorization requested in Application No. 2009.1079C, subject to the conditions attached hereto as Exhibit A, based on the following findings:

FINDINGS

Having reviewed the materials identified in the recitals 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. **Project Description.** The Project Sponsor proposes to establish a business offering specialty foods, a take-out deli, and catering services at 658 Vallejo Street. This use is classified as "Specialty Food, Self Service" pursuant to Planning Code Section 790.93. Conditional Use authorization is required to establish a new Specialty Food, Self Service use within the North Beach NCD. The Project proposes to improve the food preparation area in the rear of the tenant space, and to add display shelves, a restroom, and a sales counter to the retail area at the front of the tenant space. The Project does not propose to expand the space or modify the exterior of the storefront.
3. **Site Description and Present Use.** The Project Site is located on the north side of Vallejo Street, between Columbus Avenue and Stockton Street, Assessor's Block 0131, Lot 026. The property is located within the North Beach Neighborhood Commercial District, the North Beach Special Use District, and a 40-X Height and Bulk District.

The Project is proposed within a building that is developed with a two-story building that covers 100% of the lot. A portion of the building facing the corner of Vallejo Street and Columbus Avenue reaches a height of three stories. The building occupies the majority of a triangular-shaped block, with frontage on Columbus Avenue, Stockton Street, and Vallejo Street. A total of eleven dwelling units occupy the upper floors, while restaurants, retail uses, and other commercial establishments occupy the ground floor. The tenant space of the proposed Project was previously occupied by a printing business, and was more recently used as a food preparation area for an adjacent restaurant without the benefit of proper approvals.

4. **Surrounding Properties and Neighborhood.** The area surrounding the Project Site is mixed-use in character. A variety of commercial establishments are located within ground floor storefronts in the vicinity, including restaurants, financial institutions, apparel stores, and other types of retailers. Upper floors of buildings are generally occupied by offices, dwelling units, or tourist-hotels. Other prominent uses in the vicinity include the Church of Saints Peter and Paul (located three blocks to the north) and Washington Square Park (located two blocks to the north).
5. **Public Comment.** To date, the Department has received no correspondence regarding the project.
6. **Planning Code Compliance:** The Commission finds that the Project complies with the relevant provisions of the Planning Code in the following manner:

- A. **Use.** "Specialty Food, Self Service" uses require Conditional Use authorization within the North Beach NCD, pursuant to Section 722.69A.

The Project Sponsor is requesting Conditional Use authorization to establish a Specialty Food, Self Service use.

- B. **Off-Street Parking.** Section 151 requires retail uses to provide one parking space for every 500 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.

The occupied floor area of the existing tenant space measures less than 5,000 square feet, and the Project proposes no physical expansion of the space. The Project is not required to provide parking.

- C. **Loading.** Section 152 requires off-street freight loading for uses above a certain size. Retail stores and uses primarily engaged in the handling of goods (such as the proposed business) are not required to provide off-street freight loading if they measure less than 10,000 square feet in gross floor area

With a gross floor area of under 10,000 square feet, the Project is not required to provide off-street loading.

- D. **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.

- E. **Hours of Operation.** Section 722.27 allows hours of operation from 6:00AM until 2:00AM as of right and requires conditional use authorization to operate between the hours of 2:00AM and 6:00AM.

The Project Sponsor is not requesting Conditional Use authorization to operate between the hours of 2:00AM and 6:00AM.

7. **Conditional Use Findings.** Section 303(c) establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use Authorization. The Project complies with some, but not all of the criteria in that:

- A. The proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.

The Project will contribute to the overall vibrancy of the North Beach NCD by diversifying the retail goods offered in the area. A substantial number of storefronts in the area are occupied by eating and drinking establishments, which have displaced retail tenants that offer neighborhood-serving sales and personal services. While the proposed business would sell food, the "Specialty Food, Self-Service" use is distinct from a restaurant in that the food prepared on-site is intended primarily for off-site consumption. The Code therefore limits the allowable number of seats to a maximum of ten, prohibits on-site beer and wine consumption, and requires that food be paid for prior to consumption. The "Specialty Food, Self-Service" use is also distinct from a specialty grocery (as defined by Section 790.102(b) in that the business emphasizes the sale of for that is prepared on-site, rather than the sale of prepackaged food or non-food commodities. This use category is intended for specialty and artisanal foods shops that sell foods that will be eaten elsewhere, and may include some accessory wholesaling, manufacturing, and processing of foods and other goods.

The proposed use would fulfill a desirable niche within the spectrum of commercial services in North Beach. The business would diversify the take-out dining options in the area without contributing to a further overconcentration of restaurants. The Project would also restore a neighborhood-serving retail use to the tenant space that generates pedestrian activity. The windows of the storefront have been obscured while the space has been used as an ancillary kitchen for the adjacent restaurant. This Project will reveal the storefront and activate the streetscape by making the merchandise and activity of the business within. The Project is desirable for and compatible with the neighborhood.

- B. The proposed use or feature will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or injurious to property, improvements, or potential development in the vicinity, with respect to aspects including, but not limited to the following:

- 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. The Project would not physically expand the existing building or tenant space.

- 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, including provision of car-share parking spaces, as defined in Section 166 of this Code;

The Project will not adversely impact public transit or overburden the existing supply of parking in the neighborhood. The use is relatively small, and the area is well-served by ample public transportation. Off-street parking and loading are not required for the Project.

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

The business is not expected to generate excessive noise or odors. The Project proposes relatively limited heated cooking facilities, therefore, the food preparation activities should not emit substantial cooking odors into the air. Exhibit A of this motion contains a condition requiring that all noise and odors be regulated so as not to be a nuisance to nearby businesses or residents. No exterior alterations are proposed, therefore, the Project should not generate additional dust or glare.

- 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. Any future changes in lighting and signage would be required to comply with the requirements of the Planning Code, the Secretary of the Interior's Standards for the Treatment of Historic Properties, the Urban Design Element of the General Plan, and other applicable regulations and policies.

- 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 will not adversely affect the policies of the General Plan as discussed under Item #8 below.

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

The North Beach NCD functions as a neighborhood-serving marketplace, citywide specialty shopping and dining district, and tourist attraction. Section 722.1. describes that, "The balance between neighborhood-serving convenience stores and Citywide specialty businesses has shifted, as convenience stores have been replaced by restaurants and bars." Accordingly, the regulations of the North Beach NCD are crafted to retain and encourage new neighborhood-serving businesses and to prohibit the conversion of tenant spaces from neighborhood-serving retail and services to new eating and drinking establishments.

The Project Site was previously occupied by a print shop, and was subsequently converted into an

ancillary kitchen used by an adjacent restaurant, without the benefit of proper approvals. The Project would restore the tenant space to a neighborhood-serving retail use, offering specialty foods that are prepared on-site. Because the food would be sold for off-site consumption, the business will function as a neighborhood-serving retail use and rather than a restaurant. The Project will diversify the overall mix of retail offerings in the area, and will not exacerbate the overconcentration of restaurants within the North Beach NCD. The Project would not expand the tenant space, retaining the small-scale and fine-grained mix of businesses 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:

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 be compatible with the surrounding neighborhood, it must exhibit a healthy balance of different types of commercial uses. This policy includes guidelines that prioritize uses which will provide goods and services to serve residents in the area. The Project will restore a neighborhood-serving retail use to the tenant space, offering specialty foods which are prepared on-site.

Policy 2:

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society.

The Project is desirable because it will establish a new small business that adds to the diversity of the retail mix in the area, and will contribute to the overall vitality of the North Beach NCD.

9. **General Plan Findings.** Section 101.1(b) establishes eight priority planning policies and requires the review of permits for consistency with said policies:
- (1) That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced.

The Project would create a neighborhood-serving retail establishment that can provide employment opportunities for residents of the area.

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

The business would occupy an existing ground-floor tenant space. No housing units will be displaced by the Project. The Project will strengthen neighborhood character by adding to the retail diversity of the area and activating the adjacent sidewalk.

- (3) 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.

- (4) 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 area is well-served by public transportation.

- (5) 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.

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

The Project does not involve any construction activities that would compromise the structural integrity of the existing building.

- (7) That landmarks and historic buildings be preserved.

No exterior changes are proposed for the Project. Any future storefront alterations and signage would be required to comply with applicable preservation standards.

- (8) 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, would not impact any parks or open spaces or their access to sunlight.

12. 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. 2009.1079C** subject to the 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 approval of a Conditional Use Authorization application to the Board of Supervisors within thirty (30) days after the date of this Motion No. 18062. 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 94012.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on March 25, 2010.

Linda Avery
Commission Secretary

AYES: Miguel, Borden, Lee, Sugaya

NAYS: Moore, Olague

ABSENT: Antonini

ADOPTED: March 25, 2010

Exhibit A

Conditions of Approval

1. This authorization is to establish a Specialty Food, Self-Service use as defined in Planning Code Section 790.93, in general conformity with plans labeled Exhibit B, dated March 25, 2010.
2. The Project Sponsor shall obtain a building permit for this project within three (3) years from the date of this Conditional Use Authorization, and construction shall thereafter be pursued diligently to completion or the said authorization shall be deemed null and void. 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 within three years is delayed by a City, state or federal agency, or by appeal of the issuance of such permit.
3. No exterior alterations are permitted by this authorization. The Project Sponsor shall work with staff to ensure that all future exterior alterations, including signage, are consistent with the Secretary of Interior's Standards for Treatment of Historical Properties. Signage size shall be appropriate for the scale of the historic building, and materials and lighting shall be compatible with the historical character of the building.
4. Ground level storefronts shall be maintained in an attractive manner, providing transparency into the tenancy behind. Visibility of the commercial interiors and activity through all storefront windows shall be maintained in order to ensure that the ground level of the building remains visually active, provides visual interest to pedestrians, and enhances sidewalk security. Commercial interior layouts should be designed with these requirements in mind. Generally, storefront windows should not be visually obscured with the following: blinds, shades or curtains; shelving; equipment; darkly tinted, translucent or opaque film; painted, stenciled or adhesive signage applied to individual window surfaces that has an overall transparency of less than 50%, or any signage that covers more than 1/3 of the area of any individual window; full or partial height interior partition walls placed directly against or within 10 feet from the window glazing; or any other items that significantly block the vision of pedestrians through the storefront windows into the occupiable commercial space. Solid roll-down security gates shall not be installed in storefront openings. The property owner shall ensure that this condition of approval is incorporated into all commercial leases.
5. No alcoholic beverages shall be consumed on the premises.
6. The kitchen and storage areas of the establishment shall be utilized solely for the operation of the business authorized by this approval. Specifically, the kitchen and storage areas shall not be utilized by any adjacent restaurant or other types of business.

7. The proposed use of the subject property as a Specialty Food, Self-Service use shall be subject to inspections by the Planning Department in order to monitor the conditions of approval listed above. Conformed failure to comply with the conditions listed above will result in the initiation of enforcement action per Planning Code Section 176 and the assessment of administrative penalty fees of up to \$250 a day for every day the business does not adhere the mandated conditions. In addition the Planning Department shall seek to recover costs associated with bringing the use into compliance per Planning Code Section 305.
8. The operator of the establishment shall maintain the entrances and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at minimum, daily sweeping, litter pickup and disposal, and washing or steam/pressure cleaning of the main entrance and abutting sidewalks at least once every two weeks.
9. Noise and odors shall be regulated so as not to be a nuisance to nearby businesses or residents.
10. An enclosed waste storage area shall be provided within the establishment. All trash and recycling containers shall be kept within the building until pick-up by the disposal company.
11. Should monitoring of the Conditions of Approval of this Motion be required, the Project Sponsor shall pay fees as established in Planning Code Section 351(e)(1).
12. 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 are subsequently reported to the Zoning Administrator 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 in accordance with the hearing notification and conduct procedures as set forth in Sections 174, 306.3, and 306.4 of the code to consider revocation of this conditional use authorization.
13. The Project Sponsor shall assure the execution and recordation of the specified conditions as a Notice of Special Restrictions at the Office of the County Recorder / County Clerk.
14. **Informational Presentation.** Within six months of this approval, the Project Sponsor shall make an informational presentation to the Planning Commission regarding the status of the subject establishment. This presentation shall include information regarding the types and prices of products being produced and sold within the establishment.