



# SAN FRANCISCO PLANNING DEPARTMENT

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*Subject to: (Select only if applicable)*

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| <input type="checkbox"/> Inclusionary Housing (Sec. 315)         | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 313) | <input type="checkbox"/> Child Care Requirement (Sec. 314) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 139)            | <input type="checkbox"/> Other                             |

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## Planning Commission Motion 18111

HEARING DATE: JUNE 24, 2010

*Date:* June 17, 2010  
*Case No.:* **2010.0226C**  
*Project Address:* **1310 GRANT AVENUE**  
*Zoning:* North Beach Neighborhood Commercial District  
40-X Height and Bulk District  
*Block/Lot:* 0132/028  
*Project Sponsor:* Maxwell Beaumont  
Beaumont and Associates  
4050 Harlan Street  
Emeryville, CA 94608  
*Staff Contact:* Rick Crawford – (415) 558-6358  
[rick.crawford@sfgov.org](mailto:rick.crawford@sfgov.org)

**ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 780.3 AND 186.1(d) OF THE PLANNING CODE TO ALLOW THE REPLACEMENT OF A FULL-SERVICE RESTAURANT WITH A NEW FULL SERVICE RESTAURANT (D.B.A. NICO'S TACOS) WITHIN NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On March 31, 2010 Maxwell Beaumont of Beaumont Associates (Project Sponsor) filed an application with the Department for Conditional Use Authorization under Planning Code Sections 303, 780.3 and 186.1(d) to allow a new full service restaurant (d.b.a. Nico's Tacos) to replace another full service restaurant that closed business less than 3 years in the past (d.b.a. North Beach Pizza) within the North Beach Neighborhood Commercial District and a 65-A Height and Bulk District.

On June 24, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2010.0226C.

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. 2010.0226C, 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 east side of Grant Avenue between Vallejo and Green Streets within the North Beach Neighborhood Commercial District (NCD), North Beach Special Use District (SUD) and 40-X height and bulk district. The property is developed with a two-story mixed-use building with four ground floor commercial uses, including a clothing store and a hardware store, and a vacant space that would be occupied by the proposed full service restaurant. The subject property is a corner lot, with approximately 150 feet of frontage on Grant Avenue and 83.5 feet of frontage on Vallejo Street.
3. **Surrounding Properties and Neighborhood.** The project site is located near the intersection of Grant Avenue and Vallejo Street at the eastern edge of the North Beach NCD. The surrounding neighborhood is primarily comprised of two to three-story mixed use buildings to the north, south and west with primarily residential uses in apartment buildings and two-family dwellings to the east. Most of the surrounding property is within the North Beach NCD except farther south where the Chinatown Mixed use districts begin. The properties to the east are located within RM-1 (Residential Mixed, Low Density) and RM-2 (Residential Mixed Moderate Density) Districts.
4. **Project Description.** The applicant proposes to reestablish a full service restaurant in a 1,073 square foot space previously occupied by a full service restaurant that vacated the premises approximately 30 months prior to the new operator signing a lease for the new restaurant.
5. **Public Comment.** The Department has not received any comment from the public on this project. The Department has contacted a representative of Telegraph Hill Dwellers neighborhood association and the group has not taken a position on the proposal.

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 723.42 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 reestablish a 1,073 square foot Full Service Restaurant. The use is located on the ground floor of the building. The project will not alter the exterior of the building.*

- B. **North Beach Special Use District.** Section 780.3(a) of the Planning Code allows Full Service Restaurants in the North Beach Neighborhood Commercial district and establishes additional criteria for consideration by the Planning Commission. The Project complies with this Section as follows:

- i. The space occupied by the proposed Full Service Restaurant was not last occupied by a Basic Neighborhood Sales or Service use or by a permitted principal use Under Section 722 (North Beach Controls).

*The project complies with this criteria as the space to be occupied by the proposed Full Service Restaurant was last occupied by another Full Service Restaurant (d.b.a North Beach Pizza).*

- ii. The space occupied by the proposed Full Service Restaurant is not a vacant space last occupied by a nonconforming use or a permitted conditional use under Section 722 (North Beach Controls) that has been discontinued or abandoned for more than 3 years.

*The project complies with this criteria as the space to be occupied by the proposed Full Service Restaurant was last occupied by another Full Service Restaurant (d.b.a North Beach Pizza), a use permitted by conditional use. The previous occupant vacated the space in March 2007. The owner of the proposed new restaurant signed a lease for the space on September 1, 2009. Approximately 30 months past between the discontinuance of the previous restaurant use and the signing of the lease for the new restaurant.*

- iii. **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 would occupy 1,073 square feet of floor area in an existing building. Parking is not required for a restaurant use of this size.*

- iv. **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 18 feet of frontage on Grant Avenue with the entire frontage devoted to either the restaurant entrance or window space. The windows will be clear and unobstructed only by an "open" sign and menus for the restaurant. There are no changes proposed to the commercial frontage.*

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 an existing building and will not affect the building size, shape or arrangement on 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 remain the same and will not alter the existing appearance or character of the project vicinity. The minimal proposed interior work will not affect the building envelope.*

- 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 1,073 square-foot full-service restaurant. The proposed use is designed to meet the needs of the immediate neighborhood and should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide.*

- 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.*

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

*The proposed full-service restaurant does not require significant tenant improvements. The building is not setback from Grant Avenue and there is no space on the lot for landscaping.*

- 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 purpose 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 new restaurant will occupy a space that has been vacant since 2007 reducing the number of vacant storefronts in the District and enhancing the economic base of the community. The Project Site is located within a Neighborhood Commercial District and is thus consistent with activities in the commercial land use plan.*

**OBJECTIVE 2:**

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

**Policy 2.1:**

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

*The Project will reestablish a restaurant use in a space vacant since 2007 and will enhance economic activity in the neighborhood and 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 neighborhood serving commercial tenant would be displaced as the space is currently vacant and has been since 2007 and the project would not prevent the district from achieving optimal diversity in the types of goods and services available in the 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 will operate the restaurant. The proposed use is a neighborhood serving use. The proposed restaurant 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 would enhance the district by occupying a commercial space that has been vacant since 2007. The proposed restaurant complies with the restrictions of the North Beach Special Use District, occupies a space previously occupied by a Full Service Restaurant and would not contribute to any over concentration of restaurants in the District. The business would be locally owned and the project will not alter the existing building footprint or facade.*

- 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 proposal replaces a restaurant that closed in 2007.*

- 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 on Grant Avenue 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 opportunities. Ownership of industrial or service sector businesses will not be affected by this project.*

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

*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 constructed circa 1907 and is considered an historic resource. The project entails only interior alterations and will not change the exterior of the building. The project will not affect the building's value as an historic resource.*

- 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.*

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 both necessary and desirable as the project implements the requirements of the North Beach Special Use District and reduces the number of vacant storefronts in the District thereby enhancing the economic base of the community. 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. 2010.0226C** 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 18111. 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 June 24, 2010.

Linda D. Avery  
Commission Secretary

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

NAYS: none

ABSENT: none

ADOPTED: June 24, 2010



## Exhibit A

# Conditions of Approval

1. This authorization is for a Conditional Use Authorization under Planning Code Sections 303, 780.3 and 186.1(d) to allow a new full service restaurant to replace another full service restaurant that closed business less than 3 years in the past. (d.b.a. Nico's Tacos) at 1310 Grant Avenue within the North Beach Neighborhood Commercial District and a 65-A Height and Bulk District., in general conformance with plans filed with the Application as received on March 31, 2010 and stamped "EXHIBIT B" included in the docket for Case No. 2010.0226C, reviewed and approved by the Commission on June 24, 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 Block 0132, Lot 028), 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 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.