



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use

HEARING DATE: OCTOBER 28, 2010

Date: October 21, 2010
Case No.: **2007.1117 CEV**
Project Address: **1731 POWELL STREET**
Zoning: North Beach NCD (Neighborhood Commercial)
40-X Height and Bulk District
Block/Lot: 0101/004
Project Sponsor: Jorge Hernandez Mondragon
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San Rafael, Ca
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Staff Contact: Tim Frye – (415) 575-6822
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PROJECT DESCRIPTION

The Planning Commission granted Conditional Use Authorization for the proposed project in January 8, 2009. There is no change to the overall design and number of units proposed under the project. The only amendment requested is to change the Affordable Housing Program Requirement from constructing 4 off-site BMR units to paying the in-lieu fee. The approved project is as follows:

The applicant proposes to change the use of the theater to a full-service restaurant of approximately 4,000 square feet, additional ground-floor commercial of approximately 1,000 square feet, 18 residential units on the upper floors, and provide 27 off-street parking spaces. The Pagoda Theater officially closed in 1994 and the subject building has been vacant since.

New openings will be introduced on all elevations to allow for a residential use on the upper floors. A courtyard will be inserted on both the north and south elevations in order to provide additional light, air, and open space to the residential units. The ground floor will contain a residential entrance and off-street parking entrance and two retail commercial spaces – a 1,000 square foot space, and a space for La Corneta restaurant, of approximately 4,000 square feet but less than 3,999. The project does not propose any expansion of the existing building envelope.

The proposed restaurant use is intended to be the sister restaurant to La Corneta located within the Mission neighborhood. The proposed use is not a Formula Retail use and will apply for a type 47 (restaurant) liquor license in order to serve, beer, wine, and liquor. The proposal requires conditional use authorization as well as rear yard and exposure variances from the Zoning Administrator. Section 312-

neighborhood notification was conducted in conjunction with the Conditional Use Authorization process.

SITE DESCRIPTION AND PRESENT USE

The project is located on the southwest corner of the intersection of Columbus and Powell Streets, Block 0101, Lot 004. The property is located within the North Beach NCD (Neighborhood Commercial) District and within a 40-X height and bulk district. The property is historically known as the Palace and the Pagoda Theaters. The subject property is a corner lot, with approximately 40 feet of frontage on Columbus Street and 58 feet of frontage on Powell Street. The subject building has full lot coverage.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The project site is located at the intersection of Powell and Columbus Streets within the North Beach NCD and directly across the street from Washington Square Park. The North Beach NCD is a generally linear district situated along Columbus Avenue between Grant Avenue and Francisco Street. The District hosts a mixture of commercial establishments, but is heavily oriented toward full-service and small self-service restaurants. The surrounding area 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, residential units, or tourist-hotels. Other nearby uses include the Church of Saint Peter and Paul and the Saint Francis of Assisi Church. The surrounding properties are located within the RM-2 (Residential Mixed) District.

ENVIRONMENTAL REVIEW

The Project was determined by the San Francisco Planning Department (hereinafter "Department") to be categorically exempt from environmental review.

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	October 8,2010	October 6, 2010	22 days
Posted Notice	20 days	October 8,2010	October 8,2010	20 days
Mailed Notice	10 days	October 8,2010	October 8,2010	20 days

PUBLIC COMMENT

1. As of the date of this motion, the Department has received no new correspondence regarding the amended Conditional Use Authorization.

ISSUES AND OTHER CONSIDERATIONS

- There is no change to the proposed project other than a request to change the Affordable Housing Program Requirement from constructing 4 off-site BMR units to paying the in-lieu fee.

BASIS FOR RECOMMENDATION

The Proposed Project:

- The project promotes small-business ownership.
- The project is a neighborhood serving use.
- The District is well served by transit, therefore customers should not impact traffic.
- The size of the proposed use is in keeping with other storefronts on the block face and the use will compliment the mix of goods and services currently available in the district and contribute to the economic vitality of the neighborhood by rehabilitating a building that has been vacant for 14 years.

RECOMMENDATION: Approval with Conditions
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Attachments:

Notice
Photographs
Rendering

Attachment Checklist

- | | |
|---|---|
| <input checked="" type="checkbox"/> Executive Summary | <input checked="" type="checkbox"/> Project sponsor submittal |
| <input checked="" type="checkbox"/> Draft Motion | Drawings: <u>Existing Conditions</u> |
| <input type="checkbox"/> Environmental Determination | <input type="checkbox"/> Check for legibility |
| <input type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u> |
| <input type="checkbox"/> Height & Bulk Map | <input checked="" type="checkbox"/> Check for legibility |
| <input type="checkbox"/> Parcel Map | <input type="checkbox"/> Health Dept. review of RF levels |
| <input type="checkbox"/> Sanborn Map | <input type="checkbox"/> RF Report |
| <input checked="" type="checkbox"/> Aerial Photo | <input type="checkbox"/> Community Meeting Notice |
| <input type="checkbox"/> Context Photos | |
| <input type="checkbox"/> Site Photos | |

Exhibits above marked with an "X" are included in this packet

Planner's Initials

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SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|---|--|
| <input checked="" 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 Draft Motion

HEARING DATE: JANUARY 8, 2009

Date: January 1, 2009
Case No.: **2007.1117 CEV**
Project Address: **1731 POWELL STREET**
Zoning: North Beach NCD (Neighborhood Commercial)
40-X Height and Bulk District
Block/Lot: 0101/004
Project Sponsor: Russ Naylor
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ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 703.2 and 722 OF THE PLANNING CODE TO ALLOW A FULL-SERVICE RESTAURANT (D.B.A. LA CORNETA) AND THE CONVERSION OF A MOVIE THEATER USE TO RESIDENTIAL, PARKING, AND GROUND-FLOOR COMMERCIAL USES WITHIN THE NORTH BEACH NCD (NEIGHBORHOOD COMMERCIAL) DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On June 4, 2008 Russ Naylor (Project Sponsor) filed an application with the Department for Conditional Use Authorization to allow a full-service restaurant (d.b.a. La Corneta) and the conversion of a movie theater use within the North Beach NCD (Neighborhood Commercial) and a 40-X Height and Bulk District. Also on June 4, 2008 the Project Sponsor filed an application for variances from the Planning Code requirements for rear yard and dwelling unit exposure.

On January 8, 2009, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2007.1117CV.

On January 8, 2009, the Commission authorized Conditional Use approval for the proposed project, Motion # 17797 at a duly noticed public hearing on Conditional Use Application No. 2007.1117CV.

On October 28, 2010, the Commission re-authorized Conditional Use approval and amended the Below Market Rate (BMR) requirement from the constriction of off-site BMR units to payment of an Affordable Housing Fee to the Mayor's Office of Housing.

The Project was determined by the San Francisco Planning Department (hereinafter "Department") to be categorically exempt from environmental review. 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. 2007.1117C, 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 southwest corner of the intersection of Columbus and Powell Streets, Block 0101, Lot 004. The property is located within the North Beach NCD (Neighborhood Commercial) District and within a 40-X height and bulk district. The property is historically known as the Palace and the Pagoda Theaters. The subject property is a corner lot, with approximately 40 feet of frontage on Columbus Street and 58 feet of frontage on Powell Street. The subject building has full lot coverage.
3. **Surrounding Properties and Neighborhood.** The project site is located at the intersection of Powell and Columbus Streets within the North Beach NCD and directly across the street from Washington Square Park. The North Beach NCD is a generally linear district situated along Columbus Avenue between Grant Avenue and Francisco Street. The District hosts a mixture of commercial establishments, but is heavily oriented toward full-service and small self-service restaurants. The surrounding area 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, residential units, or tourist-hotels. Other nearby uses include the Church of Saint Peter and Paul and the Saint Francis of Assisi Church. The surrounding properties are located within the RM-2 (Residential Mixed) District.

4. **Project Description.** The applicant proposes to change the use of the theater to a full-service restaurant of approximately 4,000 square feet, additional ground-floor commercial of approximately 1,000 square feet, 18 residential units on the upper floors, and provide 27 off-street parking spaces. The Pagoda Theater officially closed in 1994 and the subject building has been vacant since.

New openings will be introduced on all elevations to allow for a residential use on the upper floors. A courtyard will be inserted on both the north and south elevations in order to provide additional light, air, and open space to the residential units. The ground floor will contain a residential entrance and off-street parking entrance and two retail commercial spaces – a 1,000 square foot space, and a space for La Corneta restaurant, of approximately 4,000 square feet but less than 3,999. The project does not propose any expansion of the existing building envelope.

The proposed restaurant use is intended to be the sister restaurant to La Corneta located within the Mission neighborhood. The proposed use is not a Formula Retail use and will apply for a type 47 (restaurant) liquor license in order to serve, beer, wine, and liquor. The proposal requires conditional use authorization as well as rear yard and exposure variances from the Zoning Administrator. Section 312-neighborhood notification was conducted in conjunction with the Conditional Use Authorization process.

Public Comment. As of the date of this revised motion, the Department has

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

- A. **Height.** Planning Code Section 260 requires that all structures be no taller than the height prescribed in the subject height and bulk district. The proposed Project is located in a 40-X height and bulk district, with a 40-foot height limit.

The Project does not propose to increase the height of the subject building.

- B. **Bulk.** Planning Code Section 270 limits the bulk of buildings and structures, and assigns maximum plan dimensions. The proposed Project is located in a 40-X height and bulk district, with an "X" bulk control.

Planning Code Section 270 does not regulate bulk dimensions for sites with "X" controls.

- C. **Floor Area Ratio (FAR)** Planning Code Section 124 limits the building square footage to 1.8 square feet of building area for every 1 square foot of lot area, or approximately 21,300 square feet of building area for the subject site.

The FAR limits do not apply to dwellings or to other residential uses in NC Districts, nor do they apply to non-accessory off-street parking. The Project includes a total of approximately 5,000 square feet of ground floor commercial space, and is therefore well within the allowed FAR.

- D. **Open Space.** Section 135 of the Planning Code requires a minimum of 60 square feet of private open space for each residential unit or approximately 80 square feet of common open space per unit within the North Beach NCD.

All of the 18 units will have access to private terraces that meet the Code requirements for private useable open space. The project will create 4,855 square feet of private open space, exceeding the minimum required amount of private open space of 1,080 square feet.

- E. **Exposure.** Planning Section 140(a)(2) of the Planning Code requires each unit to face directly onto a public street or an open area (whether an inner court or a space between separate buildings on the same lot) which is unobstructed and is no less than 25 feet in every horizontal dimension for the floor at which the dwelling unit is located and the floor immediately above it, with an increase of five feet in every horizontal dimension at each subsequent floor.

The Project Sponsor requests a variance from the Code requirements for exposure for Units 15-18. These units are located at the 3rd- and 4th-Floors and face onto the inner courtyards proposed to be inserted on the north and south of the subject building. These courtyards measure 25-feet in every direction. In order to comply with the Code, the courtyards would have to be expanded to 30-feet at the 3rd-floor and 35-feet at the 4th-floor.

- F. **Rear Yard.** Section 134(e)(1) of the Planning Code states that the rear yard requirements within Neighborhood Commercial area may be waived or modified by the Zoning Administrator provided that the following criteria are met:

1. Residential uses are included in the development and a comparable amount of open space is provided elsewhere on the lot and is accessible to residents.
2. The development will not significantly impede the access of light and air to and views from adjacent properties; and,
3. The development will not adversely impact the interior mid-block open space.

To be considered code-compliant the Project requires a rear yard of approximately 3,026 square feet. The Project, however, meets the criteria as listed above by providing private open space for all units totaling 4,855 square feet. The existing building has full lot coverage and the development will not adversely impact light, air and views to adjacent properties or any existing mid-block open space.

- G. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code requires that NC Districts containing specific uses 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 commercial space has approximately 100-feet of frontage on Columbus and Powell Streets with the majority devoted to either the retail entries or window space. The windows are clear and unobstructed.

- H. **Parking.** Section 151 of the Planning Code requires one off-street parking for every residential unit and requires eating and drinking establishments to provide one parking space for every 200 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.

The occupied floor area of the proposed restaurant is less than 5,000 square feet; therefore the restaurant use within the Project is not required to provide parking.

The proposal shall provide 27 unbundled off-street parking spaces, including 10 spaces provided through stackers. The number of spaces provides one for each residential unit and 50% accessory as allowed per the Code.

- I. **Bicycle Parking.** Section 155.2(c)(1) of the Planning Code requires every garage to supply a minimum of six bicycle parking spaces regardless of the number of automobile spaces available.

The Project will provide secured storage for 6 bicycles adjacent within the garage for bicycle parking.

- J. **Street Trees.** Section 143 of the Planning Code requires that a minimum of one tree of 15-gallon size for each 20 feet of frontage of the property along each street or alley shall be installed in the case of the construction of a new building,

Street trees exist along the street frontage and these existing trees will be protected during construction.

- K. **Shadow.** Planning Code Section 295 generally does not permit new buildings over 40-feet in height to cast new shadows on a property owned and operated by the Recreation and Park Commission.

A shadow fan analysis concluded that the Project would not create any new shade on any Recreation and Park Commission properties protected under Section 295.

- L. **Affordable Housing Program.** Planning Code Section 415¹ (formerly Code Section 315) sets forth the requirements and procedures for the Affordable Housing Program. On February 2, 2010, the Board of Supervisors adopted Interim Controls contained in Board of Supervisors'

¹ On May 18, 2010 the Board of Supervisors finally passed Ordinance No. 108-10 (Board of Supervisors File No. 091275). Among other things Ordinance No. 08-10 created a new Article IV in the Planning Code and changed the numbering of most development impact and in lieu fees including the fee in the Affordable Housing Program. When Ordinance No. 108-10 becomes effective (on or about June 25, 2010, the Affordable Housing Program will become Planning Code Section 415 et seq. All references herein to Section 315 shall then mean Section 415.

Resolution No. 36-10 (BOS File No.100047) entitled "Planning Code – Interim Controls Related to Affordable Housing Requirements" (the "Affordable Housing Ordinance"), the requirements of the Interim Controls apply to this Project. Under Planning Code Section 415.3 (formerly Code Section 315.3), these requirements would apply to projects that consist of five or more units, where the first application (EE or BPA) was applied for on or after July 18, 2006. Pursuant to Planning Code Section 415.7 (formerly Code Section 315.4), the Project must pay the Affordable Housing Fee ("fee"). This fee is made payable to the Treasurer for use by the Mayor's Office of Housing for the purpose of constructing the required housing at an alternate site providing .20 times the total number of units as affordable off-site units.

The Project Sponsor has submitted a Declaration of Intent to satisfy the requirements of the Affordable Housing Ordinance through payment of the fee, in an amount to be established by the Mayor's Office of Housing. The project sponsor has not selected an alternative to payment of the fee. The EE application was submitted on September 25, 2007.

The Project Sponsor has opted to pay an Affordable Housing Fee equivalent to 20% of the total units proposed under the project. This translates to a total of 4 off-site BMR units.

- M. **Signage.** Currently, there is not a developed sign program on file with the Planning Department; however, the **Historic Movie Theater & Blade Signs Code Amendment**, effective Nov. 30, 2008, enables the rehabilitation, preservation, reconstruction, and restoration of historic movie theater marquees and projecting blade signs. Article 6 of the Planning Code identified many of these features to be non-complying.

The Project Sponsor has indicated, shown in the proposed plans, that the existing historic blade sign will be rehabilitated in compliance with the new legislation and any other Planning Department requirements.

- N. **North Beach NCD Zoning Control Amendments:** Effective Dec. 1, 2008, this legislation does several things, including the establishment of strict controls for new restaurants & bars in North Beach

With the Planning Commission's Recommendation, the Board of Supervisors allowed this specific Project to be grandfathered under the previous North Beach NCD Code requirements.

- O. **Loading.** Section 152 requires off-street freight loading for uses above a certain size. Eating and drinking establishments up to 10,000 square feet in gross floor area are not required to provide off-street freight loading.

With a gross floor area of under 10,000 square feet, the Project is not required to provide off-street loading. There are nearby yellow zones that can be used for deliveries.

- P. **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. The proposed location would be a sister restaurant to the La Corneta Restaurant in the Mission.

- Q. **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.

- R. **Use Size.** Sections 722 and 121.2(a) establishes size limits on nonresidential uses in all NCDs. In the North Beach NCD, conditional use authorization is required for any nonresidential use that exceeds 1,999 square feet.

The existing restaurant measures approximately, but no more than 3,999 square feet. The Project Sponsor is requesting conditional use authorization for the proposed use size. New non-residential uses equal to or greater than 4,000 are not permitted.

6. **Planning Code Section 303.** Specifically, the Project requires Conditional Use Authorization per 703.2 & 303(k) to change the use of the existing neighborhood theater; per 722.42 to establish a full-service restaurant with the North Beach NCD; per 722.41 to establish a full bar within the North Beach NCD; per 722.21 and 121.2 to allow a non-residential use between 2,000 square feet and 5,000 square feet.

Section 303 of the Planning Code 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 size of the proposed use is in keeping with other storefronts on the block face. The proposed full-service restaurant will not impact traffic or parking in the District because it is not a destination restaurant. This will compliment the mix of goods and services currently available in the district and contribute to the economic vitality of the neighborhood by rehabilitating a building that has been vacant for 14 years.

- 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 proposed work is compatible in its overall massing, size, scale, and architectural features with the neighborhood and its immediate neighbors.

- 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 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 proposed use is subject to the standard conditions of approval for full-service restaurants as shown in Exhibit A. These conditions specifically obligate the project sponsor to mitigate odor and noise generated by the restaurant use.

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

The Department shall review all lighting and signs proposed for the new business in accordance with Condition 7 of Exhibit A.

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

Pending Zoning Administrator approval for the requested variances for rear yard and exposure, 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 purposes of The North Beach NCD in that the intended restaurant use is located at the ground floor, and will provide a compatible convenience service for the immediately surrounding neighborhoods during daytime hours.

- 7. **Planning Code Section 303(k)** establishes criteria for the Planning Commission to consider when reviewing applications for a change in use or a demolition of a movie theater Conditional Use approval. On balance, the project does comply with said criteria in that:

- A. Preservation of a movie theater use is no longer economically viable and cannot effect a reasonable economic return to the property owner.

The existing theater has been closed since 1994, and has been completely gutted of all features. To rehabilitate and return the structure into an operating theater would require a substantial investment.

- B. The change in use or demolition of the movie theater use will not undermine the economic diversity and vitality of the surrounding Neighborhood Commercial District.

As stated above, the existing theater has been closed since 1994. There are no other neighborhood-serving theaters within close proximity; however, the lack of a theater over the last 14 years has not impacted the diversity and vitality of the North Beach Neighborhood Commercial District.

- C. The resulting project will preserve the architectural integrity of important historic features of the movie theater use affected.

The existing theater has been completely gutted of all interior features. Aside from the projecting blade sign, all other exterior historic character-defining features have been removed. The Project Sponsor proposes to rehabilitate the blade sign, which is the one architecturally significant element remaining from the historic theater use.

8. **Planning Code Section 121.2** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval for a non-residential use between 2,000 square feet and 3,999 square feet within the North Beach NCD. On balance, the project does comply with said criteria in that:

1. The intensity of activity in the district is not such that allowing the larger use will likely to foreclose the location of other needed neighborhood-serving uses in the area;

The proposed restaurant is not a destination eating establishment, but a neighborhood-serving facility. While there are a number of full-service restaurants within the North Beach NCD, the Department believes that a full-service Mexican restaurant will help diversify the collection of eating establishments within the District.

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

The proposed use is designed to meet the needs of the immediate neighborhood and visitors alike. The building's existing envelope has full lot coverage and the proposal is to accommodate the potential number of customers generated from an area with a very high level of foot traffic. Of note, a large portion of the new use is devoted to outdoor dining space that does not encroach on the narrow public right-of-way.

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

The project design respect the overall character, massing, and scale of the district. It follows the Art Deco and Moderne motifs found on other buildings within the neighborhood and its massing

and scale is identical to its previous use as a movie theater. The historic blade sign will be rehabilitated as part of the proposal and will continue as a prominent visual landmark within the North Beach NCD.

9. **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.

The Project will rehabilitate the existing structure to accommodate an additional 5,000 square feet of commercial/retail space in a building that has been vacant for over 14 years.

Policy 1.2:

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

The Project is located in an ideal location for a mixed-use structure. It is located within a thriving commercial area that is well served by public transit and experiences a high level of foot traffic.

Policy 1.3:

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

The proposed ground-floor commercial space shall provide goods and services to the neighborhood and shall provide resident employment opportunities to those in the community. Further, 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 increase the amount of commercial activity where a building shell has been unoccupied and boarded for over 14 years. Its rehabilitation will enhance the diverse economic base of the City.

OBJECTIVE 6:

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

Policy 6.1:

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

No commercial tenant would be displaced and the project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.

The following guidelines, in addition to others in this objective for neighborhood commercial districts, should be employed in the development of overall district zoning controls as well as in the review of individual permit applications, which require case-by-case review and City Planning Commission approval. Pertinent guidelines may be applied as conditions of approval of individual permit applications. In general, uses should be encouraged which meet the guidelines; conversely, uses should be discouraged which do not.

Eating and Drinking Establishments

Eating and drinking establishments include bars, sit-down restaurants, fast food restaurants, self-service restaurants, and take-out food. Associated uses, which can serve similar functions and create similar land use impacts, include ice cream stores, bakeries and cookie stores. Guidelines for eating and drinking establishments are needed to achieve the following purposes:

- Regulate the distribution and proliferation of eating and drinking establishments, especially in districts experiencing increased commercial activity;
- Control nuisances associated with their proliferation;
- Preserve storefronts for other types of local-serving businesses; and
- Maintain a balanced mix of commercial goods and services.
- The regulation of eating and drinking establishments should consider the following:
 - Balance of retail sales and services;
 - Current inventory and composition of eating and drinking establishments;

- Total occupied commercial linear frontage, relative to the total district frontage;
- Uses on surrounding properties;
- Available parking facilities, both existing and proposed;
- Existing traffic and parking congestion; and
- Potential impacts on the surrounding community.

There is a concern with the potential over-concentration of food-service establishments in North Beach. The Commerce and Industry Element of the General Plan contains Guidelines for Specific Uses. For eating and drinking establishments, the Guidelines state, "the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage." New legislation for the North Beach NCD provides stricter control over eating and drinking establishments and bona-fide restaurants. With the Planning Commissions recommendation, the Board of Supervisors grandfathered the proposed project under the old controls for the North Beach NCD.

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 is not a Formula Retail use.

URBAN DESIGN ELEMENT OBJECTIVES AND POLICIES

Objectives and Policies

OBJECTIVE 1:

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE AND A MEANS OR ORIENTATION.

Policy 1.1:

Promote harmony in the visual relationships and transitions between new and older buildings.

The Project proposes a well-designed structure that captures the character and vitality of the North Beach Neighborhood Commercial District, and the Washington Square Historic District in a contemporary idiom through its use of materials, massing, scale, and details similar to those adjacent buildings that characterize the district.

Policy 1.3:

Recognize that buildings, when seen together, produce a total effect that characterizes the City and its districts.

The Project design expresses the character of the overall district; it is consistent with the historical pattern of development and has been found to meet the Secretary of the Interior's Standards for infill construction within a historic district, (Standard 9.)

OBJECTIVE 2:

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

Policy 2.4:

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

The subject building was not found to be a historic resource due to lack of integrity; however, the overall massing and form of the former theater, including the historic blade sign, are important visual reminders of the building's historic use and are to be retained and rehabilitated as part of the proposal.

NEIGHBORHOOD ENVIRONMENT

Objectives and Policies

OBJECTIVE 1:

TO PROVIDE A QUALITY LIVING ENVIRONMENT.

Policy 1.2:

Allow appropriate neighborhood-serving commercial activities in residential areas.

The Project has the potential to bolster the vitality of the North Beach Neighborhood Commercial District by activating an important corner within the district where a building has been vacant for over 14 years. It is located within a thriving commercial area that is well served by public transit and experiences a high level of foot traffic.

Policy 1.4:

Promote construction of well designed housing that conserves existing neighborhood character.

The Project proposes a well-designed structure that captures the character and vitality of the North Beach Neighborhood Commercial District, and the Washington Square Historic District in a contemporary idiom through its use of materials, massing, scale, and details similar to those adjacent buildings that characterize the district.

TRANSPORTATION ELEMENT – PEDESTRIAN ENVIRONMENT

Objectives and Policies

OBJECTIVE 24:

IMPROVE THE AMBIENCE OF THE PEDESTRIAN ENVIRONMENT.

Along the Powell and Columbus Street frontages the project sponsor will activate the ground-floor of the building where pedestrians have passed by a dormant building.

ENVIRONMENTAL PROTECTION ELEMENT – TRANSPORTATION

Objectives and Policies

OBJECTIVE 15:

INCREASE THE ENERGY EFFICIENCY OF TRANSPORTATION AND ENCOURAGE LAND USE PATTERNS AND METHODS OF TRANSPORTATION WHICH USE LESS ENERGY.

Policy 15.3 - Encourage an urban design pattern that will minimize travel requirements among working, shopping, recreation, school and childcare areas.

The proposed project will serve this Objective and Policy because the project site is extremely well-served by public transit.

RESIDENCE ELEMENT

Objectives and Policies

OBJECTIVE 1:

TO PROVIDE NEW HOUSING, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE HOUSING CREATED BY EMPLOYMENT GROWTH.

Policy 1.4:

Locate infill housing opportunities on appropriate sites in established neighborhoods.

The project site is a good location for infill housing. Approximately 50% of the units proposed will be 2-bedrooms units; 40% will be 3-bedroom units; and the remaining 10% will be 01-bedroom units. The Project is within the North Beach Neighborhood Commercial District, which has a diverse and thriving variety of neighborhood-serving businesses and destination venues.

OBJECTIVE 2:

TO INCREASE THE SUPPLY OF HOUSING WITHOUT OVERCROWDING OR ADVERSELY AFFECTING THE PREVAILING CHARACTER OF EXISTING NEIGHBORHOODS.

Policy 2.3:

Allow flexibility in the number and size of units with permitted volumes of larger multi-unit structures, especially if the flexibility results in creation of a significant number of dwelling units that are permanently affordable to lower income households.

The North Beach Neighborhood Commercial District is well served by public transportation and is located near many neighborhood-serving establishments. Corner properties along important commercial and transit corridors, such as this Project, shall provide units that can accommodate larger household. The Project Sponsor has opted to provide an Affordable Housing Fee to the Mayor's Office on Housing.

OBJECTIVE 12:
PROVIDE A QUALITY LIVING ENVIRONMENT.

Policy 12.1:
Assure housing is provided with adequate public improvements, services and amenities.

The Project will provide protect the existing street trees along Powell and Columbus Streets, pursuant to Section 143 of the Planning Code. The Project is located within a vibrant and diverse neighborhood commercial district that provides a variety of required services and amenities.

Policy 12.4:
Promote the development of well designed housing.

The Project design is well-suited for the site and the neighborhood. The design respects the existing neighborhood's mixed-use character and provides an interesting mix of materials in a contemporary style.

10. **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 providing a full-service restaurant and would be locally owned. It will create more employment opportunities for the community. The proposed alterations are within the existing building footprint.

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 units in the surrounding neighborhood would not be adversely affected. The proposed project would activate the corner of Powell and Columbus Streets by returning a building to lively use after being shuttered for 14 years.

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

The project creates 18 new residential units and the Project Sponsor will pay an Affordable Housing Fee.

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

The site is well served by transit. It is presumable that the employees would commute by transit thereby mitigating possible impacts on street parking. The Project Sponsor has discussed with the MTA any proposed plan for the immediate area and the MTA stated that at this time they have no significant plans for the general area other than the extraction of the boring machine from the Central Subway Project on Columbus Avenue, adjacent to Washington Square. Any other transportation and circulation issues have been addressed and mitigation, if applicable, has been developed within the Environmental Review document associated with this project.

- 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 is designed and will be constructed to conform to the structural and seismic safety requirements of the City Building Code. This proposal will not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

The subject building was not found to be a historic resource due to lack of integrity; however, the overall massing and form of the former theater, including the historic blade sign, are important visual reminders of the building's historic use and are to be retained and rehabilitated as part of the proposal.

The Project design expresses the character of the overall Washington Square Historic District; it is consistent with the historical pattern of development and has been found to meet the Secretary of the Interior's Standards for infill construction within a historic district, (Standard 9.)

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

The project will have no negative impact on existing parks and open spaces. The Project does not have an impact on open spaces.

11. 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.
12. 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. 2007.1117C** 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. XXXXX. 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 XXXXXX.

Linda D. Avery
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED:

Exhibit A

Conditions of Approval

Whenever "Project Sponsor" is used in the following conditions, the conditions shall also bind any successor to the Project or other persons having an interest in the Project or underlying property.

General Conditions

1. This authorization is for a Conditional Use Authorization under Planning Code Sections 303, 703.2, and 722 of the Planning Code to allow the change of use of a movie theater and a full-service restaurant (d.b.a. La Corneta) at 1731 Powell Street within the North Beach NCD (Neighborhood Commercial) and a 40-X Height and Bulk District, in general conformance with plans filed with the Application as received on December 30, 2008 and stamped "EXHIBIT B" included in the docket for **Case No. 2007.1117C**, reviewed and approved by the Commission on January 8, 2009.
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 0101, Lot 004), 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. 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.

Design

4. The final plans shall meet the all conditions of approval and any granted applicable variances from the Planning Code and in general conformity with the plans approved by the Commission on January 8, 2009 as Exhibit B found in the Case docket.
5. The project sponsor shall continue to work with Planning Department staff on the details of the design of the project.
6. All signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed.

7. The rehabilitation of the historic blade sign shall comply with the Secretary of the Interior's Standards for Rehabilitation. All repair sections, details, finishes, and the final method of illumination shall be subject to Planning Department review and approval prior to the approval of the architectural addendum.

Housing

8. The Project's dwelling units shall not be marketed for time-share or short-term transient use. No residential units shall be used as hotel units.

Below Market Rate Units (BMR Units)

9. **Requirement.** Pursuant to Planning Code 415.7 (formerly Code Section 315.4), the Project Sponsor must pay an Affordable Housing fee at a rate equivalent to the applicable percentage of the number of units in the principle project to satisfy the Affordable Housing Requirement. The applicable percentage for this project is twenty percent (20%).
10. **Other Conditions.** The Project is subject to the requirements of the Affordable Housing Program under Section 415 et seq. of the Planning Code (formerly Code Section 315) including the Interim Controls contained in Board of Supervisors' Resolution No. 36-10 (BOS File No. 100047) entitled "Planning Code – Interim Controls Related to Affordable Housing Requirements" adopted on February 2, 2010 and the terms of the Residential Affordable Housing Monitoring and Procedures Manual (hereinafter "Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415 (formerly Code Section 315) (collectively the "Affordable Housing Ordinance"). Terms used in these Conditions of Approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the Mayor's Office of Housing at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing's websites, including on the internet at: <http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>. As provided in the Affordable Housing Ordinance, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale.
 - a. The project sponsor must pay the fee in full sum to the Development Fee Collection Unit at the Department of Building Inspection for use by MOH prior to the issuance of the first construction document, with an option for the project sponsor to defer payment to prior to issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge that would be deposited into the Citywide Affordable Housing Fund in accordance with Section 107A.13.3 of the San Francisco Building Code.
 - b. Prior to the issuance of the first site or building permit by the DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that records a copy of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to the Mayor's Office of Housing or its successor.

- c. If project applicant fails to comply with the Affordable Housing requirement, the Director of Building Inspection shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A project applicant's failure to comply with the requirements of Planning Code Sections 415 et seq. (formerly Code Section 315) shall constitute cause for the City to record a lien against the development project.
- d. **Future Applicable Controls:** If the Interim Controls contained in Board of Supervisors Resolution No. 36-10 (BOS File No. 100047) entitled "Planning Code – Interim Controls Related to Affordable Housing Requirements" or permanent controls in substantially similar form to those contained in BOS File No. 100046 entitled "Planning Code – Amending Inclusionary Housing Ordinance" proposing amendments to Planning Code Section 415 et seq. (formerly Code Section 315) (collectively "applicable future controls") are approved by the Board of Supervisors prior to issuance of the first certificate of occupancy for the Project, the Project shall be subject to the applicable future controls and not the current provisions of Planning Code Section 415 et seq. (formerly Code Section 315).

Parking

11. All off-street parking provided to fulfill the requirement for residential units shall be leased or sold separately from the rental or purchase fees for dwelling units for the life of the dwelling units.
12. The parking spaces must be marketed and sold or leased as an addition to, not a subtraction from, the base purchase or rental price of a dwelling unit, and units may not be marketed or offered as a bundled package that includes parking without clear accompanying language that the parking is available only at additional cost. No conditions may be placed on the purchase or rental of dwelling units, nor may homeowner's rules be established, which prevent or preclude the separation of parking spaces from dwelling units
13. Renters or buyers of on-site inclusionary affordable units provided pursuant to Section 315 shall have an equal opportunity to rent or buy a parking space on the same terms and conditions as offered to renters or buyers of other dwelling units, subject to procedures adopted by the Planning Commission notwithstanding any other provision of Section 315 et seq.
14. No less than one (1) car share space shall be made available, at no cost, to a certified car share organization for the purposes of providing car share services for its car share service subscribers pursuant to Planning Code Section 166.
15. The project will provide not less than 6 bicycle parking spaces, pursuant to Planning Code Section 155.5.

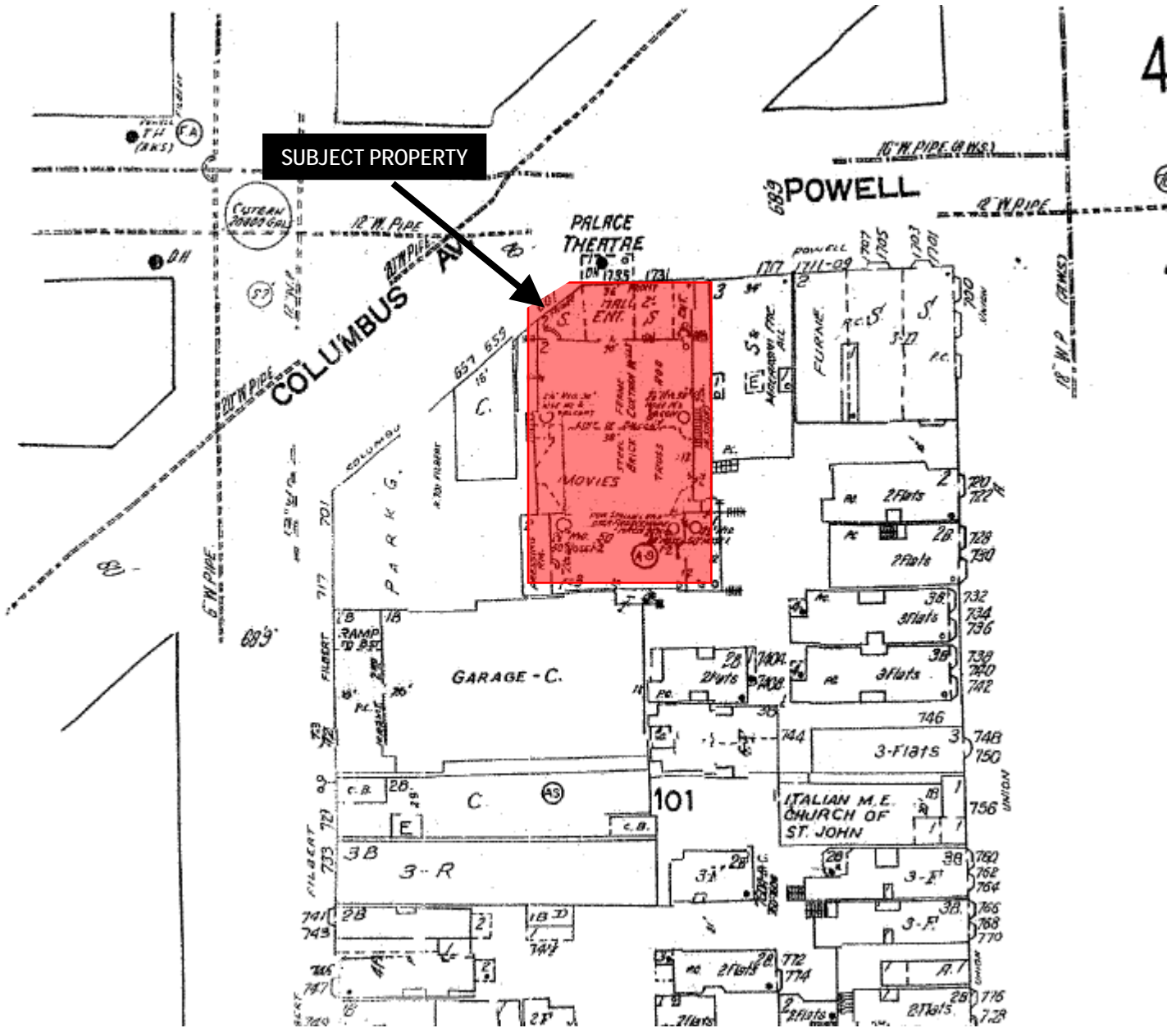
Restaurant & Commercial Uses

16. 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.

17. The Project Sponsor shall maintain the storefront by providing visibility of the commercial interior s through the storefront windows.
18. 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.
19. The project sponsor shall maintain appropriate odor control equipment to prevent any significant noxious or offensive kitchen odors from escaping the premises.
20. 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.
21. Refuse containers shall be provided both inside and outside the establishment for use by patrons of the restaurant. The operator of the use shall be responsible for maintaining the sidewalk within a one-block radius of the site free of paper or litter generated by the restaurant.
22. Space for the collection and storage of garbage shall be provided within enclosed areas on the property. Garbage containers shall be kept inside buildings, and placed outside only when being serviced by the disposal company. Space for the collection and storage of recyclable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program, shall be provided at the ground level of the buildings.

Sanborn Map*



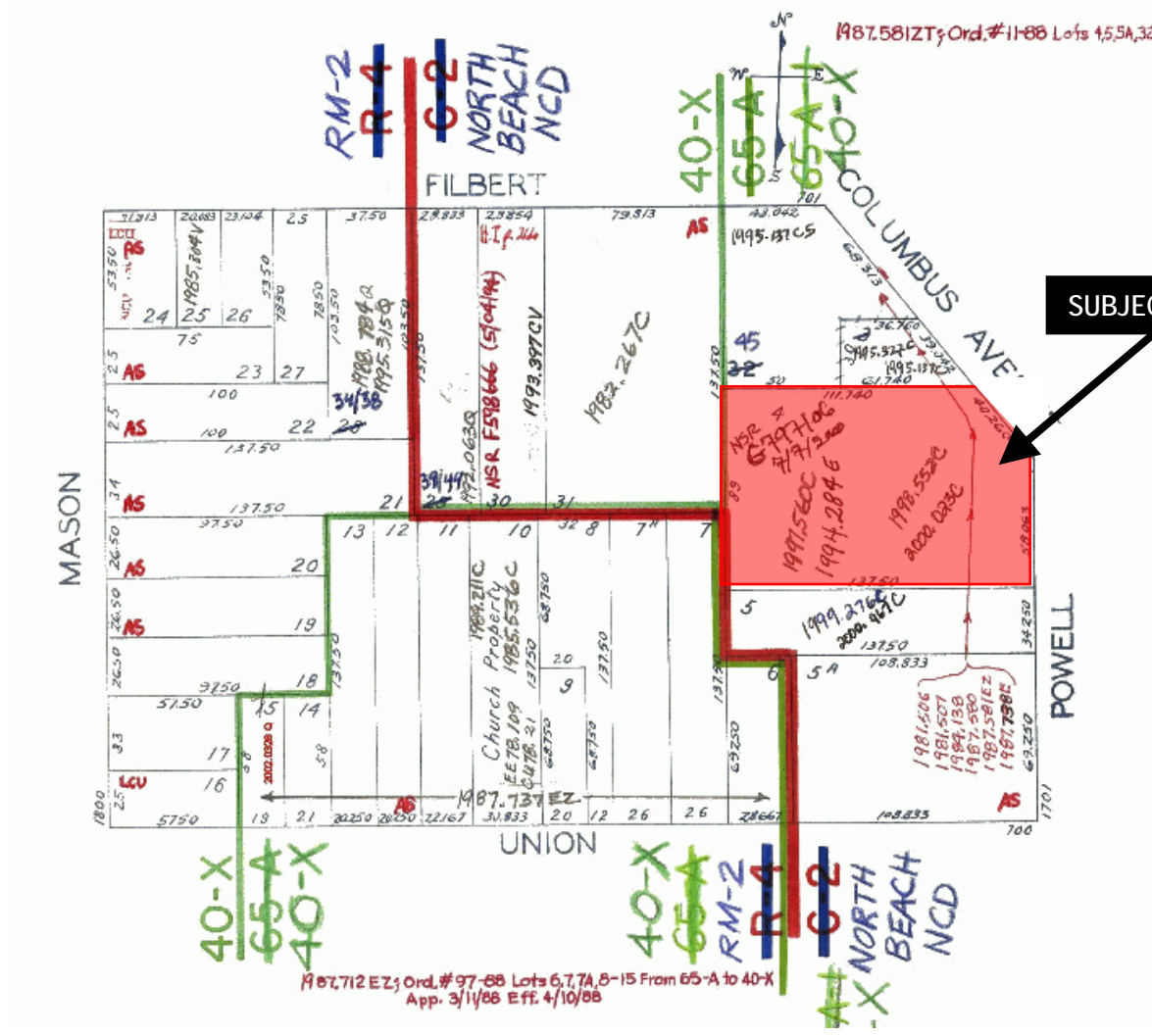
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*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.



Conditional Use Hearing
Case Number 2007.1117CV
1731 Powell Street

Parcel Map

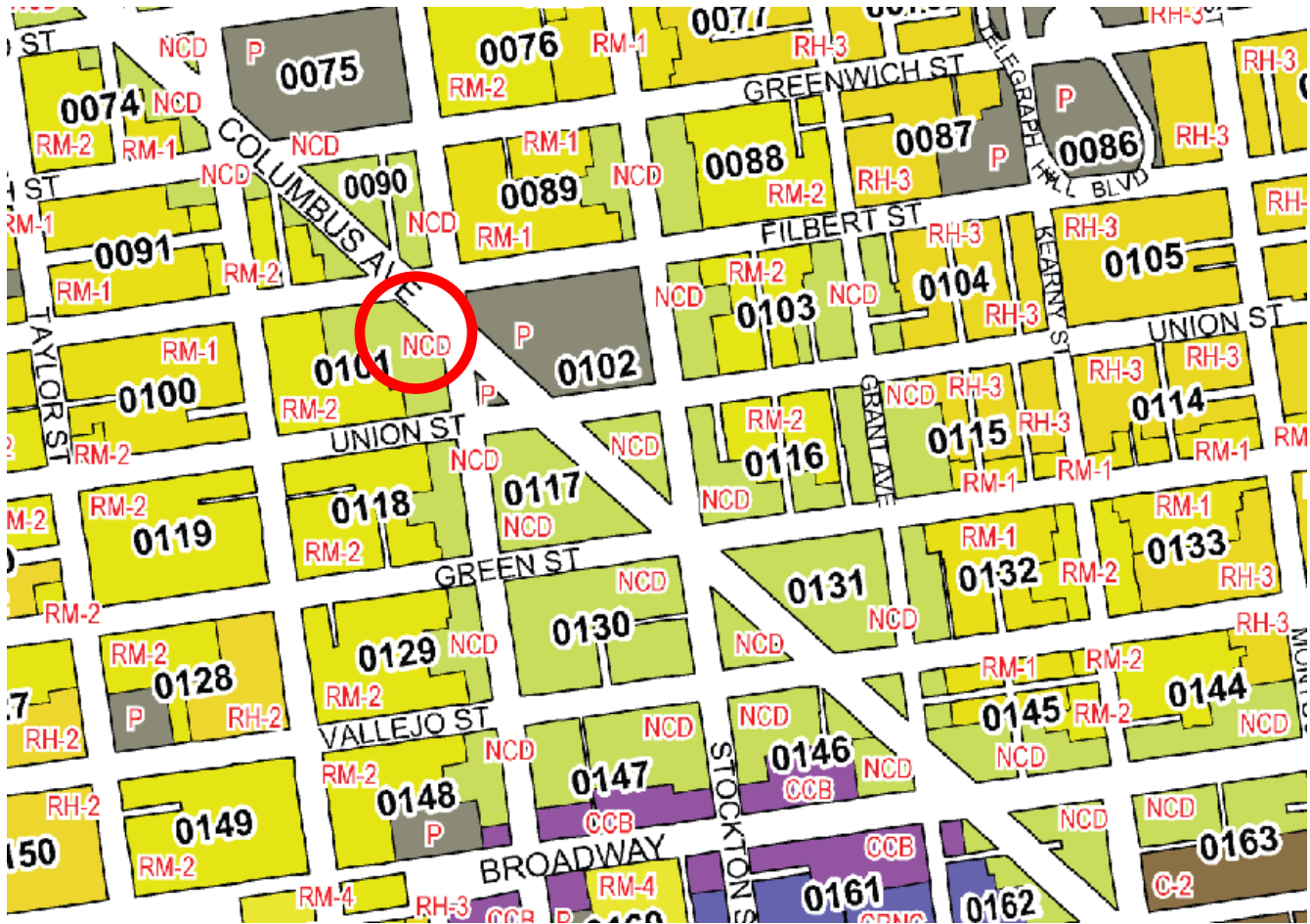


SUBJECT PROPERTY



Conditional Use Hearing
 Case Number 2007.1117CV
 1731 Powell Street

Zoning Map



ZONING USE DISTRICTS

RESIDENTIAL, HOUSE DISTRICTS

RH-1(D) RH-1 RH-1(S) RH-2 RH-3

RESIDENTIAL, MIXED (APARTMENTS & HOUSES) DISTRICTS

RM-1 RM-2 RM-3 RM-4

NEIGHBORHOOD COMMERCIAL DISTRICTS

NC-1 NC-2 NC-3 NCD NC-S

SOUTH OF MARKET MIXED USE DISTRICTS

SPD RED RSD SLR SLI SSO

COMMERCIAL DISTRICTS

C-2 C-3-S C-3-G C-3-R C-3-O C-3-O(SD)

INDUSTRIAL DISTRICTS

C-M M-1 M-2

CHINATOWN MIXED USE DISTRICTS

CRNC CVR CCB

RESIDENTIAL-COMMERCIAL DISTRICTS

RC-3 RC-4

REDEVELOPMENT AGENCY DISTRICTS

MB-RA HP-RA

DOWNTOWN RESIDENTIAL DISTRICTS

RH DTR TB DTR

MISSION BAY DISTRICTS

MB-OS MB-O

PUBLIC DISTRICT

P



Conditional Use Hearing
Case Number 2007.1117CV
1731 Powell Street

Aerial Photo



SUBJECT PROPERTY



Conditional Use Hearing
Case Number 2007.1117CV
1731 Powell Street

Site Photo



Conditional Use Hearing
Case Number 2007.1117CV
1731 Powell Street

Site Photo



Conditional Use Hearing
Case Number 2007.1117CV
1731 Powell Street

Site Photo



Conditional Use Hearing
Case Number 2007.1117CV
1731 Powell Street

Site Photo



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SUBMITTAL:

#	DATE	ISSUE
1	08/01/15	ENTITLEMENT
2	08/11/15	REVISIONS
3	08/12/15	REVISIONS

SHEET:

RENDERED
 PERSPECTIVE

A.600

SCALE: NTS

NOT ISSUED FOR CONSTRUCTION

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