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Planning Commission Motion No. 17551

Hearing Date: February 14, 2007
Case No.: **2007.0827C**
Project Address: **1760 Polk Street**
Zoning: Polk Street Neighborhood Commercial District
65-A Height and Bulk District
Block/Lot: 0620/020
Project Sponsor: Vladimir Abramov
1760 Polk Street
San Francisco, CA 94109
Staff Contact: Amnon Ben-Pazi – (415) 575-9077
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Reviewed By: Adam Light – (415) 558-6254
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ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION FOR THE ADDITION OF A FULL BAR USE TO AN EXISTING FULL-SERVICE RESTAURANT (D.B.A “LA PARRILLA GRILL”) AT 1760 POLK STREET ON ASSESSOR’S BLOCK 0620, LOT 020, LOCATED WITHIN THE POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT AND A 65-A HEIGHT AND BULK DISTRICT.

RECITALS

1. On July 31, 2007, Vladimir Abramov (Project Sponsor) applied for a Conditional Use, Application No. 2007.0827C, on the property at 1760 Polk Street, Lot 020 in Assessor’s Block 0620 (Project Site), to add a full bar use as defined in Planning Code Section 790.22 to the existing full-service restaurant (dba “La Parrilla Grill”). There would be no physical expansion of the existing building. The site is within the Polk Street NCD and a 65-A Height and Bulk District.
2. The Project was determined by the Planning Department (Department) to be categorically exempt from the environmental review process pursuant to Title 14 of the California Code of Regulations.
3. On February 14, 2008, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2007.0827C.

4. This Commission has reviewed and considered reports, studies, plans, and other documents pertaining to this Project.
5. 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.
6. **MOVED**, that the Commission hereby approves the conditional use requested in Application No. 2007.0827C, 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. **Site Description.** The project is located on the south-east corner of the intersection of Polk Street and Washington Street, Assessor's Block 0620, Lot 020. The property is located within the Polk Street Neighborhood Commercial District, and a 65-A Height and Bulk District.

The Project Site is occupied by a single story art moderne style building built in 1939. There are three retail spaces in the building, all fronting on Polk Street. The subject space is in the corner location, with windows on both Polk Street and Washington Street.

3. **Surrounding Neighborhood.** All three commercial spaces in the subject building are occupied by eating and drinking establishments. The storefront closest to the subject storefront, 1754 Polk Street, is occupied by a restaurant (DBA "Amelie") holding a type 41 ABC license (on-sale beer and wine in an eating place.) The farther storefront, at 1750 Polk Street, is occupied by a bar (DBA "Bigfoot Lodge") holding a type 47 ABC license (on-sale beer, wine and liquor.) The three other corners of the intersection of Polk Street and Washington Street are occupied by a dry cleaning establishment, a café and a restaurant.

The Polk Street NCD provides convenience goods and services to residents of the Polk Gulch neighborhood, the western slopes of Nob and Russian Hills, the Van Ness corridor and the eastern portion of Pacific Heights. The numerous apparel and specialty stores also draw customers from further afield, while the restaurants, bars and nighttime entertainment venues form a lively, city-wide destination. This mix of uses, and the proximity to dense residential areas, contribute to the active, urban character of the district

The surrounding development is a variety of multi-story, mixed-use buildings. Nearby ground-floor uses include eating and drinking establishments, retail stores, and nighttime entertainment. The upper stories are generally occupied by office space, apartments, and residential hotels. The

scale of development throughout the area consists of low- and mid-rise buildings (one- to four-story structures). The height limit in the area is 65 feet.

4. **Project Description.** The project proposes to add a full bar use to an existing full-service restaurant (dba "La Parilla Grill") which currently serves beer and wine. The applicant has applied for a Type 47 ABC license which authorizes the sale of wine, beer and distilled spirits for consumption on-site, in conjunction with the normal operation of the full service restaurant.

There would be no physical expansion of the building, nor any storefront or interior alterations. There is currently a bar counter set up in the restaurant space.

5. **Public Comment.** A local business group, United Merchants of Polk, supports the project with the closing time contained in the conditions in Exhibit A of this (Draft) Approval Motion.

The SFPD opposes the project, as it would add a new liquor license to the Polk NCD.

A local neighborhood group, the Middle Polk Neighbors Association, opposes the project.

Department staff received one letter of opposition from a neighborhood resident.

The project sponsor has collected approximately 500 signatures in support of the project.

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

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

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

- B. **Hours of Operation.** Section 723.27 allows hours of operation from 6:00AM until 2:00AM as of right and requires conditional use authorization to operate between the hours of 2:00AM and 6:00AM.

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

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

While the subject restaurant is 2190 square feet in size, its operation predates the current code provisions requiring conditional use authorization for uses exceeding 1,999 square feet, and therefore does not require conditional use authorization for use size.

7. **Conditional Use Findings.** Under Section 303(c), the Commission may authorize a conditional use after finding 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.

“La Parrilla Grill” serves Mexican food, which is often accompanied by Tequila and mixed drinks such as Margaritas. The ability to serve liquor is thus desirable in that it will expand the dining options of patrons of “La Parrilla Grill”, and of patrons of the Polk Street NCD in general. The bar use will be an ancillary use to the existing full-service restaurant, meant to compliment the meal.

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

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

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

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

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

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

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

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

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

The Project complies with the applicable requirements of the Planning Code and is in conformity with the Priority Policies and Commerce and Industry Element of the General Plan.

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

The Polk Street commercial area functions as both a neighborhood-serving and citywide marketplace and dining district. The purpose of the NCD is to maintain a balance of businesses that supports both functions, and the proposal does not change the existing balance between entertainment and retail uses.

8. **General Plan Compliance.** The Project is consistent with the Objectives and Policies of the General Plan in that:

COMMERCE AND INDUSTRY ELEMENT

Neighborhood Commerce

OBJECTIVE 6:

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

Policy 1:

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

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

In order for a neighborhood commercial district to remain viable and serve the needs of the surrounding neighborhood, it must exhibit a healthy balance of different types of commercial uses. This proposal does

not significantly alter the existing balance in the Polk Street NCD, and provides a desirable and appropriate ancillary use for the existing business.

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

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

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

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

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

- (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 Project Site 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.

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

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

The project will have no impact on landmarks or historic buildings.

- (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. 2007.0827C subject to the following conditions attached hereto as EXHIBIT A which are 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. 17551. 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 February 14, 2008.

Linda Avery
Commission Secretary

AYES: Antonini, Sue Lee, William Lee, Sugaya

NAYS: Olague, Moore

ABSENT: Alexander

ADOPTED: February 14, 2008

EXHIBIT A

CONDITIONS OF APPROVAL

1. This authorization is to allow the addition of a full bar to the full-service restaurant of approximately 2190 square feet at 1760 Polk Street, Assessor's Block 0620, Lot 020, in general conformity with the Project plans identified as EXHIBIT B, dated January 24, 2008, and reviewed by the Commission on January 24, 2008.
2. The authorization granted herein shall be valid for a period of three years from the date of the adoption of Motion No. 17551 and shall become null and void after that time if the required permits have not been obtained.
3. The operator of the establishment shall maintain the main entrance and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at minimum, daily sweeping and litter pickup and disposal and washing or steam/pressure cleaning of the main entrance and abutting sidewalks at least once every two weeks.
4. Noise and odors shall be contained within the premises so as not to be a nuisance to nearby businesses or residents.
5. 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.
6. Under this Conditional Use Authorization, hours of operation of the restaurant and bar shall be no later than 10:00 pm each day.
7. Under this Conditional Use Authorization, the bar shall be operated solely in conjunction with a full-service restaurant. Any establishment at this location shall not be operated solely as a bar at any time. All alcoholic beverages shall be served in conjunction with meals, and all meals shall be served on china with metal eating utensils. Meals shall be ordered and served at tables or to customers seated at the bar counter, and shall be paid for after consumption.
8. Under this Conditional Use Authorization, any establishment at this location shall not provide other entertainment as defined in Planning Code Section 790.38 unless Conditional Use Authorization for such use is sought and granted.
9. The storefronts fronting on both Polk Street and Washington Street at the project site shall be maintained in an attractive manner, providing transparency into the tenancy behind. Visibility of the commercial interior 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 at the project site.

10. All permanent signs affixed to the exterior of the building shall comply with a signage program approved by the Planning Department, consistent with Article 6 of the Planning Code. No temporary signs shall be affixed to the exterior of the building.
11. The Project Sponsor shall appoint a Community Liaison to address issues and matters of concern to nearby residents or commercial lessees. This liaison or designated representative shall be available at the establishment at all times during business hours. The Project Sponsor shall report the name and telephone number of this liaison to the Zoning Administrator for reference.
12. 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).
13. 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, or should such violations be independently determined by the Zoning Administrator, 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.