



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Motion No. 17552

*Hearing Date:* February 14, 2008  
*Case No.:* **2007.1367C**  
*Project Address:* **450 RHODE ISLAND STREET (aka 1901 17<sup>th</sup> STREET)**  
*Zoning:* NC-3 (Moderate Scale) Neighborhood Commercial District,  
 The 17<sup>th</sup> and Rhode Island Street Grocery Store Special Use Subdistrict  
 40-X Height and Bulk District  
*Block/Lot:* 3978/001  
*Project Sponsor:* (Whole Foods) Ms. Alison Krumbein  
 Rueben & Junius, LLP  
 One Bush Street, San Francisco Ca, 94104  
 San Francisco, CA 94122  
*Staff Contact:* Edgar Oropeza – (415) 558-6381  
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**ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 712.54, AND 790.60, OF THE PLANNING CODE TO ESTABLISH A MESSAGE ESTABLISHMENT WITHIN AN EXISTING RETAIL GROCERY STORE (D.B.A. THE WHOLE FOODS COMPANY) ALL WITHIN THE NC-3 (MODERATE SCALE) NEIGHBORHOOD COMMERCIAL DISTRICT, THE 17<sup>th</sup> AND RHODE ISLAND STREET GROCERY STORE SPECIAL USE SUBDISTRICT, AND A 40-X HEIGHT AND BULK DESIGNATION.**

### PREAMBLE

On November 29, 2007 Alison Krumbein (Project Sponsor) representing “The Whole Foods Company” filed an application with the Department for Conditional Use Authorization under Planning Code Section 712.54, and 790.60 of the Planning Code to establish a Massage-Establishment within an existing retail grocery store (d.b.a. The Whole Foods Company) all within the NC-3 (Moderate Scale) Neighborhood Commercial District, the Rhode Island Special Use District, and a 40-X Height and Bulk designation.

On February 14, 2008, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2007.1367C.

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. 2007.1367C, 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.** The Whole Foods Market, which opened September of 2007, is part of a mixed-use development that contains 165 dwelling units over a 34,500 square feet grocery market, approximately 4,900 square feet of additional neighborhood-serving retail space and accessory off-street parking for roughly 323 cars (165 residential spaces and 158 retail spaces).
3. **Surrounding Neighborhood.** The project site is located in the Showplace Square / Potrero Hill Community Plan Area, two blocks south of Showplace Square and approximately ½ mile southwest of the UCSF Research Campus in Mission Bay. The market is in a transitional zone that is bordered by office, retail, showrooms and light industrial uses to the north and east, and by residential uses to the south and west.
4. **Project Description.** The project proposes to add a "Massage Use" within the existing "Whole Foods Market."

The project proposes to add full body massage therapy services to the existing 150 square foot mini spa located within the Market. The project does not propose any changes to the building's exterior or interior area, nor any construction.

5. No public comment has been received for this 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. **Massage Establishments.** Planning Code Sections 712.54 and 790.60 state that Conditional Use Authorization is required in order to establish a new massage establishment within the NC-3 (Moderate Scale) Neighborhood Commercial District.

*The project proposes to add full body massage therapy services to the existing 150 square foot mini spa located within the Market. The project does not propose any changes to the building's exterior or interior area, nor any construction.*

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 is desirable because it will provide an additional and convenient massage service to customers of the Market and neighborhood residents. By allowing a massage establishment within the subject Market, the Commission will ensure that a professional, clean, safe and legitimate environment will exist within the spa due to its high visibility.*

- 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 full body massage therapy services at the project site are appropriate and desirable. The Market is a leading natural foods and organic foods supermarket and already contains a mini spa which features an on-site nutritionist, naturopathic doctor and estheticians and provides services including chair massage, waxing, facials, makeup consultation and application, and personal nutrition and wellness consultations. The Market serves as a suitable location for the proposed full body massage therapy service.*

- 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 site is within ½ mile of nine (9) MUNI routes, including three (3) routes that have stops immediately adjacent to the project site. (Routes #19, 22 & 53). In addition, the 10 Townsend line, one block away, makes the Project site directly accessible to the South of Market Area, the Financial District, northeast waterfront and the Transbay Terminal. The project site is also convenient to several citywide bicycle routes and is within walking or cycling distance to CalTrain station at 4<sup>th</sup> and Townsend.*

*The Project site contains adequate parking to meet the projected demand during most time periods.*

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

*The project consists of the addition of full body massage therapy services to the existing mini spa within the Market. The project will not produce, or include, any uses that would emit noxious or offensive emissions such as noise, glare, dust and odor.*

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

*The project does not propose any exterior (or interior) changes, or any construction. Thus the project will not involve any changes to the existing landscaping, open space, parking, loading, lighting or service areas.*

- 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 purposes of NC-3 Districts in that the intended use is located at the ground floor, will provide a compatible convenience service for the immediately surrounding neighborhoods during business hours.*

- 8. **Additional criteria per Section 790.60 (Massage Establishment)** In considering any application for a massage establishment, pursuant to Section 790.60, the Planning Commission must consider the following criteria in addition to those set forth in Section 303(c):

That the massage establishment has obtained a permit from the Department of Public Health pursuant to Section 1908 of the San Francisco Health Code.

*The project sponsor will submit an application for Permit to Operate a Massage Establishment to the Department of Public Health, Environmental Health Section.*

That the use is located no less than 1,000 feet from the premises of any other massage establishment.

*There are no legal massage establishments within 1,000 feet of the Market.*

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

## RESIDENCE ELEMENT

### Objectives and Policies

#### OBJECTIVE 12:

PROVIDE A QUALITY LIVING ENVIRONMENT.

#### Policy 2:

Allow appropriate neighborhood serving commercial activities in residential areas.

*The project supports this policy by adding massage therapy services to its existing day spa. These services are a desirable and appropriate addition to the neighborhood.*

## TRANSPORTATION ELEMENT

### Objectives and Policies

#### OBJECTIVE 11:

ESTABLISH PUBLIC TRANSIT AS THE PRIMARY MODE OF TRANSPORTATION IN SAN FRANCISCO AND AS A MEANS THROUGH WHICH TO GUIDE FUTURE DEVELOPMENT AND IMPROVE REGIONAL MOBILITY AND AIR QUALITY.

#### Policy 3:

Encourage development that efficiently coordinates land use with transit service, requiring that developers address transit concerns as well as mitigate traffic problems.

## COMMERCE AND INDUSTRY PLAN ELEMENT

### Objectives and Policies

#### OBJECTIVE 6:

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

#### Policy 4:

Encourage the location of neighborhood shopping areas throughout the city so that essential retail foods and personal services are accessible to all residents.

*The project directly supports this policy by adding massage therapy (personal service) services to its existing spa. Massage therapy is a personal service that contributes to the diversity of services in the neighborhood.*

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 project does not propose any changes to the existing neighborhood-serving retail uses; it simply adds a full body massage therapy use.*

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

*The project will enhance the neighborhood. The project will have a positive effect on the area with the addition of a beneficial service.*

- 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 project adds a full body massage therapy use to an existing mini spa within the Market. Thus, the project will have insignificant impact on traffic or transit services.*

- 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.

*A landmark or historic building does not occupy the Project site.*

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

*The project 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. 2007.1367C** 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. 17552. 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: Commissioners Antonini, Moore, S. Lee, W. Lee, and Olague

NAYS: None

ABSENT: Commissioners Alexander and W. Lee

ADOPTED: February 14, 2008



## Exhibit A

# Conditions of Approval

1. This authorization is for a Conditional Use Authorization under Planning Code Section 712.54, and 790.60 Planning Code to establish a 150 square foot Massage Use within the exiting Market(d.b.a. Whole Foods), within the NC-3 (Moderate Scale) Neighborhood Commercial District, the Rhode Island Special Use District and a 40-X Height and Bulk Designation, in general conformance with plans filed with the Application stamped "EXHIBIT B" included in the docket for **Case No. 2007.1367C**, reviewed and approved by the Commission on February 14, 2008.
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 3978, Lot 001), which notice shall state that use 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 up to \$500 a day 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. Signs announcing the massage activity shall be no more than a single sign affixed to the wall of the building and shall not exceed nine square feet in area and shall not be directly illuminated.
6. No locks shall be allowed on any interior door of the massage service except that a lock for privacy may be permitted on the bathroom door.
7. All persons employees engaged in performing massage shall be licensed for that purpose by the State of California. Licenses shall be prominently displayed on walls of the business.
8. The Planning Commission may, in a public hearing, consider the revocation of this conditional use authorization if a site or building permit has not been issued within three (3) years of the date of the Motion approving the project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued thenceforth diligently to completion. The Commission may also consider revoking this conditional use authorization if a permit for the project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved. 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.