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Planning Commission Motion No. 17568

Hearing Date: January 31, 2008
Case No.: **2007.0718 C**
Project Address: **507 Columbus Avenue**
Zoning: North Beach Neighborhood Commercial District
40-X Height and Bulk District
Block/Lot: 0117/005
Project Sponsor: Ahmad Larizadeh
Bana Consulting
71 Blake Street
San Francisco, CA 94118
Staff Contact: Aaron Hollister – (415) 575-9078
aaron.hollister@sfgov.org

ADOPTING FINDINGS RELATED TO THE DISAPPROVAL OF A CONDITIONAL USE AUTHORIZING THE ESTABLISHMENT OF A RETAIL WINE STORE AND BAR (D.B.A “VINO DIVINO”) AT 507 COLUMBUS AVENUE ON ASSESSOR’S BLOCK 0117, LOT 005, LOCATED WITHIN THE NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

RECITALS

1. On July 18, 2007, Ahmad Larizadeh (Project Sponsor) applied for a Conditional Use, Application No. 2007.0718C, on the property at 507 Columbus Avenue, Lot 005 in Assessor’s Block 0117 (Project Site), to establish a retail wine store and bar (d.b.a. “Vino Divino”) as defined in Planning Code Section 790.22 within the vacant ground-floor commercial storefront, in general conformity with plans labeled Exhibit B dated January 31, 2008 (Project). The proposed use is not formula retail as defined in Section 703.3 of the Planning Code. There would be no physical expansion of the existing building. The site is within the North Beach NCD and a 40-X Height and Bulk District.
2. On January 31, 2008, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2007.0718C.

3. 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.
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 disapproves the conditional use requested in Application No. 2007.0718C, 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 site is located on the west side of Columbus Avenue near the corner of Columbus Avenue and Green Street, Assessor's Block 0117, Lot 005. The property is located within the North Beach Neighborhood Commercial District, the North Beach Special Use District and a 40-X Height and Bulk District.

The Project Site is occupied by a three-story, triangular-shaped building which has street frontages on both Columbus Avenue and Green Street. The subject Edwardian-era building was built in 1907 and is listed in the North Beach Survey of Historic Buildings. There are several retail spaces on the ground floor and a total of 21 residential units on the second and third floors. Most of the current ground level retail space in the subject building contains restaurants, while a couple of the retail spaces remain vacant. A sampling of the restaurants in the subject building includes: La Boulange, the Original U.S. Restaurant, Mara's Italian Pastry, L'Osteria del Forno and O'Reilly's Irish Pub and Restaurant. The subject storefront currently is vacant, but has traditionally housed retail uses including a clothing store, a boutique postcard store and most recently, a gift and antique store.

3. **Surrounding Neighborhood.** The North Beach NCD is located in between Telegraph Hill and Nob Hill north of Broadway, roughly centered on Columbus Avenue. The North Beach NCD functions as a neighborhood-serving marketplace, citywide specialty shopping and dining district and tourist attraction, as well as an apartment and residential hotel zone. Traditionally, the district has provided most convenience goods and services for residents of North Beach and portions of Telegraph and Russian Hills. More recently, neighbor-serving convenience stores and citywide specialty businesses haven been replaced by bakeries, bars and restaurants.

The surrounding development is a variety of multi-story, mixed-use buildings. Nearby ground-floor uses include eating and drinking establishments, small-scale retail stores, and nighttime entertainment. The upper stories are generally occupied by 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 40 feet.

4. **Project Description.** The project proposes to establish a retail wine store with a wine tasting bar within the subject vacant commercial site. The bar is intended to be a “wine bar” that will offer tastings of the wine varietals offered in the store. Project Sponsor has indicated that he will obtain a Type 42 liquor license which only allows for the sale of beer and wine for consumption on or off the premises. The proposed retail store/bar will occupy approximately 807 square feet of retail floor space.

There would be no physical expansion of the building. No storefront alterations are proposed. Interior tenant improvements will be necessary to accommodate the retail space and bar. New retail display areas and bar fixtures associated with the wine bar are proposed within the tenant space.

5. **Public Comment.** A local neighborhood group, the Telegraph Hill Dwellers, opposes the proposal. The Telegraph Hill Dwellers believe that the North Beach area currently is over-saturated with eating and drinking establishments. Furthermore, the Telegraph Hill Dwellers are particularly concerned with the proliferation of wine bars in the North Beach area.

The Commission has received letters of support from North Beach area neighborhood groups including the North Beach Chamber of Commerce and the North Beach Neighbors. These groups believe the proposal will enhance the vibrancy of the North Beach area by filling a vacant storefront.

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. **Floor Area Ratio.** Section 124 establishes basic floor area ratios (FAR) for all zoning districts. FAR is the ratio of the gross floor area of all the buildings on a lot to the total area of the lot. Under Section 124(a), the FAR for the North Beach NCD is 1.8 to 1. Under Section 124(b), in NCDs, the floor area ratio limits listed in Subsection (a) do not apply to dwellings or other residential units.

With a lot area of 10,940 square feet, 19,692 nonresidential gross square feet can be developed on the Project Site. Since the Project will not include the physical expansion of the commercial space, there will be no increase in nonresidential gross floor area.

- B. **Parking Requirement.** Section 151 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.

With a gross floor area of under 5,000 square feet, the Project is not required to provide parking.

- C. **Loading.** Section 152 requires off-street freight loading for uses above a certain size. Eating and drinking establishments up to 100,000 square feet in gross floor area are not required to provide off-street freight loading.

With a gross floor area of under 100,000 square feet, the Project is not required to provide off-street loading. There are nearby yellow zones that can be used for deliveries.

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

The Project is not considered to be a Formula Retail Use as defined by Section 703.3 of the Planning Code. The proposed location would be the only outlet for this particular business.

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

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

- F. **Use Size.** Section 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.

At 807 square feet, the Project 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 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 not necessary because the neighborhood already has plenty of restaurant and bar uses. A recent survey conducted by the Department indicated that over 40 percent of the commercial storefronts in the North Beach NCD are devoted to eating and drinking establishments. The proliferation of restaurant and bar uses is especially evident on the subject 500 block of Columbus Avenue as well as the 400 Block of Columbus Avenue, one block south of the project site. Restaurant and bar uses occupy nearly all of the retail storefronts on these two blocks. The proliferation of restaurant and bar uses is also especially evident on the north side of Green Street between Stockton Street and Grant Avenue, one block east of the Project site.

Except in districts with an established pattern of service to a broad market, such as North Beach, the Commerce and Industry Element of the General Plan calls for no more than 25 percent of commercial storefronts in neighborhood commercial districts to be set aside for eating and drinking establishments. Even though North Beach is expected to have a higher concentration of restaurants, over 40 percent of the storefronts in the immediate Project area are currently occupied by restaurant uses. The opportunity for a neighborhood-serving convenience store or specialty store would be eliminated at a site that has traditionally housed retail shopping and stores.

Certain aspects of the Project would be desirable. The business would be locally-owned and staffed. A now-vacant storefront would be filled, and the new store and bar would provide employment for neighborhood residents.

However, the proliferation of restaurant and bar uses in the North Beach neighborhood can not be ignored. The balance between neighborhood-serving convenience stores and citywide specialty businesses would be further exacerbated with another restaurant in an area that has experienced a proliferation of restaurants that already is heavily impacted by restaurants and bars.

- 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 (12-Folsom, 15-Third Street, 30-Stockton, 39-Coit and 41-Union). 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 retail wine store and wine bar), it would not emit any substantial amount of noise or 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 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, the approved signage program, the Secretary of the Interior's Standards for the Treatment of Historic Properties (Secretary Standards) 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 most of the applicable requirements of the Planning Code, but is not in conformity with the Priority Policies and Commerce and Industry Element of the General Plan. The Project would detract from the character of the North Beach neighborhood by adding a bar use to a neighborhood that already is heavily-saturated with restaurants and bars. The addition of a bar would adversely impact the area's balance of uses.

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

The North Beach NCD functions as a neighborhood-serving marketplace, citywide dining district, and tourist attraction. Many of the eating and drinking establishments remain open into the evening to serve a wide trade area and attract many tourists. The North Beach NCD functions as a neighborhood-serving marketplace, citywide dining district, and tourist attraction.

The proposed bar is not an appropriate use for the neighborhood. For a number of years, the balance of commercial uses has been disrupted as more and more eating and drinking establishments have moved into the neighborhood. As a result, the number of other types of neighborhood-serving retail uses has decreased. Within a one-and-a-half-block radius surrounding the Project Site, more than 40 percent of the commercial storefronts are devoted to eating and drinking establishments.

8. **General Plan Compliance.** The Project is not 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. Approval of the Project will contribute to the over-concentration of eating and drinking establishments in the neighborhood.

Additionally, the proposed bar use would decrease the square footage that could be made available to other types neighborhood-serving retail uses.

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. Except in districts with an established pattern of service to a broad market, such as the North Beach, such establishments should not occupy more than 25 percent of the total commercially-occupied frontage in a district.

In the North Beach NCD, over 40 percent of the commercial storefronts are devoted to eating and drinking establishments, which is substantially higher than the guideline set forth in the General Plan even in consideration that North Beach restaurants traditionally served a broader market.

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 proposed expansion of the existing bar space would decrease the square footage that could be made available to other types of neighborhood-serving retail uses, such as grocery stores.

- (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 adversely impact the character and economic diversity of North Beach. There is already an over-concentration of eating and drinking establishments in the neighborhood, and the mix of neighborhood-serving retail uses will be further unbalanced by another 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.

Although there would be some interior tenant improvements to the subject commercial space, the Project does not involve any construction activities that would compromise the structural integrity of the existing building or trigger any Building Code requirements for a seismic upgrade.

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

The existing building is listed as a contributor in the North Beach Survey of historical buildings. If approved, any storefront alterations and signage would be required to comply with "Secretary Standards". No exterior alterations, other than signage, are proposed by the Project.

- (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 not 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 **DISAPPROVES Conditional Use Application No. 2007.0718C.**

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this disapproval of a Conditional Use Authorization application 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 94012.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on January 31, 2008.

Linda Avery
Commission Secretary

AYES: Dwight Alexander, Christina Olague, Sue Lee, Kathrin Moore Y Hisashi Sugaya

NAYS: Michael J. Antonini , William Lee

ABSENT: None

ADOPTED: March 13, 2008