



# SAN FRANCISCO PLANNING DEPARTMENT

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Subject to: (Select only if applicable)

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

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## Planning Commission Motion 17591

HEARING DATE: MAY 15, 2008

*Date:* May 8, 2008  
*Case No.:* **2006.1227 C**  
*Project Address:* **5735-5757 MISSION STREET**  
*Zoning:* NC-2 (Small-Scale Neighborhood Commercial District)  
40-X Height and Bulk District  
*Block/Lot:* 6473/038, 039, 040  
*Project Sponsor:* Harold McCray  
1728 Ocean Avenue  
San Francisco, CA 94112  
*Staff Contact:* Rick Crawford – (415) 558-6358  
[rick.crawford@sfgov.org](mailto:rick.crawford@sfgov.org)

**ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 711.11 AND 711.39 OF THE PLANNING CODE TO DEVELOP A LOT GREATER THAN 9,999 SQUARE FEET IN AREA AND TO DEMOLISH RESIDENTIAL UNITS ABOVE THE GROUND FLOOR WITHIN THE NC-2 (SMALL SCALE NEIGHBORHOOD COMMERCIAL) DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On October 19, 2006 Harold McCray (Project Sponsor) filed an application with the Department for Conditional Use Authorization under Planning Code Sections 711.11 and 711.39 to develop a lot greater than 9,999 square feet in area and to demolish residential units above the ground floor in the NC-2 Small Scale Neighborhood Commercial District and a 40-X Height and Bulk District

On May 15, 2008, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2006.1227C.

The Project was determined by the San Francisco Planning Department (hereinafter "Department") to be categorically exempt from environmental review under Class 32. 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. 2006.1227C, 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 17,561 square-foot project site consists of three adjacent approximately 5,800-square-foot parcels located at 5735, 5739, and 5743 Mission Street, on a block bounded by Whittier, Brunswick, and Oliver Streets in the Crocker-Amazon neighborhood. The 5735 Mission Street parcel is occupied by a single-story commercial building built in 1957. The 5739 Mission Street parcel is occupied by a two-story, mixed-use building with two dwelling units and ground-floor retail built in 1906. The 5743 Mission Street parcel is occupied by a two-story building with four dwelling units and ground floor retail built in 1949. A Historic Resource Evaluation Response Memorandum (HRER) prepared by the Planning Department determined that the buildings proposed for demolition are not historic resources for purposes of CEQA. The adjacent neighborhood buildings that surround the project site were constructed around the mid-twentieth century.
3. **Surrounding Properties and Neighborhood.** The proposed mixed-use building would be located along Mission Street in the Crocker-Amazon neighborhood, generally surrounded by single-family residential uses and neighborhood commercial uses along Mission Street. The predominant scales of the project vicinity are two to three-story single-family residences with larger multi-unit and mixed-use buildings along Mission Street. The heights of the single-family residential buildings in the project vicinity are variable, but the majority of the buildings are approximately 20 to 40-feet in height. The adjacent parcels to the north, south, and west of the project site along Mission Street are all within a NC-2 zoning district. The parcels to the east of the project site are single-family residences located in a RH-1 zoning district. The surrounding uses consist of mixed-use residential and commercial buildings, all within the NC-2 zoning district. An easement behind the project site serves as access to the adjacent residential uses and is not available to the project. Multi-unit, mixed-use buildings characterize the surrounding area with commercial units or garages located at the ground floor. The three subject buildings are not located within a designated local or national historic district, or they within a potential historic district for the purposes of CEQA.
4. **Project Description.** The proposed project would demolish all three existing buildings on the project site, containing a total of 7 dwelling units, and construct an approximately 66,337-square-

5. **Public Comment.** The Department has received two phone calls and two e-mail messages expressing concerns that the project will use the easement on the properties to the rear for access to parking. The easement is owned by the neighbors and is not available for use by the subject property and is not available for use by development on the subject property nor incorporated in to the design 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. **Inclusionary Housing.** Planning Code Section 315 requires the inclusion of affordable housing units in all projects with 5 or more dwelling units. The Units may be provided on site, off site or through payment of an in-lieu to the Mayor's Office on Housing.

*The Project Sponsor intends comply with the inclusionary housing requirement through payment of an in-lieu to the Mayor's Office on Housing.*

- B. **Residential Demolition.** Planning Code Section 711.39 requires conditional use authorization for the demolition of residential units and further requires that the units be replaced as part of the subsequent construction.

*The project will demolish seven existing residential units. The proposed development will include 22 dwelling units. The sponsor will provide opportunities for affordable housing as part of this project through payment of an in-lieu to the Mayor's Office on Housing.*

- C. **Usable Open Space.** Planning Code Section 711.93 requires the usable open space be provided for each dwelling unit at a ratio of either 100 square feet if private or 133 square feet if common open space

*The 22 units in the project require a total of 2,926 square feet of common usable open space. The project provides 4,410 square feet of usable common open space in the rear yard. Additional open space is provided on private decks and a central courtyard.*

- D. **Rear Yard Requirement in the NC-2 District.** Planning Code Section 134 states that the minimum rear yard depth shall be equal to 25 percent of the total depth of a lot be provided at the first residential level.

*The subject property is 196 feet deep and requires a rear yard of 49 feet. The project has dwelling units on all floors and is setback 49 feet from the rear property line.*

- E. **Parking.** Planning Section 151 of the Planning Code requires off-street parking for every 200 square-feet of occupied floor area, where the occupied floor area exceeds 5,000 square-feet and one off street parking space for each dwelling unit.

*The project includes approximately 4,900 square feet of commercial space divided among 3 units and 22 dwelling units. No parking is required for the commercial area as the total floor area is less than 5,000 square feet. The project is required to provide 22 parking spaces for the residential units. The project proposes 32 off street parking spaces in an underground garage.*

- F. **Dwelling Unit Exposure.** Section 140 of the Planning Code requires that the required windows of at least one room in each dwelling unit shall face on a public street, public alley, side yard or rear yard at least 25 feet wide or an unobstructed inner court measuring a minimum of 25 feet in every horizontal dimension.

*Each dwelling unit in the project has a required window facing either the rear yard, Mission Street or an inner courtyard. A total of 12 of the dwelling units use the inner courtyard to comply with this requirement.*

- G. **Lot Size.** Section 711.11 requires Conditional Use authorization for development of a lot exceeding 9,999 square feet. The subject property is 17,549 square feet in area. Section 121.1 of the Planning Code establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval for lot size. On balance, the project does comply with said criteria in that:

- i. The mass and facade of the proposed structure are compatible with the existing scale of the district.

*The mass and scale of the façade of the proposed building are compatible with the trend in development in this portion of Mission Street. The project is larger than the existing buildings on the lot and larger than many of the older neighboring buildings however this portion of Mission Street has been experiencing a trend toward larger mixed use buildings and the project is compatible with those newer buildings*

- ii. The facade of the proposed structure is compatible with design features of adjacent facades that contribute to the positive visual quality of the district.

*The façade of the proposed is compatible with the trend in development in the area and uses materials found on the facades of neighboring buildings. The design of the building is contemporary but uses architectural vocabulary such as evenly spaced bays to compliment older existing buildings. The rhythm of the façade is appropriate for the size of the building and the materials are varied enough for interest but not distracting.*

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 proposed project is necessary because it will provide needed housing and additional commercial opportunities for the neighborhood. The Project building has been designed to complement the architectural styles of the surrounding neighborhood. The proposed development is a mixed-use project providing necessary and desirable commercial space and dwelling units to improve neighborhood commercial opportunities and new housing to the residents of the Crocker-Amazon neighborhood. The project will provide necessary and desirable infill development to the Outer Mission Street corridor.*

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 project site is larger than a typical lot in the neighborhood however; the project building has been designed with commercial entries and residential bay windows that repeat the rhythm of neighboring buildings on smaller lots. Commercial uses are consistent with the intent of the NC-2 district and compatible with the neighborhood serving uses in the area. The Project will be one of many mixed use buildings in the vicinity and is consistent with the prevailing pattern of ground floor commercial and upper story residential uses.*

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 additional traffic created by the proposed project would not be substantial relative to the existing capacity of the surrounding street system and would be mostly undetectable to residents and drivers in the area. Therefore, the proposed project would not result in any significant adverse traffic impacts. The project site is well served by public transit with 3 MUNI bus lines on Mission Street and the proposed 32 stall parking garage exceed the requirements of the Planning Code for off-street parking.*

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

*The Project is a mixed residential neighborhood commercial development and is not expected to generate noticeable levels of 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;

*Street trees have been provided along the Mission Street frontage and the rear open space area will be landscaped. Exterior lighting will be shielded to prevent spillover onto neighboring residential properties. Parking is provided on the basement level and no loading area is proposed or required.*

- 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 Project is located within the NC-2, Small Scale Neighborhood Commercial, district, and complies with the intent of that district in that the Project will provide new space for neighborhood serving commercial uses, and will provide housing above the ground floor level. The building height of four stories also complies with the intent of the district that calls for buildings ranging between two and four stories in height.*

- 8. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

## NEIGHBORHOOD COMMERCE

### Objectives and Policies

#### **OBJECTIVE 1:**

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

#### **Policy 1.1:**

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

#### **Policy 1.2:**

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

**Policy 1.3:**

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

*The proposed development will provide the opportunity for new businesses that would provide desirable goods and services to the neighborhood and will provide resident employment opportunities to those in the community. The Project Site is located within a Neighborhood Commercial District and is thus consistent with activities in the commercial land use plan.*

## HOUSING 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 DEMAND.

**Policy 1.2:**

Encourage housing development, particularly affordable housing, in neighborhood commercial areas without displacing existing jobs, particularly blue-collar jobs or discouraging new employment opportunities.

**Policy 1.4:**

Locate in-fill housing on appropriate sites in established residential neighborhoods.

*The project site is occupied by small buildings with marginal if any commercial activity. The Project will construct 22 new housing units in a mixed use building with approximately 4,900 square feet of commercial area divided between three units. The commercial spaces do not displace any existing jobs and can provide employment opportunities for residents of the building and surrounding neighborhood. The Project site is an appropriate location for infill housing. The site is within the commercial center of an established neighborhood adjacent to MUNI bus lines. The site is well located to take advantage of transit opportunities, business and employment opportunities in the commercial area.*

## NEIGHBORHOOD COMMERCE

### Objectives and Policies

**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 help the district achieve optimal diversity in the types of goods and services available in the neighborhood.*

**Policy 6.2:**

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to the economic and technological innovation in the marketplace and society.

*The Project will provide approximately 4,900 square feet of new commercial space, divided between three units, to increase opportunities for small business creation and expansion. The businesses that occupy the new commercial spaces will provide employment opportunities for neighborhood and other City residents.*

## 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 11.3:**

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

*The Project is located in a neighborhood commercial area adjacent to three MUNI bus lines. The proximity of transit promotes transit use over automobile use and allows residents and business employees and customers to access the property without adding to traffic and parking congestion.*

9. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

*The Project will strengthen and enhance the existing neighborhood serving commercial area by creating four new commercial tenant spaces. The new spaces expand opportunities for both resident employment and business ownership.*



- 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 add housing to the neighborhood. The additional housing, including two dedicated affordable units, will offer opportunities for area residents and their families to remain in the area and continue to contribute to the diversity of the neighborhood.*

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

*The project will demolish 7 dwelling units. Six of the existing units are occupied by tenants who are all aware of the project and have not voiced any objections to the Planning Department. The project sponsor will continue to work with the existing tenants to help them find new housing to relocate as necessary and must respect the rights and the needs of those tenants to the maximum extent required by the Rent Stabilization Ordinance. The project complies with the Planning Commission's demolition criteria in that, although the sponsor does not contend that the building is unsound and does not contend that the value of the existing building is greater than \$1.2 million the project replaces 7 dwelling units with 22 dwelling units for a net increase of 15 dwelling units and the sponsor will be donating funds for the construction of affordable housing elsewhere in the City.*

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

*The site is on Noriega Street and is well served by transit. It is presumable that the employees would commute by transit thereby mitigating possible impacts on street parking. Noriega Street has three MUNI bus lines (16AX, 71, and 71L)...*

- 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 as no such business operates on the property. 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.*

10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.

11. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

### **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. 2006.1227C** 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. 17591. 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 May 15, 2008.

Linda Avery  
Commission Secretary

AYES: Commissioners Antonini, Moore, Olague, Lee, Sugaya

NAYS: None

ABSENT: Commissioner Miguel

ADOPTED: May 15, 2008

## Exhibit A

# Conditions of Approval

1. This authorization is for a Conditional Use Authorization under Planning Code Section 710.48, 710.24, and 710.27 of the Planning Code to allow demolition of three existing buildings on the project site, containing a total of 7 dwelling units, and construction of an approximately 66,337-square-foot, four-story, mixed-use building with 22 dwelling units and approximately 4,900 square feet of commercial space split among three ground floor commercial/retail spaces and 32 off-street parking spaces located in a basement garage at 5735-5757 Mission Street within the NC-2 (Small-Scale, Neighborhood Commercial) District and a 40-X Height and Bulk District, in general conformance with plans filed with the Application as received on April 18, 2007 and stamped "EXHIBIT B" included in the docket for **Case No. 2006.1227C**, reviewed and approved by the Commission on May 15, 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 Block 6473, Lots 038, 039, 040), 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. Trash and recycling receptacles shall be stored inside a fully enclosed building except they may be placed outside of such building for pick up and removal of the trash or recyclable materials.
4. 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.
5. 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).
6. 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.
7. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed.

8. The Project Sponsor shall maintain an attractive storefront providing visibility of the restaurant interior through the storefront windows.
9. 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.
10. The Project shall provide an in-lieu payment for affordable housing units in compliance with the requirements of Planning Code Sections 315.1 through 315.9.
11. The project sponsor shall, within six months of a first Certificate of Occupancy, provide the Zoning Administrator verification that the project has achieved a GreenPoint rating of 100 points or more, or a LEED-NC Gold Certification, or other verification of equivalent sustainability, as approved by the Director of DBI. Failure to do so will result in a re-hearing before this Commission to assess offsets that will ameliorate the sustainability shortfalls caused by noncompliance with this condition.
12. The Project Sponsor and his architects shall continue to work with Department staff to refine the façade design including but not limited to:
  - selection of a siding material that will ensure a crisp, well-finished profile and texture,
  - storefront glazing system and residential window type and manufacturer to provide appropriate quality, sustainability, and urban design,
  - color selection,
  - cornice and trim details and materiality,
  - façade articulation providing differentiation to break down the scale of façade width,
  - railing details.
13. No commercial parking is required or provided. All residential parking spaces shall be unbundled from sale or rental of the dwelling units.
14. The ground floor residential unit as depicted in Exhibit B shall remain a single unit, and the total residential units in the building shall be twenty two.
15. 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.