



SAN FRANCISCO PLANNING DEPARTMENT

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| <input type="checkbox"/> Inclusionary Housing (Sec. 315) | <input type="checkbox"/> First Source Hiring (Admin. Code) |
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Planning Commission Final Motion No. 17596

HEARING DATE: MAY 22, 2008

Date: May 22, 2008
Case No.: **2008.0332C**
Project Address: **219 CLEMENT STREET**
Zoning: Inner Clement Street Neighborhood Commercial District (NCD)
40-X Height and Bulk District
Block/Lot: 1435/042
Project Sponsors: Heidi Liebes for William Chan D.D.S. and Michael Chan D.D.S.
Winder Liebes Architects
351 - 9th Street #301
San Francisco, CA 94103
Staff Contact: Sharon M. Young – (415) 558-6346
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ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION UNDER PLANNING CODE SECTIONS 716.51 AND 303(C) OF THE PLANNING CODE TO CONVERT VACANT COMMERCIAL SPACE INTO A DENTAL OFFICE (A MEDICAL SERVICE USE) ON THE SECOND FLOOR OF THE THREE-STORY COMMERCIAL AND RESIDENTIAL BUILDING AT 219 CLEMENT STREET, ON ASSESSOR'S BLOCK 1435, LOT 042 WITHIN THE INNER CLEMENT NEIGHBORHOOD COMMERCIAL ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On March 18, 2008, Heidi Liebes of Winder Liebes Architects, acting agent on behalf of William Chan D.D.S. and Michael Chan D.D.S. (hereinafter "Project Sponsors") made an application for Conditional Use authorization on the property at **219 Clement Street, Lot 1435 in Assessor's Block 042** (hereinafter "Property"), to convert second floor vacant commercial tenant into a dental office's accounting division in a three-story residential and commercial building within the Inner Clement Neighborhood Commercial Zoning District and a 40-X Height and Bulk District, in general conformity with plans dated April 23, 2008 and labeled "Exhibit B" (hereinafter "Project").

On **May 22, 2008**, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on **Conditional Use Application No. 2008.0332C**. Under Sections 716.51 and 303(c) of the Planning Code, Conditional Use authorization is required to convert vacant commercial space (previously occupied by a travel agency, a business or professional service use) to a dental office (a medical service use) on the second floor of a three-story commercial and residential building within the Inner Clement Street Neighborhood Commercial Zoning District and a 40-X Height and Bulk District.

The proposed Conditional Use application was determined by the San Francisco Planning Department (hereinafter "Department") to be Categorically Exempt from the environmental review process pursuant to Title 14 of the California Administrative Code. 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. 2008.0332C, subject to the conditions contained in "EXHIBIT A" of this motion, 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 and Present Use.** The Project Site is on the south side of Clement Street between 3rd and 4th Avenues; Assessor's Block 1435, Lot 042. It is located within the Inner Clement Street Neighborhood Commercial District (NCD) and a 40-X Height and Bulk District. The subject lot is 2,500 square-feet (25 feet wide by 100 feet deep) in size and is occupied by a three-story commercial and residential building built in 1989. The existing building is not listed in the Planning Department's 1976 Architectural Survey or the National or California Registers as having architectural significance. However, the existing building is included in the Inner Richmond Information Survey area. The subject property at 219 Clement Street is approximately 3,400 square feet of vacant commercial space (previously occupied by a travel agency dba Clement Street Travel) on the first and second floors of the building. Three residential units currently exist on the third floor of the building. [On October 20, 1988, the Planning Commission authorized conditional use under Motion 11495 (Case No. 1988.515C), approving the construction of the subject building with the travel agency allowed as a business or professional service use on the first and second floors.]
3. **Surrounding Properties and Neighborhood.** The Project Site is located within the Inner Richmond Neighborhood. The surrounding development consists of a variety of commercial and mixed-use buildings mostly featuring residential uses above ground-floor commercial establishments within the Inner Clement NCD. The scale of development in the area consists primarily of one- to three-story structures. The Inner Clement NCD is located on Clement Street between Arguello Boulevard and Funston Avenue in the eastern portion of the Richmond District. The shopping area contains a variety of small-scale convenience businesses which primarily include a mix of restaurants, specialty groceries, variety merchandise stores, and personal service establishments. Some of these commercial establishments include I-Cell Wire Services, Ultimate Hair & Face Figure Salon, Murasaki restaurant, Q restaurant, Clement Noodle Vietnamese & Chinese Restaurant, Acupuncture & Herb, Super Tokio, Laundryworld, Green Apple Bookstore, Grain D'or, Park Café, Sunrise Wireless, Minh's Garden Vietnamese Restaurant, and Martha Brother's Coffee Company. On the subject and opposite blocks, there appears to be one commercial establishment, Grain D'or, which can be considered a formula retail use under Section 703.3 of the Planning Code. On 3rd and 4th Avenues running east and west of the project site, a few apartment houses and commercial buildings exist among predominantly one-to-three family residential buildings within an RM-1 (Residential, Mixed Districts, Low Density) Zoning District.

4. **Project Description.** The proposal is to convert the vacant second floor commercial space into a dental office's accounting division. The portion of the dental office consisting of the reception and patient treatment areas have been approved as a principally permitted use on the first floor of the building under Building Permit Application No. 2008.04.04.8879. The proposal will involve tenant improvements to the vacant second floor commercial space (which will be comprised of the offices, supplies/storage areas, an exercise area, kitchen, and restroom) to include relocating the existing kitchen and restroom, and changes to the interior partitions. The proposal will also include facade modifications to the existing building to include replacing the existing windows (with decorative metal work) with new casement windows on the second floor level and a new glass door at the rear of the building. There will be no expansion of the existing building envelope. The proposed hours of operation of the dentist office are 8 a.m. to 5 p.m., employing approximately two dental physicians and 5-7 employees. Pursuant to Section 724.27 of the Planning Code, the proposed dental office is allowed to operate between the hours of 6 a.m. until 2 a.m. as of right.
5. **Issues and Other Considerations.**
 - The proposal will allow the project sponsors to relocate their existing dental office located at 2001 Van Ness Avenue Suite 401 to the project site, which they have indicated will better serve the needs of their patients who primarily reside within the Inner Richmond Neighborhood.
 - There are existing vacant commercial spaces on the subject and opposite blocks. In addition to the vacant commercial space on the project site on the subject block, there appear to be (based on a site visit by Planning Department staff) two vacant commercial spaces on the opposite block at 212 Clement Street (a variety merchandise store) and 240 - 244 Clement Street (a furniture store, previously dba Busvan For Bargains). The commercial space located at 248 Clement Street (a bookstore, dba Green Apple Bookstore) also appears to be going out of business.
 - Public transit that is in close proximity to the proposed dental office include Muni Line 2-Clement Street (on the corner of 6th Avenue and Clement Street) within walking distance of the project site. There is on-street parking in front of the subject property and in the surrounding neighborhood.
 - There is no known opposition to the project.
6. **Public Comment.** As of May 21, 2008, the Planning Department has not received any letters or phone calls in opposition to the project.
7. **Use District.** For the purposes of this action, the project site is within the Inner Clement Street Neighborhood Commercial District (NCD). The Inner Clement Street NCD is located on Clement Street between Arguello Boulevard and Funston Avenue in the eastern portion of the Richmond District. The district provides a wide selection of convenience goods and services for the residents of the Inner Richmond neighborhood. Inner Clement Street has one of the greatest concentrations of restaurants of any commercial district in San Francisco, drawing customers from throughout the City and region. There are also a significant number of professional, realty, and business offices as well as financial institutions. The pleasant pedestrian character of the district is derived from the intensely active retail frontage on Clement Street.
8. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

A. **Section 101.1(b)** establishes eight priority planning policies and requires the review of permits that authorize changes of use 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 Project will preserve and enhance the existing neighborhood-serving retail uses by occupying a vacant commercial tenant space on the subject property to serve the needs of residents by providing dental health services. The proposed Project will provide new job opportunities to the City by employing approximately two dental physicians and 5-7 employees.

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

The proposed Project will preserve and enhance the cultural and economic diversity of the neighborhood by allowing a new business in the area. Existing housing will not be affected by the Project.

- (3) That the City's supply of affordable housing be preserved and enhanced.

The proposed Project will not displace any affordable housing.

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

The proposed Project would not significantly increase the automobile traffic congestion and parking problems in the neighborhood. The proposal is a neighborhood-serving use to which residents can access by walking or taking public transit.

- (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.

A medical office use (dental office) will replace a professional or business service use (travel agency) which has vacated the project site. There would be no displacement of any existing industrial or service businesses in the area.

- (6) That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The proposed Project will comply with all applicable earthquake safety standards and built to the current standards of the California Building Code.

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

The proposed Project will not significantly affect any landmarks or historic buildings.

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

The proposed Project will not affect any city-owned park or open space.

B. **Section 303(c)** 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:

- (1) 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 to establish a dental office's accounting division on the second floor of the three-story commercial and residential building. The portion of the dental office consisting of the reception and patient treatment areas have been approved as a principally permitted use on the first floor of the building under Building Permit Application No. 2008.04.04.8879. There will be tenant improvements made to the existing commercial space and modifications to the building's facade which will not significantly affect the architectural integrity of the building. No changes made to the existing building envelope.

- (2) 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:

- (A) 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, and the arrangement of the structures on the site are adequate for the proposed Project. There will be no physical expansion of the existing building or commercial tenant space.

- (B) 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;

Existing traffic patterns will not be significantly affected by the proposed Project. Public transit that is in close proximity to the proposed dental office includes Muni Line 2-Clement within walking distance of the project site. There is on-street parking in front of the subject property and in the surrounding neighborhood.

- (C) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

There will be no noxious or offensive dust or odor associated with the proposed Project.

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

The existing building, like some buildings on the block, occupies most of the entire site; no landscaping is provided on site. There will be no addition of parking spaces, loading facilities, open space or service areas. All Project signage and projections will be consistent with the controls of the Planning Code.

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

The proposed 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.

- (4) 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 purpose of the Inner Clement NCD in that the intended use is a neighborhood-serving business.

C. **Section 716.1** sets forth provisions applicable in the Inner Clement Street Neighborhood Commercial Zoning District. The Inner Clement NCD controls are designed to promote development that is consistent with its existing land use patterns and to maintain a harmony of uses that supports the district's vitality. The building standards allow small-scale buildings and uses, protecting rear yards above the ground story and at residential levels. In new development, most commercial uses are permitted at the first two stories, although certain limitations apply to uses at the second story. Special controls are necessary to preserve the equilibrium of neighborhood-serving convenience and comparison shopping businesses and protect adjacent residential livability. These controls prohibit additional eating and drinking establishments and financial service and limit late-night commercial uses and ground-story entertainment uses. In order to maintain the street's active retail frontage, controls also prohibit most new automobile and drive-up uses. Housing development is encouraged in new buildings above the ground story. Existing residential units are protected by prohibitions on upper-story conversions and limitations on demolitions.

D. **Section 710.44** allows a medical service use on the second floor in the Inner Clement Neighborhood Commercial Zoning District with Conditional Use authorization.

E. **Section 716.27** allows hours of operation from 6 a.m. until 2 a.m. as of right and requires Conditional Use authorization to operate between the hours of 2 a.m. and 6 a.m.

The proposed hours of operation of dental office are 8 a.m. to 5 p.m.

F. **Section 790.108** defines a business or professional service as a retail use which provides to the general public, general business or professional services, including but not limited to, architectural, management, clerical, accounting, legal, consulting, insurance, real estate brokerage, and travel services.

G. **Section 790.114** defines a medical service as a retail use which provides medical and allied health services to the individual by physicians, surgeons, dentists, podiatrists, psychologists, psychiatrists, acupuncturists, chiropractors, or any other health-care professionals when licensed by a State-sanctioned Board overseeing the provision of medically oriented services. It includes a clinic, primarily providing outpatient care in medical, psychiatric or other health services, and not part of a hospital or medical center.

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

COMMERCE AND INDUSTRY ELEMENT
GENERAL/CITYWIDE

Objectives and Policies

OBJECTIVE 1:

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

Policy 1:

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

The proposed Project would allow for additional needed commercial space on the project site to function as a dental office's accounting division in the Inner Clement NCD. The proposed dental office would be compatible and complimentary with the type of uses characterizing this portion of the Inner Clement Street NCD, which include a mixture of restaurants, specialty groceries, variety merchandise stores, and personal service establishments.

Policy 3:

Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of affordable housing and the needed expansion of commercial activity.

Approval of the proposed Project would be consistent with the mixed commercial-residential character of the Inner Clement Street NCD. The proposed Project would not adversely impact any affordable housing resources in the neighborhood.

OBJECTIVE 3:

PROVIDE EXPANDED EMPLOYMENT OPPORTNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

Policy 1:

Promote measures designed to increase the number of San Francisco jobs held by San Francisco residents.

The proposed Project would provide enhanced opportunities for employment of neighborhood residents.

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 6:

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

Policy 4:

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

The proposed Project will provide dental health services and is accessible to all residents in this portion of the Inner Clement Street Neighborhood Commercial Zoning District.

Policy 9:

Regulate uses so that traffic impacts and parking problems are minimized.

The proposed Project would not adversely impact public transit or place a burden on the existing supply of parking in the neighborhood. Many patrons would be able to walk from their residences or places of employment, and the project is well served by public transportation. There is on-street parking in front of the subject property and in the surrounding neighborhood.

URBAN DESIGN ELEMENT
CITY PATTERN

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 OF ORIENTATION.

Policy 3:

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

The Project's design would preserve the existing neighborhood character since the proposal does not include any major facade and exterior changes.

NEIGHBORHOOD ENVIRONMENT

Objectives and Policies

OBJECTIVE 4:

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

Policy 15:

Protect the livability and character of residential properties from the intrusion of incompatible new buildings.

The proposed Project would improve the neighborhood environment by increasing safety during the daytime through the occupancy of the vacant commercial tenant space.

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. 2008.0332C** 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. 17596. 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 22, 2008**.

Linda Avery
Commission Secretary

AYES: Commissioners Antonini, W. Lee, Miguel, Moore, Olague and Sugaya

NAYS: None

ABSENT: None

ADOPTED: May 22, 2008

Exhibit A

Conditions of Approval

GENERAL CONDITIONS:

A. The Approved Project

- (1) This approval is to allow the conversion of vacant commercial space (previously occupied by a travel agency, a business or professional service use) to a dental office (a medical service use) on the second floor of a three-story commercial and residential building, within the Inner Clement Street Neighborhood Commercial Zoning District and a 40-X Height and Bulk District, in general conformity with Plans on file with the Department in the docket for **Case No. 2008.0332C** (labeled EXHIBIT B), reviewed and approved by the Commission on **May 22, 2008**.
- (2) Pursuant to Sections 716.51 and 303(c) of the Planning Code, this Conditional Use approval will allow for the establishment of a medical service use on the second floor of the building.
- (3) Building area and massing authorized herein is limited to that described on the plans labeled EXHIBIT B. The Applicant shall advise the Planning Department staff of any changes or modifications to the Project, which would result in any deviation from the plans (labeled EXHIBIT B), as approved in this Motion.
- (4) All employees engaged in performing medical service uses shall be licensed for that purpose by a State-sanctioned Board overseeing the provision of these services.

B. Operation

- (1) The proposed hours of operation are 8 a.m. to 5 p.m.
- (2) The Project Sponsor shall obtain all necessary permits for all aspects of operation from the Department of Public Health and the Department of Building Inspection.
- (3) Noise and odors shall be contained within the premises so as not to be a nuisance to nearby residents and businesses.
- (4) The Project Sponsor shall maintain the entrance to the Project Site and all sidewalks abutting the subject property in a clean and attractive manner.
- (5) All garbage containers shall be stored within the building or designate storage areas except during collection periods.

C. Signage

- (1) All Project signage shall be consistent with the controls of Article 6 of the Planning Code. Project signage shall be reviewed and approved by the Planning Department.

D. Lighting

- (1) All Project lighting shall be directed onto the Project Site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to surrounding residents and businesses. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.

E. Performance

- (1) The Applicant shall obtain a building permit for this Project within three (3) years from the date of this Conditional Use authorization or the approval by the San Francisco Board of Supervisors, and construction shall thereafter be pursued diligently to completion or the said authorization/approval shall be deemed null and void.
- (2) This authorization may be extended at the discretion of the Zoning Administrator only where the failure to issue a building or site permit to construct the Project is delayed by a City agency or a state agency, or by legal challenges.
- (3) The Applicant shall appoint a community liaison officer to deal with issues of concern to neighbors related to the operation of this Project, and to meet with the neighbors on a regular basis until construction is completed. The name and telephone number of the community liaison shall be reported to the Zoning Administrator.
- (4) Should implementation of this Project result in complaints from neighborhood residents and/or businesses, which are not resolved by the Applicant and are subsequently reported to the Zoning Administrator and found to be in violation of the Planning Code and/or specific conditions of approval as set forth in this Exhibit A of this Motion, the Zoning Administrator shall report such complaints to the Planning Commission, which may thereafter hold a public hearing on the matter in accordance with the hearing notification and conduct procedures set forth in Section 174, 306.3 and 306.4 of the Code to consider revocation of this Conditional Use Authorization.
- (5) Should the monitoring of Conditions of Approval contained in Exhibit A of this Motion be required, the Applicant or successors shall pay fees as established in Planning Code Section 351(e)(1).
- (6) Failure to comply with any of the Conditions of Approval shall constitute a violation of the Planning Code or any other provisions of the Planning Code may be subject to abatement procedures and fines of up to five-hundred dollars (\$500.00) a day in accordance with Planning Code Section 176.
- (7) Prior to the issuance of a Building or Site Permit, the Zoning Administrator shall approve and order the recordation of a notice in the Official Records with the Office of the Recorder of the City and County of San Francisco, which notice shall state that construction of the project has been authorized by and is subject to the conditions of this Motion. From time to time, after the recordation of such notice, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied.