



# SAN FRANCISCO PLANNING DEPARTMENT

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*Subject to: (Select only if applicable)*

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|--|--|
| <input type="checkbox"/> Inclusionary Housing (Sec. 315)         | <input 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                             |

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

## Planning Commission Motion No. 17598

HEARING DATE: MAY 22, 2008

*Date:* May 22, 2008  
*Case No.:* **2004.0113C**  
*Project Address:* **520 BALBOA STREET**  
*Zoning:* NC-2 (Small-Scale Neighborhood Commercial)  
40-X Height and Bulk District  
*Block/Lot:* 1549/021  
*Project Sponsor:* Margy Ling Kam  
2533 Lombard Street  
San Francisco, CA 94123  
*Staff Contact:* Glenn Cabrerros – (415) 558-6169  
[glenn.cabreros@sfgov.org](mailto:glenn.cabreros@sfgov.org)

**ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303 AND 711.39 OF THE PLANNING CODE TO ALLOW DEMOLITION OF A RESIDENTIAL UNIT ABOVE THE GROUND FLOOR WITHIN THE NC-2 (SMALL-SCALE NEIGHBORHOOD COMMERCIAL) DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On February 3, 2004, Margy Ling Kam (Project Sponsor) filed an application with the Department for Conditional Use Authorization under Planning Code Sections 303 and 711.39 of the Planning Code to demolish a residential unit above the ground floor within the NC-2 (Small-Scale Neighborhood Commercial) District and a 40-X Height and Bulk District.

**On May 22, 2008**, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on **Conditional Use Application No. 2004.0113C**.

On November 17, 2005, the Project was determined by the San Francisco Planning Department (hereinafter "Department") to be categorically exempt from environmental review under Case No. 2004.0113E. 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. 2004.0113C, 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. **Project Description.** The project proposes to demolish the existing two-story, mixed-use building and to construct a four-story, three-unit residential building. The project would contain the residential entry and a three-car garage at the ground floor and one unit per a floor above the ground level.
3. **Site Description and Present Use.** The project site is located on the north side of Balboa Street between 6<sup>th</sup> and 7<sup>th</sup> Avenues, Lot 021 in Assessor's Block 1549. The property is within an NC-2 (Small-Scale Neighborhood Commercial) District and a 40-X Height and Bulk district. The property is developed with a two-story, mixed-use building containing a vacant commercial space at the ground floor and one dwelling unit at the second story. The subject property is approximately 2,500 square feet in area with 25-foot wide frontage on Balboa Street and a depth of approximately 100 feet.
4. **Surrounding Properties and Neighborhood.** The project site is located approximately in the middle of the block-face flanked by buildings on either side. The adjacent building to the west is a four-story, mixed-use building with two residential units over a ground floor commercial space. The adjacent building to the east is a three-story, two-unit building with a garage at the ground floor. The block-face is characterized two- and three-story buildings of mixed architectural style. The buildings on the block-face also range from solely residential uses to buildings with residential uses over a ground-floor commercial space. The opposite block-face also contains a mix of two- and three-story buildings of various architectural styles with residential and mixed uses.
5. **Environmental Review.** The Planning Department determined that the project is categorically exempt from environmental review for the purposes of the California Environmental Quality Act (CEQA) on November 17, 2005.
6. **Public Comment.** The applicant has filed Demolition and New Construction Permit Applications with the Department of Building Inspections (DBI) for the project. The Planning Department has reviewed the demolition and new construction applications concurrent with the

request for Conditional Use authorization. The 30-day required public notification for the demolition and new construction applications pursuant to Planning Code Section 312 did not result in any formal requests for Discretionary Review; however the Department has received one letter in opposition to the project. Issues raised in the letter include that the existing building should be retained and that the new proposal is out of scale with the neighborhood character.

7. **Residential Demolition Policy.** Pursuant to Planning Commission Resolution No. 16700, the Planning Commission requires Mandatory Discretionary Review of all applications proposing to demolish a residential structure. This resolution established a checklist of criteria that delineated the relevant General Plan Policies and Objectives. This resolution also factored in the value of the existing structure to be demolished, exempting projects from the Mandatory Discretionary Review if they are appraised at the high end of the price spectrum (80<sup>th</sup> percentile and above), and are thus not affordable.

As the project requires Conditional Use Authorization per the provisions of the NC-2 District controls, the requirements of the Planning Commission's Residential Demolition Policy requiring Mandatory Discretionary Review are included as part of this Conditional Use request. As such, staff has included the Mandatory Discretionary Review Checklist as an attachment to this packet, labeled as "EXHIBIT C" and has incorporated the policies outlined in the Residential Demolition Policy as part of the findings in this Motion.

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. **Residential Demolition in the NC-2 District.** Planning Code Section 711.39 states that Conditional Use Authorization is required for demolition of a dwelling unit at the second story or higher in the NC-2 District.

*The Project Sponsor is requesting Conditional Use Authorization for demolition of the existing dwelling unit at the second story. In light of the Planning Commission's Residential Demolition Policy and to supplement the request for Conditional Use Authorization, a Planning Department Residential Demolition Application and related soundness report have been provided for the Department's consideration.*

- B. **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 in which it is situated, but in no case less than 15 feet. In the NC-2 District, the required rear yard shall be provided at the second story and higher, and at the first story if it contains a dwelling unit.

*The Project proposes a 25-percent rear yard at all levels of the building, even though a dwelling unit is not proposed at the ground floor. As the lot measures 100 feet deep, the required rear yard proposed measures 25-feet deep.*

- C. **Parking.** Planning Section 151 of the Planning Code requires one independently-accessible parking space for each dwelling unit.

*The Project proposes a three-unit building with three parking spaces within an enclosed garage at the ground floor.*

9. **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 use and size of the proposed project is compatible with the immediate neighborhood. While the proposed building use is solely residential, the project is found to be compatible with the neighborhood commercial district as the subject block-face does not contain a strong continuous pattern of ground-floor commercial storefronts.*

*The Project would replace an existing unoccupied, unsound, mixed-use building containing one dwelling unit with a new building that will contain three two-bedroom units. This development is consistent with the General Plan, which promotes the creation of family-sized dwelling-units. The new structure is designed to add aesthetic value to the varied housing stock in this neighborhood.*

- 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 is designed to be compatible with the surrounding neighborhood and specifically with both adjacent buildings. The project provides shared lightwells for the lightwells at each adjacent building to mitigate light and air impacts from the Project. While full lot coverage at the ground floor is permitted in the NC-2 District, a 25-foot deep rear yard has been provided at grade, which is at the same level of the rear yard at the adjacent lot to the east.*

- 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 Planning Code requires three parking spaces for the Project, and three parking spaces are provided. The parking and traffic impacts associated with the residential use are not considered to have significant or adverse impacts.*

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

*Unlike some commercial uses, the proposed residential use is not considered to have the potential to produce noxious or offensive emissions.*

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

*The façade treatment and materials are found to be appropriately selected to be harmonious with the existing surrounding neighborhood.*

- 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 purpose of the NC-2 District as the Planning Code recognizes that the commercial development in the NC-2 District may be interspersed with housing or other land uses. It is also noted that the NC-2 controls provide for buildings that approximate or slightly exceed the standard development pattern.*

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

#### **HOUSING ELEMENT – HOUSING SUPPLY**

##### **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 1.1** – Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing, and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are affordable to lower income households. Set allowable densities in established residential areas at levels which will promote compatibility with prevailing neighborhood scale and character where there is neighborhoods support.

**Policy 1.7** – Encourage and support the construction of quality, new family housing.

*The Project proposes appropriate infill of an underutilized site within the NC-2 District. The project would remove a small, one-bedroom unit and proposes new construction of three family-sized, two-bedroom units.*

## **HOUSING ELEMENT – HOUSING DENSITY, DESIGN, AND QUALITY OF LIFE**

**OBJECTIVE 11 – IN INCREASING THE SUPPLY OF HOUSING, PURSUE PLACE MAKING AND NEIGHBORHOOD BUILDING PRINCIPLES AND PRACTICES TO MAINTAIN SAN FRANCISCO'S DESIRABLE URBAN FABRIC AND ENHANCE LIVABILITY IN ALL NEIGHBORHOODS.**

**Policy 11.1** -- Use new housing development as a means to enhance neighborhood vitality and diversity.

**Policy 11.5** -- Promote the construction of well-designed housing that enhances existing neighborhood character.

**Policy 11.8** -- Strongly encourage housing project sponsors to take full advantage of allowable building densities in their housing developments while remaining consistent with neighborhood character.

*The project would result in a net gain of two dwelling units to the neighborhood and the City's overall housing stock. The project maximizes the potential unit density for the lot with the construction of three units within an appropriately scaled building for the surrounding neighborhood. The project is well designed and its materials are found to be compatible with the existing neighborhood character.*

## **URBAN DESIGN – CITY PATTERN**

**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 1.2** – Recognize, protect and reinforce the existing street pattern, especially as it is related to topography.

**Policy 1.3** – Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

*The proposed building would appropriately infill an underdeveloped lot, thus the project would reinforce the prevailing street wall. The proposed fourth floor would not have an adverse impact on the neighborhood character as the massing of the fourth floor is mitigated by the use of a minimal front setback and a sloped roof form.*

## URBAN DESIGN – CONSERVATION

### OBJECTIVE 2 – CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

**Policy 2.6** – Respect the character of older development nearby in the design of new buildings.

*The massing of the building's front façade has been designed to be compatible with the prevailing street wall height, particularly the height of the adjacent buildings. In recognition of the adjacent building development, the proposed fourth floor is set back approximately 5 feet to align with the front walls of the adjacent buildings. The proposed exterior materials have been selected to be compatible with the adjacent buildings and the immediate neighborhood character.*

11. **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.

*Although a vacant commercial space would be eliminated by this project, existing neighborhood serving retail uses would not be displaced or otherwise adversely affected by the proposal. Rather, the three dwelling units and the family-sized character of these units would provide more individuals to patronize the existing neighborhood-serving retail uses.*

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

*Based on the Soundness Report provided by the Project Sponsor, the existing dwelling unit is unsound. The cost to repair and upgrade the existing structure would exceed 50 percent of the cost to rebuild the structure.*

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

*The existing structure does not contribute to the City's supply of affordable housing, as the structure has been vacant and is not contributing to the City's housing supply. The unsound conditions hinder the marketability of this dwelling unit for future owners or tenants, and the costs of necessary repairs significantly limit the level of affordability.*

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

*The existing dwelling unit does not have a parking space. The Project would not have a significant adverse affect on automobile traffic congestion or parking problems in the neighborhood. The project*

*would provide the required three off-street parking spaces within the ground-floor garage of the proposed structure.*

- 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 would not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses would not be affected by the Project.*

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

*The existing building is unsound and may be susceptible to damage in an earthquake. The replacement structure would be built in compliance with San Francisco's current Building Code Standards and would meet all earthquake safety requirements.*

- 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 exceed the 40-foot height limit for this NC-2 District, and is thus not subject to the requirements of Planning Code Section 295 – Height Restrictions on Structures Shadowing Property Under the Jurisdiction of the Recreation and Park Commission. The height of the proposed structure is compatible with the established neighborhood development and will not adversely affect any public park or open space's access to sunlight and vistas.*

12. 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.

13. 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. 2004.0113C** 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. 17598. 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 **May 22, 2008**.

Linda Avery  
Commission Secretary

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

NAYS: (None)

ABSENT: Commissioner Moore

ADOPTED: May 22, 2008

## Exhibit A

# Conditions of Approval

1. This authorization is for a Conditional Use Authorization under Planning Code Sections 303 and 711.39 of the Planning Code to demolition of a dwelling unit above the ground floor at 520 Balboa 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 February 3, 2004 and stamped "EXHIBIT B" included in the docket for **Case No. 2004.0113C**, reviewed and approved by the **Commission on May 22, 2008**.
2. The Project Sponsor shall photocopy the Notice of Special Restrictions onto the coversheet of the plan sets submitted with the Building Permit Application for this project.
3. Final design, materials, glazing, color, texture, and detailing shall be reviewed and approved by the Planning Department prior to the approval of any building permit application.
4. The maximum garage door width shall be 11 feet. The maximum curb cut width including curb returns shall be 10 feet.
5. One 15-gallon sized street tree shall be planted.
6. 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 1549, Lot 021), 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.
7. The Project Sponsor shall assure the execution and recordation of the specified conditions as a Notice of Special Restrictions at the Office of the County Recorder / County Clerk.
8. Should the implementation of this Project result in complaints from interested property owners or residents, which are not resolved by the Project Sponsor (and/or the appointed Community Liaison for the Project) and are subsequently reported to the Zoning Administrator who finds the Project in violation of the Planning Code and/or specific Conditions of Approval for the Project as set forth in "EXHIBIT A" of this Motion, the Zoning Administrator shall refer such complaints to the Planning Commission, after which they may hold a public hearing on the matter in accordance with hearing notification and conduct procedures as set forth in Section 174, 306.3 and 306.4 of the Code to consider revocation of this Conditional Use Authorization.

9. 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.
10. 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).
11. 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.