



SAN FRANCISCO PLANNING DEPARTMENT

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Planning Commission Motion No. 17601 HEARING DATE: MAY 29, 2008

Date: May 22, 2008
Case No.: **2008.0391C**
Project Address: **1122 POST STREET**
Zoning: Polk Street NCD (Neighborhood Commercial District)
 130-E Height and Bulk District
Block/Lot: 0691/002
Project Sponsor: Luis Uribe
 Maharani Restaurant
 1122 Post Street
 San Francisco, CA 94109
Staff Contact: Kevin Guy- (415) 558-6163
 kevin.guy@sfgov.org
Recommendation: **Approval with Conditions**

ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZING THE ADDITION OF A BAR TO AN EXISTING FULL-SERIVCE RESTAURANT (D.B.A "MAHARANI RESTAURANT") AT 1122 POST STREET ON ASSESSOR'S BLOCK 0691, LOT 002, LOCATED WITHIN THE POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT AND A 130-E HEIGHT AND BULK DISTRICT.

RECITALS

- On April 2, 2008, Luis Uribe (Project Sponsor) applied for a Conditional Use authorization, Application No. 2008.0391C, on the property at 1122 Post Street, Lot 002 in Assessor's Block 0691 (Project Site), to add a bar to an existing full-service restaurant (d.b.a. "Maharani Restaurant") as defined in Planning Code Sections 790.22 and 790.92, in general conformity with plans labeled Exhibit B dated May 29, 2008 (Project). The Project would allow the applicant to seek a Type 75 License from the California Department of Alcoholic Beverage Control. This license would permit the sale of beer, wine, and distilled spirits for on-site consumption in association with the restaurant, plus the operation of a microbrewery. The size of the restaurant would not change.

2. 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.
3. On May 29, 2008, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2008.0391C.
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 approves the conditional use requested in Application No. 2008.0391C, 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 at the northwest corner of Post Street and Polk Street. The property is located within the Polk Street NCD (Neighborhood Commercial District), and the 130-E Height and Bulk District. The property is developed with commercial uses and apartment units within a three-story building that covers 100% of the lot. The property has approximately 70 feet of frontage on both Post Street and Hemlock Street, and 120 feet of frontage on Polk Street. A total of nineteen dwelling units occupy the upper floors. The ground floor is developed with restaurant and retail uses, including the existing Maharani Restaurant which fronts on Post Street.
3. **Surrounding Neighborhood.** The area surrounding the subject property is mixed-use in character. A variety of commercial establishments are located within ground floor storefronts in the Polk Street NCD, including restaurants, bars, apparel stores, convenience stores, and other types of retailers. Buildings in the vicinity typically range from two to five stories in height. Upper floors of buildings are generally occupied by offices or residential units. Larger scale retail uses, tourist hotels, and residential uses are situated along the Van Ness Corridor, outside of the Polk Street NCD to the west.
4. **Project Description.** The existing Maharani Restaurant intends to seek a Type 75 License from the California Department of Alcoholic Beverage Control. This license would permit the sale of beer, wine, and distilled spirits for on-site consumption in association with the restaurant, plus the operation of a microbrewery. Pursuant to Planning Code Section 790.92, a full-service

restaurant that serves liquor is also considered to be a bar. Within the Polk Street NCD, a Conditional Use Authorization is required for a new bar. The sponsor proposes to install two tanks for the microbrewery in a service area adjacent to the existing banquet room. No other fixtures or modifications to the existing restaurant are proposed, and the size of restaurant would not change. The project would not add a stand-alone bar area within the restaurant that is solely intended for serving and consuming alcohol.

5. **Public Comment.**

Letters and phone calls have been received from members of the Lower Polk Neighbors organization. The comments have generally been supportive of the application, provided that alcohol is served only with meals within the restaurant, and not as part of a stand-alone bar operation.

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 Polk Street NCD is 2.5 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 8,250 square feet, 20,625 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.

The occupied floor area of the existing restaurant is under 5,000 square feet, and the Project proposes no physical expansion of the restaurant. 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 10,000 square feet in gross floor area are not required to provide off-street freight loading.

With a gross floor area of under 10,000 square feet, the Project is not required to provide off-street loading. There are nearby loading 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 Polk Street NCD, conditional use authorization is required for any nonresidential use that exceeds 1,999 square feet.

The Project would add a bar to an existing full-service restaurant. The interior configuration and physical footprint of the restaurant would not be altered as part of the proposed project, therefore, the use size of the existing restaurant would not change.

7. **Conditional Use Findings.** Under Section 303(c), the Commission may authorize a conditional use after finding that:

- A. The proposed new use, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The Project is desirable because it will contribute to the viability of an existing restaurant that is locally-owned and has operated on the site for 18 years. The existing restaurant serves beer and wine in association with meals. The requested authorization would broaden the selection of drinks served within the existing restaurant by allowing the sale of distilled spirits and beer that is produced from the microbrewery on the premises.

The Project would not physically expand the existing restaurant or create a new, stand-alone bar establishment. The restaurant would continue to serve patrons in the neighborhood, as well as from a broader customer base. The Project is desirable and compatible with the 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 size and shape of the site and the size, shape, and arrangement of the building are adequate for the Project. The Project would not physically expand or reconfigure the existing restaurant.

- 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 well-served by ample public transportation within two blocks of the Project site (1 - California, , 19-Polk, 38, 38L - Geary, 47- Van Ness, 49-Van Ness/Mission). 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;

The Commission is not aware of any formal complaints regarding offensive noise or odors at the Maharani Restaurant. Exhibit A of this motion contains a condition requiring that all noise and odors be regulated so as not to be a nuisance to nearby businesses or residents.

- 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 the applicable requirements of the Planning Code, and will not adversely affect the General Plan. In general, 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. These policies encourage a balance of uses within each NCD to ensure that local residences can fulfill their convenience needs within close proximity.

Although eating and drinking establishments are prevalent in the vicinity, the Project would not expand the existing restaurant or create a stand-alone bar establishment. The Project would broaden the selection of drinks served with meals in the existing restaurant by allowing the sale of distilled spirits and beer that is produced from the microbrewery on the premises. The addition of the bar will not disrupt the balance of commercial uses in the area, and will not displace establishments that provide convenience goods and services. The Project will not adversely affect the cited policies of the Commerce and Industry Element, or other Elements of the General Plan.

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

The Polk Street NCD functions as a neighborhood-serving marketplace, providing convenience and specialty goods and services to residents in the Polk Gulch, Nob Hill, Russian Hill, and Pacific Heights areas. The District is further described in Planning Code Section 723.1, which discusses uses in the District such as "...restaurants and bars which keep the district active into the evening." This section also states that the zoning controls for the district are designed to limit new eating and drinking establishments, "...which can produce parking congestion, noise, and other nuisances, or displace other types of local-serving convenience goods and services."

The Project would not expand the restaurant or create a new stand-alone bar, and therefore, would not displace retail storefronts that could provide for convenience goods and services. The Project would enhance the viability of an existing restaurant, contributing to the overall vitality and evening activity within the District. The Commission is not aware of any formal complaints regarding offensive noise or odors at the Maharani Restaurant. Exhibit A of this motion includes a condition requiring that all noise and odors be regulated so as not to be a nuisance to nearby businesses or residents.

8. **General Plan Compliance.** The Project is 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:

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. This policy includes guidelines that eating and drinking establishments should not occupy more than 25 percent of the total commercially-occupied frontage in a district. Although eating and drinking establishments are prevalent in the vicinity, the Project would not expand the existing restaurant or create a stand-alone bar establishment. The Project would broaden the selection of drinks served with meals in the restaurant by allowing the sale of distilled spirits and beer that is produced from the microbrewery on the premises. The addition of the bar will not disrupt the balance of commercial uses in the area, and will not displace storefronts that could provide for neighborhood-serving goods and services.

Policy 2:

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

The Project is desirable because it will contribute to the viability of an existing restaurant that is locally-owned and has operated on the site for 18 years. The restaurant currently serves beer and wine in association with meals. The requested authorization would broaden the selection of drinks served within the existing restaurant by allowing the sale of distilled spirits and microbrewed beer produced on the premises. The Project would not physically expand the existing restaurant or create a new, stand-alone bar establishment. The Project is desirable and compatible with the neighborhood, and will contribute to the vitality of the District.

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 Project would not expand the existing restaurant, and would therefore not decrease the square footage that could be made available to other types of neighborhood-serving retail uses or service establishments.

- (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 add a bar to an established restaurant, and would not expand the footprint or change the configuration of the existing restaurant. The Project is not expected to dramatically alter the operation or character of the existing restaurant, and will enhance the commercial vitality of the Polk Street NCD.

- (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 area 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 a potential contributor to a potential National Register Historic District. Although no exterior changes are proposed by the project, any future storefront alterations and signage would be required to comply with applicable preservation standards.

- (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 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. 2008.0391C.**

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this approval 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 May 29, 2008.

Linda Avery
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED:

Exhibit A

Conditions of Approval

1. This authorization is to add a bar to an existing full-service restaurant as defined in Planning Code Sections 790.22 and 790.92, in general conformity with plans labeled Exhibit B; dated March 29, 2008, and review by the Commission on May 29, 2008. The authorization would allow the applicant to seek a Type 75 License from the California Department of Alcoholic Beverage Control. This license would permit the sale of beer, wine, and distilled spirits for on-site consumption in association with the restaurant, plus the operation of a microbrewery.
2. All alcoholic beverages shall be served with meals. All meals shall be served on china with metal eating utensils. Meals shall be ordered and served at tables, and shall be paid for after consumption.
3. Patrons shall enter the restaurant through the entrance on Polk Street only during banquet events. The existing sign above this entrance (reading "M Lounge") shall be removed within 90 days of this authorization.
4. The Commission may consider revocation of this conditional use authorization if a permit for the project has been issued, but is allowed to expire and more than three 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 within three years is delayed by a City, state or federal agency, or by appeal of the issuance of such permit.
5. No exterior alterations are permitted by this authorization. The Project Sponsor shall work with staff to ensure that all future exterior alterations, including signage, are consistent with the Secretary of Interior's Standards for Treatment of Historical Properties. Signage size shall be appropriate for the scale of the historic building, and materials and lighting shall be compatible with the historical character of the building.
6. Ground level storefronts shall be maintained in an attractive manner, providing transparency into the tenancy behind. Visibility of the commercial interiors and activity through all storefront windows shall be maintained in order to ensure that the ground level of the building remains visually active, provides visual interest to pedestrians, and enhances sidewalk security. Commercial interior layouts should be designed with these requirements in mind. Generally, storefront windows should not be visually obscured with the following: blinds, shades or curtains; shelving; equipment; darkly tinted, translucent or opaque film; painted, stenciled or adhesive signage applied to individual window surfaces that has an overall transparency of less than 50%, or any signage that covers more than 1/3 of the area of any individual window; full or

partial height interior partition walls placed directly against or within 10 feet from the window glazing; or any other items that significantly block the vision of pedestrians through the storefront windows into the occupiable commercial space. Solid roll-down security gates shall not be installed in storefront openings. The property owner shall ensure that this condition of approval is incorporated into all commercial leases.

7. The operator of the establishment shall maintain the entrances and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at minimum, daily sweeping, litter pickup and disposal, and washing or steam/pressure cleaning of the main entrance and abutting sidewalks at least once every two weeks.
8. Noise and odors shall be regulated so as not to be a nuisance to nearby businesses or residents.
9. An enclosed waste storage area shall be provided within the establishment. All trash and recycling containers shall be kept within the building until pick-up by the disposal company.
10. The Project Sponsor shall appoint a Community Liaison to address issues and matters of concern to nearby residents or commercial lessees. This liaison or designated representative shall be available at the establishment at all times during business hours. The Project Sponsor shall report the name and telephone number of this liaison to the Zoning Administrator for reference.
11. Should monitoring of the Conditions of Approval of this Motion be required, the Project Sponsor shall pay fees as established in Planning Code Section 351(e)(1).
12. Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and are subsequently reported to the Zoning Administrator and found to be in violation of the Planning Code and/or the 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 Commission, after which it may hold a public hearing on the matter in accordance with the hearing notification and conduct procedures as set forth in Sections 174, 306.3, and 306.4 of the code to consider revocation of this conditional use authorization.
13. 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.