



SAN FRANCISCO PLANNING DEPARTMENT

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 |

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Planning Commission Motion No. 17604

HEARING DATE: MAY 29, 2008

Date: May 1, 2008
Case No.: **2006.0828CV**
Project Address: **1729-1733 Stockton Street**
Zoning: North Beach NCD (Neighborhood Commercial District)
40-X Height and Bulk District
Block/Lot: 0089/007
Project Sponsor: Albert Costa
Theodore Brown and Partners, Inc.
1620 Montgomery Street #320
San Francisco, CA 94111
Staff Contact: Kevin Guy – (415) 558-6163
kevin.guy@sfgov.org

ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 161(j) AND 303 OF THE PLANNING CODE TO ALLOW A REDUCTION OF OFF-STREET PARKING REQUIREMENTS FOR DWELLING UNITS ON A PROPERTY WITHIN THE NORTH BEACH NCD (NEIGHBORHOOD COMMERCIAL DISTRICT) AND A 40-X HEIGHT AND BULK DISTRICT.

RECITALS

1. On November 7, 2007, Albert Costa (Project Sponsor) filed an application with the Department for Conditional Use Authorization under Planning Code Sections 161(j) and 303 to allow a reduction of off-street parking requirements for dwelling units on a property within an NC District.
2. On May 29, 2008, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2006.0828C.
3. The Project was determined by the San Francisco Planning Department (hereinafter "Department") to be categorically exempt from environmental review. The Commission has reviewed and concurs with said determination.

4. 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.
5. **MOVED**, that the Commission hereby authorizes the Conditional Use requested in Application No. 2006.0828C, 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 Project is located on the western side of Stockton Street, between Filbert and Greenwich Streets, Block 0089, Lot 007. The subject property is located within the North Beach NCD (Neighborhood Commercial District), and the 40-X Height and Bulk District. The property measures 2,475 square feet, and is developed with a three-story residential building containing three dwelling units and three off-street parking spaces, as well as a detached cottage within the rear yard containing one dwelling unit.
3. **Surrounding Properties and Neighborhood.** The area surrounding the subject property is mixed-use in character. Buildings within one block to the north and east are predominantly residential in character, with some local-serving commercial uses located on the ground floor of corner buildings. The commercial core of the North Beach neighborhood is situated along Columbus Avenue further to the south, and includes a variety of restaurants, financial institutions, apparel stores, and other types of retailers. Upper floors of buildings on Columbus Avenue are generally occupied by offices, residential units, or tourist-hotels. Other uses in the vicinity include the Saints Peter and Paul Church, fronting on Filbert Street to the southwest, and Washington Square Park, located one-half block to the south.
4. **Project Description.** The proposal is a one-story, vertical addition measuring approximately 500 square feet to the existing one-story detached cottage which is located within the rear yard of the subject property. The enlarged cottage would measure approximately 25 feet by 22 feet horizontally, and would reach a height of approximately 25 feet. The Project would add two dwelling units, for a total of six dwelling units on the property. The interior of the existing cottage would also be remodeled and reconfigured, however, the exterior of the first floor would not change.
5. **Public Comment.** Following publication of the Executive Summary for the project, staff received several letters and emails in opposition to the project from residents of properties in the area. These letters generally expressed concerns over loss of light and air to adjacent courtyards and dwelling units, construction noise, and the lack of parking in the area. Copies of these letter were provided to the Planning Commission at the hearing on May 29, 2008.

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. **Use and Density.** Planning Code Sections 207.4 and 722.91 permit residential uses within the North Beach Neighborhood Commercial District at a maximum density of no less than one dwelling unit for each 400 square feet of lot area.

The Project would add two dwelling units to the property, for a total of six dwelling units. Based on the allowable density specified by Planning Code Sections 207.4 and 722.91, up to six dwelling units would be allowed on the subject property. The Project conforms to the use and density allowed by the Planning Code.

- B. **Height and Bulk.** The subject property is located within a 40-X Height and Bulk District. Within this District, building heights are limited to 40 feet, and bulk limits do not apply.

The proposed addition would reach a maximum height of approximately 24' - 6", and would therefore conform with the maximum allowable height within the 40-X Height and Bulk District.

- C. **Rear Yard.** Section 134 of the Planning Code requires an approximate 28-foot rear yard on the subject site.

The existing cottage is situated on the rear property line, and the proposed addition would not be set back from the rear property line. The existing building was constructed before zoning controls established and regulated minimum rear yards, thus making the building legally non-conforming in regards to rear yard requirements. The addition to the building within the rear yard requires a Variance.

- D. **Usable Open Space.** Section 135 of the Planning Code requires a minimum amount of usable open space to be provided for dwelling units within NC Districts. This Section specifies that an outdoor area must meet minimum requirements for area, horizontal dimensions, and exposure to light and air to be considered usable open space.

The existing property is deficient in usable open space that meets the requirements of this Section. The addition of two dwelling units that do not have access to usable open space requires a Variance.

- E. **Dwelling Unit Exposure.** Section 140 of the Planning Code requires that at least one room of all dwelling units face onto a public street, a rear yard, or other open area that meets minimum requirements for area and horizontal dimensions.

The existing rear cottage does not face onto a qualifying open area. The addition of two dwelling units that do not face onto a qualifying open area requires a Variance.

- F. **Off-Street Parking.** Section 151 of the Planning Code requires one parking space to serve each dwelling unit on the subject property.

The Project would require two new off-street parking spaces to serve the proposed dwelling units, however, the Project does not propose any new off-street parking spaces. Pursuant to Section 161(j) of the Planning Code, the Planning Commission may make specified findings to grant a Conditional Use Authorization that reduces the parking requirements for a property within an NC District.

- G. **Expansion of Non-Complying Structure.** Section 188 of the Planning Code prohibits an expansion of a non-complying structure that would increase its non-conformity with the provisions of the Planning Code.

Because a portion of the existing cottage is already located in the rear yard, it is considered a legally non-complying structure. In addition, the existing structure does not meet the requirements of the Planning Code for usable open space (Section 135) and dwelling unit exposure (Section 140). The proposed expansion would be contrary to Section 188 of the Planning Code, and thus requires a Variance.

7. **Planning Code Section 161(j)** establishes criteria for the Planning Commission to consider when reviewing applications to reduce parking requirements for dwelling units within NC Districts. These criteria are considered through the Conditional Use Authorization process set for in Planning Code Section 303, and supersede the criteria in Section 303(c). On balance, the Project does comply with said criteria in that:

- A. The reduction in the parking requirement is justified by the reasonably anticipated auto usage by residents of and visitors to the project.

No off-street parking is proposed for the two new dwelling units. The property is located within the North Beach Neighborhood Commercial District, and a wide variety of goods and services are available within walking distance of the subject property. In addition, the area is well served by public transit, providing connections to all areas of the City and to the larger regional transportation network. By not providing parking for the new units, the Project will encourage walking and transit usage, and will deemphasize reliance on the private automobile.

- B. The reduction in the parking requirement will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity.

The North Beach NCD and the surrounding residential community is mixed-use and strongly pedestrian-oriented in character. The streetscapes along Columbus Avenue, Grant Street, and other streets within the NCD are characterized by a variety of small-scale, ground floor commercial uses with active, transparent storefronts. Many of the restaurants within the NCD have outdoor seating, contributing to the vitality and pedestrian-orientation of the District. By not providing parking for the new dwelling units, the Project will emphasize walking and transit usage to meet transportation needs. This will avoid the negative impacts to the pedestrian character of the District that may result from additional automobile usage.

- C. The project is consistent with the existing character and pattern of development in the area.

There is an established development pattern in the North Beach area of detached buildings situated within the rear yard behind a primary residential building. These rear buildings typically range in height from one to three stories, and contain up to four dwelling units. The Project is compatible with this context. The addition has been configured to maximize light and air to remnant open areas on adjacent properties, to the extent feasible.

Many residential buildings in North Beach contain little or no off-street parking. Due to the abundant transit services and commercial establishments in the area, residents are able to satisfy daily needs without reliance on private automobile use. The proposed dwelling units would not include parking spaces, and are compatible with the character and development pattern of the area.

- D. The project is consistent with the description and intent of the neighborhood commercial district in which it is located.

Planning Code Section 722.1 describes the character of the North Beach NCD and the intent of the District regulations. The following statements, in particular, are applicable to the Project:

- i. "Building standards limit new development to a small to moderate scale. "

Many of the properties in North Beach contain rear buildings that range in height from one to three stories. The proposed two-story rear building is compatible with this context, and is lower in height than the abutting rear buildings on the properties to the north and the south. The Project will add two very small-scale dwelling units to the City's housing stock in a manner that will not adversely affect the scale and character of the District.

- ii. "...rear yards are protected above the ground story and at residential levels."

The rear yard requirements of current zoning regulations are intended to create a pattern of open areas within private properties that form an aggregate mid-block open space. This pattern is difficult to achieve in North Beach, however, due to the historic presence of non-complying rear structures on many surrounding properties. The Project has been configured to maximize light and air to open areas at ground level on adjacent properties. The second story addition also provides setbacks to the existing balconies and lightwells on the buildings to the north and south. To the extent feasible, the Project protects the quality of remnant rear yards on adjacent properties.

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

HOUSING

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 1.1:

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 1.2:

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

The Project will add two residential units within the North Beach Neighborhood Commercial District at a density that is allowed by zoning and is compatible with the character of the area. The Project continues the pattern of detached rear buildings that is prevalent in North Beach, and will add dwelling units in a manner that does not alter the character of the area. The new units will not displace any existing commercial establishments or diminish job opportunities, and will contribute to the customer base of businesses in the area. The size of the proposed units, coupled with the lack of parking, will make these units more affordable.

OBJECTIVE 4

SUPPORT AFFORDABLE HOUSING PRODUCTION BY INCREASING SITE AVAILABILITY AND CAPACITY

Policy 4.3:

Encourage the construction of affordable units for single households in residential hotels and "efficiency" units.

The Project would add new dwelling units to the City's housing stock. Each unit would be relatively modest in size (approximately 250 sq. ft.), allowing the units to rent at a lower market rate than larger rental units in the area.

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 11.7:

Where there is neighborhood support, reduce or remove minimum parking requirements for housing, increasing the amount of lot area available for housing units.

Policy 11.9:

Set allowable densities and parking standards in residential areas at levels that promote the City's overall housing objectives while respecting neighborhood scale and character.

The Project will add to the City's housing stock in a manner that complements the density and character of the surrounding neighborhood. The addition has been designed to maximize light and air to the remnant open spaces of surrounding properties. By not providing parking for the new dwelling units, the Project will emphasize transit usage and walking to meet transportation needs. Future residents will be able to patronize local businesses within walking distance, bolstering the viability of these establishments and reinforcing the pedestrian-oriented character of the District.

**RESIDENCE ELEMENT:
Objectives and Policies**

OBJECTIVE 1

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 1.4:

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

The Project will provide additional housing in a manner that reflects that established neighborhood character of the area. The small dwelling unit size, combined with the lack of parking, will allow the units to rent at a lower market rate than larger units in the area.

OBJECTIVE 2

TO INCREASE THE SUPPLY OF HOUSING WITHOUT OVERCROWDING OR ADVERSELY AFFECTING THE PREVAILING CHARACTER OF EXISTING NEIGHBORHOODS. (RETAIN THE EXISTING SUPPLY OF HOUSING.)

Policy 2.2

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 permanently affordable to lower income households.

The Project continues the pattern of detached rear buildings that is prevalent in North Beach, and will provide dwelling units in a manner that does not alter the character of the area. The Project will add to the customer base of businesses in the area, contributing to the vitality of the North Beach Neighborhood Commercial District.

OBJECTIVE 12

TO PROVIDE A QUALITY LIVING ENVIRONMENT.

Policy 12.1:

Assure housing is provided with adequate public improvements, services and amenities.

Policy 12.4:

Promote construction of well designed housing that conserves existing neighborhood character.

The Project will add dwelling units in a location that is well-served by public transit, parks, commercial services, and recreational opportunities. The units will not alter the appearance of the property, as viewed from the public right-of-way, and is compatible with the established pattern of rear dwelling units found in the North Beach area.

TRANSPORTATION ELEMENT:

Objectives and Policies

OBJECTIVE 34

RELATE THE AMOUNT OF PARKING IN RESIDENTIAL AREAS AND NEIGHBORHOOD COMMERCIAL DISTRICTS TO THE CAPACITY OF THE CITY'S STREET SYSTEM AND LAND USE PATTERNS.

Policy 34.1

Regulate off-street parking in new housing so as to guarantee needed spaces without requiring excesses and to encourage low auto ownership in neighborhoods that are well served by transit and are convenient to neighborhood shopping.

Policy 34.3

Permit minimal or reduced off-street parking supply for new buildings in residential and commercial areas adjacent to transit centers and along transit preferential streets.

Policy 34.5

Minimize the construction of new curb cuts in areas where on-street parking is in short supply and locate them in a manner such that they retain or minimally diminish the number of existing on-street parking spaces.

Many residential buildings in North Beach contain little or no off-street parking. Due to the abundant transit services and commercial establishments in the area, residents are able to satisfy daily needs without reliance on private automobile use. The proposed dwelling units would not include parking spaces, and are compatible with the character and development pattern of the area.

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 would not displace any retail establishments or compromise employment opportunities in the area. The new dwelling units would add to the customer base for businesses in the vicinity.

- 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 not diminish the existing housing stock, and will add dwelling units in a manner that complements the prevailing development pattern in North Beach. The proposed units would not be visible from public rights-of-way. The existing housing stock and neighborhood character in the area would not be adversely affected.

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

The Project would add new dwelling units to the City's housing stock. Each unit would be relatively modest in size (approximately 250 sq. ft.), allowing the units to rent at a lower market rate than larger market-rate units in the area.

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

No off-street parking is proposed for the two new dwelling units. The property is located within the North Beach NCD, and a wide variety of goods and services are available within walking distance of the subject property. In addition, the area is well served by public transit, providing connections to all areas of the City and to the larger regional transportation network. By not providing parking for the units, the Project will encourage transit usage and deemphasize reliance on the private automobile.

- 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. 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.

The existing rear building is not considered a potential historic resource under CEQA. The primary building on the property is considered a historic resource. The proposed addition will not affect character defining features of the primary building or the property. The proposed addition would not be visible from the public right-of-way, and would not adversely impact nearby historic resources.

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

The Project will not cast shadows or impede views for parks and open spaces in the area, nor have any negative impact on existing public parks and open spaces. The Project has been configured to minimize impacts on light and air to remnant open areas at ground level on adjacent private properties.

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. 2006.0828C** 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. 17604. 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: Olague, Antonini, Miguel, Moore

NAYS: Sugaya

ABSENT: Lee

ADOPTED: May 29, 2008

Exhibit A

Conditions of Approval

1. This authorization is for a Conditional Use Authorization under Planning Code Sections 161(j) and 303 to allow a reduction of off-street parking requirements for dwelling units on the property at 1729-1733 Stockton Street within a the North Beach Neighborhood Commercial District and a 40-X Height and Bulk District, in general conformance with plans filed with the Application as received on November 7, 2007, and as subsequently revised and stamped "EXHIBIT B" included in the docket for Case No. 2006.0828C, reviewed and approved by the Commission on May 29, 2008.
2. Minor modifications as determined by the Zoning Administrator may be permitted.
3. The Project Sponsor shall appoint a community liaison officer to deal with issues of concern to owners and occupants of nearby properties at all times during construction of the Project. Prior to the commencement of construction activities, the Project Sponsor shall provide the Zoning Administrator and the owners of the properties within 300 feet of the Project site written notice of the name, business address, and telephone number of the community liaison.
4. 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 0089, Lot 007), 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.
5. 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.
6. 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).
7. 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.

8. The proposed project must meet these conditions and all applicable City Codes. In case of conflict, the more restrictive controls shall apply.
9. All dwelling units on the property shall be utilized solely as residential dwelling units, and shall not be used, rented, or hired out to transient visitors intending to occupy the unit for less than 32 consecutive days.
10. The plans submitted with the building permit application for the project shall incorporate a partial lightwell at the northern property line on the first story of the building. This lightwell shall extend diagonally from the back wall of the second story lightwell toward the northerly property line at a 45-degree angle. The specific design of this lightwell shall be subject to review and approval by the Planning Department.