



# SAN FRANCISCO PLANNING DEPARTMENT

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- Jobs Housing Linkage Program (Sec. 313)
- Downtown Park Fee (Sec. 139)
- First Source Hiring (Admin. Code)
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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 17613

HEARING DATE: JUNE 12, 2008

*Date:* June 5, 2008  
*Case No.:* **2008.0455C**  
*Project Address:* **525 Castro Street**  
*Zoning:* Castro Street Neighborhood Commercial District  
 40-X Height and Bulk District  
*Block/Lot:* 3583/069  
*Project Sponsor:* Meredith Wheeler  
 Levi's Only Stores  
 1155 Battery Street  
 San Francisco, CA 94111  
*Staff Contact:* Sophie Middlebrook – (415) 558-6372  
 sophie.middlebrook@sfgov.org

**ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 703.3, 715.1, AND 790.102 OF THE PLANNING CODE TO ALLOW A FORMULA RETAIL ESTABLISHMENT (DBA LEVI'S) WITHIN THE CASTRO STREET NEIGHBORHOOD COMMERCIAL DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On April 17, 2008, Meredith Wheeler, on behalf of Levi's Only Stores, Inc. (Project Sponsor) filed an application with the Department for Conditional Use Authorization under Planning Code Sections 303, 703.3, 715.1, and 790.102 to allow a formula retail establishment (dba Levi's) on the property at 525 Castro Street, Lot 069 in Assessor's Block 3583 (hereinafter "Property") in the Castro Street Neighborhood Commercial Zoning District and 40-X Height and Bulk District, in general conformity with plans filed with the Application and labeled "Exhibit B" (hereinafter "Project").

On June 12, 2008, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2008.0455C. Conditional Use Authorization is required for the establishment of a Formula Retail Use as defined Section 703.3 of the Planning Code in any Neighborhood Commercial District identified in Article 7 of the Planning Code.

Pursuant to the Guidelines of the State Secretary of Resources for the implementation of the California Environmental Quality Act (hereinafter "CEQA"), the Planning Department of the City and County of

San Francisco (hereinafter "Department") determined that the proposed Conditional Use Application was categorically exempt from the environmental review process under Class 1(a) of the State CEQA Guidelines, Section 15332, 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. 2008.0455C 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 subject property is located on the east side of Castro Street, Block 3583, Lot 069. The property is located within the Castro Street Neighborhood Commercial District with 40-X height and bulk limits. The property is developed with two residential floors over a ground floor commercial space within a three-story building. The existing ground floor was formerly developed with the Castro Video Store, and is now a vacant storefront. The subject property is on the north end of the block, with approximately 25 feet of frontage on Castro Street. The commercial storefront occupies approximately 18 feet along Castro Street.
3. **Surrounding Properties and Neighborhood.** The project site is located on the north end of Castro Street between 18<sup>th</sup> and 19<sup>th</sup> Street. The Project site is located within the Castro Street Neighborhood Commercial District, which is characterized by a variety of neighborhood-serving retail and entertainment uses. A mixture of food establishments, personal services, and small retail establishments defines the District. Adjacent properties to the east and west are located within the RH-3 (Residential, House, Three-Family) District.

The immediate neighborhood is characterized by two- and three-story mixed-use buildings with commercial space at the ground level. Dwelling-units are typically found above the commercial ground floor tenants, and the neighboring properties located off of Castro Street are primarily zoned for two- and three-family dwellings.

Throughout the neighborhood, there are approximately 170 retail storefronts, of which approximately 30 appear to contain formula retail establishments, including service-oriented businesses such as banks, restaurant, and gyms. Formula retail establishments that sell products include Walgreen's, Radio Shack, Pottery Barn, Diesel, L'Occitane, the Body Shop, and Sunglass Hut. Retail establishments in the neighborhood that sell apparel include Diesel, Body, Citizen,

All American Boy, Clobba, Kenneth Wingard, Injeanous, Injeanous Lounge, Rolo, Solis, and Sui Generis. The Diesel Store is the only other formula retail establishment that offers apparel. Within the district, there appear to be a total of 7 vacant commercial storefronts, five of which are on the subject block of Castro Street between 18<sup>th</sup> and 19<sup>th</sup> Streets.

The Subject Property is located in the Castro Street Neighborhood Commercial District, which is defined in Section 715.1 of the Planning Code.

The Castro Street District is situated in Eureka Valley, close to the geographic center of San Francisco between the Mission District, Twin Peaks, and Upper Market Street. The physical form of the district is a crossing at Castro and 18<sup>th</sup> Streets, the arms of which contain many small, but intensely active commercial businesses. The multi-purpose commercial district provides both convenience goods to its immediate neighborhood as well as comparison shopping goods and services on a specialized basis to a wider trade area. Commercial businesses are active both in the daytime and late into the evening and include a number of gay-oriented bars and restaurants, as well as several specialty clothing and gift stores. The district also supports a number of offices in converted residential buildings.

The Castro Street District controls are designed to maintain existing small-scale development and promote a balanced mix of uses. Building standards permit small-scale buildings and uses and protect rear yards above the ground story and at residential levels. In new buildings, most commercial uses are permitted at the ground and second stories. Special controls are necessary to preserve the existing equilibrium of neighborhood-serving convenience and specialty commercial uses. In order to maintain convenience stores and protect adjacent residential livability, controls prohibit additional eating and drinking establishments and permit with certain limitations new late-night uses, adult and other entertainment, and financial service uses. The continuous retail frontage is maintained by prohibiting most automobile and drive-up uses.

Housing development in new buildings is encouraged above the second story. Existing housing units are protected by limitations on demolitions and upper-story conversions.

- 4. Project Description.** The applicant proposes to open a Levi's Store in the ground floor commercial space located at 525 Castro Street, in the space formerly occupied by Castro Video. The commercial space has been vacant for approximately three months. The ground floor of the subject building has been used as small-scale commercial retail space for close to one hundred years. The proposal includes tenant improvements to the existing storefront, but the existing commercial space would not be enlarged and all alterations will be within the existing footprint of the subject building. A building permit for storefront and façade alterations will be filed separately. The existing commercial space is approximately 1,785 square feet in size. The proposed commercial use is under 2,000 square feet in size, so there is not an on-site parking requirement.

The proposed new use is as Levi's retail clothing store, which is a formula retail establishment. The proposal requires a change of use and Section 312-neighborhood notification, which was

conducted in conjunction with the Conditional Use Authorization notification process. The proposed use is a neighborhood-serving use.

The subject site is well served by public transit so that potential employees and customers should not adversely affect the traffic flow. The intensity of use for the proposed clothing store is anticipated to be similar to or less than that of the video store that previously occupied the space. The proposed project is anticipated to enhance the pedestrian-oriented retail experience of the Castro Street District.

5. **Public Comment.** The Department has heard no opposition to the proposal. The Department has received letters of support from MUMC (Merchants of Upper Market and Castro), EVPA (Eureka Valley Promotion Association), and the Duboce Triangle Neighborhood Association. The Department has received four telephone calls in support of the proposal.

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 Size.** Planning Code Sections 715.21 and 790.130 permit up to 1,999 gross square feet of non-residential use within the district.

*As proposed, the project will maintain approximately 1,785 gross square feet of commercial space, and is therefore consistent with the requirements of the Planning Code.*

B. **Street Trees.** Planning Code Section 143 requires the installation of new street trees for any project in an NC District that includes the addition of gross floor area equal to 20 percent or more of the gross floor area of the existing building.

*The alterations to the existing structure include façade alterations and interior reconfigurations within the existing footprint. The proposed project does not include the addition of new gross floor area, and therefore does not require the addition of new street trees.*

C. **Rear Yard Requirement in the Castro Street Neighborhood Commercial District.** Planning Code Section 134(A)(e) 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. The rear yard shall be provided at the second-story, and at each succeeding story of the building, and at the first story if it contains a dwelling unit.

*The proposal does not include any structural expansion. The rear yard meets the Planning Code requirements. The first floor of the subject building does not contain a dwelling unit, and no alterations are proposed for the upper two stores.*

D. **Parking.** Planning Section 151 of the Planning Code requires off-street parking for every 500 square-feet of occupied floor area, where the occupied floor area exceeds 5,000 square-feet.

*The proposed project provides approximately 1,784 square-feet of occupied floor area and thus does not require any off-street parking.*

- E. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code requires that NC Districts containing specific uses, including formula retail establishments, have at least ½ the total width of the new or altered structure at the commercial street frontage devoted to entrances to commercially used space, windows or display space at the pedestrian eye-level. Such windows shall use clear, un-tinted glass, except for decorative or architectural accent. Any decorative railings or decorated grille work, other than wire mesh, which is placed in front or behind such windows, shall be at least 75 percent open to perpendicular view and no more than six feet in height above grade.

*The subject commercial space has approximately 18 feet of frontage on Castro Street with approximately 16 feet devoted to either the retail commercial entrance or window space. The windows are clear and unobstructed. The project proposes to reconfigure and to realign the existing commercial entrance with no reduction in total window or entrance space along the Castro Street frontage.*

- F. **Signage.** The subject property is located within the Upper Market Special Sign District, as described in Planning Code Section 608.10. The provisions set forth in the Upper Market Special Sign District provide special guidelines and limitations for general advertising signs, free-standing signs, signs with moving parts, signs with flashing lights, and projecting signs.

*The proposed project does not include any general advertising signs, roof signs, free-standing signs, signs with moving parts, or signs with flashing lights. The project proposal includes two brand logos applied to the storefront windows, a blade sign with pin mounted reverse channel letters centered over the primary entrance, and an aluminum bracket sign on the south end of the commercial storefront window. Although the signage was reviewed as part of the overall proposed project, separate sign permits will be filed with the Department.*

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- A. The proposed new use and establishment, 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 size of the proposed new retail store is in keeping with other storefronts on the block face, and will not be significantly larger than the space occupied by the previous tenant, a video store. The proposed retail clothing store will compliment the mix of goods and services currently available in the district and is expected to invigorate commercial activity on this section of Castro Street, as well as to enhance the pedestrian-oriented retail experience of the district.*

- 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, shape, and arrangement and arrangement of the structure on the site will remain unchanged. The proposed project includes the reconfiguration of the existing façade and interior tenant improvements, but does not include major alterations to the configuration of the existing building.*

- 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 does not require parking or loading for a commercial retail space that occupies less than 1,999 square feet. The proposed use is designed to meet the needs of the immediate neighborhood and should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide. The proposed project is consistent in scale with the pedestrian-oriented Castro Street Neighborhood Commercial District.*

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

*The proposed project, a retail clothing store, will not emit noxious or offensive noises, glare, dust, or odor.*

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

*The proposed new retail clothing store will occupy the same commercial space as the existing tenant. The reconfigured storefront will incorporate materials and features such as wood storefront windows, canvas awnings, wood cladding, and ceramic tiles at the base. The Department shall review all signs proposed for the new business in accordance with Condition 6 of Exhibit A.*

- 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 purposes of the Castro Street Neighborhood Commercial District in that the intended use is located at the ground floor, will provide a compatible retail service for the immediately surrounding neighborhoods during daytime hours, and will contribute to the continuous retail frontage along Castro Street.*

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

## NEIGHBORHOOD COMMERCE

### Objectives and Policies

#### **OBJECTIVE 1:**

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

#### **Policy 1.1:**

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

#### **Policy 1.2:**

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

#### **Policy 1.3:**

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

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

#### **OBJECTIVE 2:**

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

#### **Policy 2.1:**

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

*The Project will retain an existing commercial activity and will enhance the diverse economic base of the City.*

**OBJECTIVE 6: MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.**

**Policy 6.1:**

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

*No commercial tenant would be displaced and the project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.*

The following guidelines, in addition to others in this objective for neighborhood commercial districts, should be employed in the development of overall district zoning controls as well as in the review of individual permit applications, which require case-by-case review and City Planning Commission approval. Pertinent guidelines may be applied as conditions of approval of individual permit applications. In general, uses should be encouraged which meet the guidelines; conversely, uses should be discouraged which do not.

- If locating at the ground story, the use should contribute to an active retail frontage. In districts with continuous active retail frontage, individual uses which do not serve the general public during regular business hours, such as churches, are encouraged to share ground story space with more active uses. This guideline may not apply in those districts or parts of a district where retail uses are interspersed with fully residential buildings and institutional facilities. However, in some areas, it may be appropriate to allow conversion of non-commercial ground story space in order to accommodate commercial growth in the district, if such growth would not create unmanageable parking, noise or other unwanted impacts.
- The use should fully utilize available floor area. Uses which require a limited amount of ground story frontage, such as limited financial services and hotel lobbies, should provide access to remaining space for use by other establishments.
- The use should not detract from the livability of the district or adjacent residential areas by causing offensive noise, odors, or light, particularly in the late night or very early morning hours.

**Policy 6.3:**

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

*The proposed project is expected to add to the pedestrian vitality of the Castro Street Commercial District. By reconfiguring the existing building façade of the existing mixed-use building, the proposed project will preserve and enhance the mixed-use character of the District.*



**Policy 6.7**

Promote high quality urban design on commercial streets.

*The proposed project includes reconfiguring the existing storefront façade in a manner that is consistent with the historic retail character of the district.*

**URBAN DESIGN**

**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 1.6:**

Make centers of activity more prominent through design of street features and by other means.

**Policy 2.5:**

Use care in the remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.

*The proposed project is of an appropriate scale for the existing commercial space in the subject building. The proposed alterations to the existing storefront, including the use of traditional tiles, wood-framed windows, awnings, and the design of the primary entrance door will contribute to a sense of continuity in the pedestrian-oriented commercial corridor. As proposed, the storefront alterations are consistent with the Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties.*

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 neighborhood-serving retail uses that surround the subject property will be preserved and enhanced by the increased commercial activity generated by the proposed project. The proposed alterations are within the existing building footprint. The business would create 10-15 more employment opportunities for the community.*

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

*The existing residential units in the surrounding neighborhood would not be adversely affected. The proposal for storefront alterations would provide a commercial entrance that is more compatible with the surrounding neighborhood.*

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

*No housing is removed for this Project. The City's existing affordable housing stock will not be impacted as a result of the proposed project.*

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

*The site is on Castro Street and is well served by transit. It is presumed that the employees would commute by transit thereby mitigating possible impacts on street parking. Castro Street at this location is served by three MUNI bus lines (the 24 Divisadero, the 35 Eureka, and the 37 Corbett). The subject property is also in close proximity to the Castro Street MUNI Station, and is served by the F car.*

- 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 achieves 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 subject property is considered a potential historic resource. The proposed storefront changes appear to be consistent with the Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties. As proposed, the project creates a clear division between the ground floor commercial level and the two residential stories.*

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

*The project will have no negative impact on existing parks and open spaces. The Project does not have an impact on open spaces.*

10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
11. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

**DECISION**

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2008.0455C** 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. 17613. 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 June 12, 2008.

Linda Avery  
Commission Secretary

AYES: Antonini, W. Lee, Miguel, Moore, Sugaya

NAYS: 0

ABSENT: Olague

ADOPTED: June 12, 2008

## Exhibit A

# Conditions of Approval

1. This authorization is for a Conditional Use Authorization under Planning Code Sections 303, 703.3, 715.1, and 790.102 to allow a formula retail establishment (dba Levi's) on the property at 525 Castro Street, Lot 069 in Assessor's Block 3583 (hereinafter "Property") in the Castro Street Neighborhood Commercial Zoning District and 40-X Height and Bulk District, in general conformance with plans filed with the Application and labeled "Exhibit B" (hereinafter "Project") as received on April 17, 2008 included in the docket for **Case No. 2008.0455C**, reviewed and approved by the Commission on June 12, 2008.
2. Prior to the issuance of the Building Permit for the Project the Zoning Administrator shall approve and order the recordation of a notice in the Official Records of the Recorder of the City and County of San Francisco for the premises (Assessor's 3583, Lot 069), which notice shall state that construction has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied.
3. 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.
4. 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).
5. The property owner shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.
6. Signs for the business shall be reviewed and approved by the Planning Department before they are installed.
7. The Project Sponsor shall maintain an attractive storefront providing visibility of the retail shop through the storefront windows.
8. The Project shall appoint a Community Liaison Officer to address issues of concern to neighbors related to the operation of this Project. The Project Sponsor shall report the name and telephone number of this Officer to the Zoning Administrator and the neighborhood for reference. The Applicant will keep the above parties apprised should a different staff liaison be designated.

9. 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.
  
10. 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.