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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 No. 17646

HEARING DATE: JULY 10, 2008

Date: July 10, 2008
Case No.: 2008.0187C
Project Address: 3298 Pierce Street (aka 2197 Chestnut Street)
Zoning: NC-2 (Neighborhood Commercial, Small-Scale)
 Chestnut Street Financial Service Subdistrict
 40-X Height and Bulk District
Block/Lot: 0490/014
Project Sponsor: Leslie Burnside
 9089 Clairemont Mesa Boulevard, Suite 300
 San Diego, CA 92123
Staff Contact: Christine Lamorena – (415) 575-9085
 christine.lamorena@sfgov.org

ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS PURSUANT TO PLANNING CODE SECTIONS 303, 711.26, 781.7 AND 790.140, TO ALLOW A WALK-UP FACILITY [AUTOMATED TELLER MACHINE (ATM)] THAT IS NOT RECESSED FROM THE PROPERTY LINE BY THREE FEET TO BE LOCATED ON THE PIERCE STREET FAÇADE OF THE EXISTING FINANCIAL SERVICE ESTABLISHMENT (DBA WACHOVIA BANK) WITHIN AN NC-2 (NEIGHBORHOOD COMMERCIAL, SMALL-SCALE) ZONING DISTRICT, CHESTNUT STREET FINANCIAL SERVICE SUBDISTRICT AND 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On February 12, 2008 Leslie Burnside of Tait and Associates on behalf of Wachovia Bank (hereinafter "Project Sponsor") filed an application (hereinafter "Application") for Conditional Use Authorization under Planning Code Section 711.26 and 790.140 of the Planning Commission to allow a walk-up facility [Automated Teller Machine (ATM)] that is not recessed from the property line by three feet to be located on the Pierce Street façade of the existing financial service establishment (dba Wachovia Bank) within an NC-2 (Neighborhood Commercial, Small-Scale) Zoning District, Chestnut Street Financial Service Subdistrict and 40-X Height and Bulk District.

On July 10, 2008 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on **Conditional Use Application No. 2008.0187C**.

Following public testimony at the July 10th hearing, the Planning Commission made a motion to disapprove a Conditional Use authorization to install an ATM at the subject property. That motion passed unanimously. Commissioners were concerned with the over-concentration of existing ATMs, sidewalk clearance, and security.

The Application 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.

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 Project Sponsor, Department staff, and other interested parties.

MOVED, that the Commission hereby disapproves the Conditional Use Authorization requested in Application No. 2008.0187C, 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 site is located at the 3298 Pierce Street, at the southeast corner of Chestnut and Pierce Streets in a NC-2 (Neighborhood Commercial, Small-Scale) Zoning District, the Chestnut Street Financial Service Subdistrict and a 40-X Height and Bulk District. The project site is occupied by a two-story commercial building that is currently occupied by three tenants, a financial service establishment (dba Wachovia Bank) on the ground level and two offices (dba Webb Construction and Willis & Co, Real Estate) on the upper level.

Wachovia Bank, which recently acquired World Savings Bank, has occupied the subject building since 2005. From approximately 1984 to 2005, the financial service establishment (dba World Savings Bank) was located two blocks to the west (2298 Chestnut Street) and installed and operated one ATM beginning in 1998, not recessed 3 feet from the property line and without obtaining Conditional Use Authorization by the Planning Commission. Although a Conditional Use application was previously submitted (Case No. 1997.725C), it was later withdrawn. In 2004, a Notice of Violation was filed for the existing ATM and was eventually removed and cleared in 2005 (BPA 2005.08.31.1767).

3. **Surrounding Properties and Neighborhood.** The project site is located in the Chestnut Street neighborhood commercial corridor. It is this main commercial street that serves the surrounding residential dwellings of low to medium densities, with some multi-story apartment buildings.

The subject block contains a mix of small retail tenant spaces, and several larger spaces, such as the Marina Theater, Walgreens, the Gap and Apple stores, mostly one-story in height. Buildings across from the project site contain mostly retail stores on the ground story with some residential uses on upper floors.

There are currently four additional financial service establishments that contain a total of nine existing ATMs within the Chestnut Street Financial Service Subdistrict. Three of the four financial service establishments are within 200 feet of the subject property while the fourth financial service establishment is located approximately 500 feet from the subject property. The four additional financial service establishments include Bank of America, Citibank, Washington Mutual and Wells Fargo.

4. **Project Description.** The Applicant is requesting Conditional Use Authorization for the installation of a new ATM that is not recessed from the property line by three feet to be located on the Pierce Street façade of the existing financial service establishment. The Applicant is also seeking request for Conditional Use Authorization for the intensification of the Chestnut Street Financial Service Subdistrict per Section 781.7 of the Planning Code.
5. **Public Comment.** As of June 19, 2008 the Project Applicant reviewed the proposal with 8 adjacent businesses. Of the 8, 3 signed letters in support of the proposal. The other 5, which also include 3 major adjacent banks, did not oppose the project, but were unable to sign the letters without approval from either their respective corporate headquarters or general store managers. No other neighbors submitted letters or spoke at the hearing either in support of or in opposition to the project. No neighborhood groups stated a position on the project.
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 NC-2 District is 2.5 to 1. Under Section 124(b), in NC Districts, the floor area ratio limits listed in Subsection (a) do not apply to dwellings or other residential units.

With a lot area of 2,635 square feet, approximately 6,588 non-residential gross square feet can be developed on the Project Site. The existing building, which contains approximately 4,211 square feet of non-residential use, is Code-complying. The Application does not include any physical expansion of the commercial space.

- B. **Outdoor activity areas and walk-up facilities in NC Districts.** Section 316 through 316.8 of the Planning Code states that in order to maintain free flows of pedestrian circulation in

The Project Sponsor is proposing an ATM that is not recessed three feet from the property line and thus requires Conditional Use Authorization by the Commission.

- C. **Walk-up Facility.** Planning Code Section 711.26 permits a walk-up facility – as defined in Section 790.140 of the Planning Code – in NC-2 Districts, if the walk-up facility is recessed three feet. Conditional Use Authorization is required if it is not recessed three feet.

The Project Sponsor seeks Conditional Use Authorization to allow a new ATM that is not recessed three feet from the side property line, on a parcel that is located in a NC-2 District. The existing financial service establishment currently has no ATMs.

- D. **Hours of Operation.** Section 711.27 allows hours of operation from 6:00 AM until 2:00 AM as of right and required Conditional Use Authorization to operate between the hours of 2:00 AM and 6:00 AM. However, sections 790.112 and 790.48 exclude ATMs from restriction on hours of operation.

There is no restriction on the hours of operation for ATMs. The proposed ATM would be available on a 24-hour basis.

- E. **Limited Financial Service.** The proposed walk-up facility is considered a “limited financial service” under Planning Section 790.112 because it is intended to provide a banking service without occupying more than 15 feet of linear street frontage or 200 square feet of floor area.

The proposed ATM would occupy approximately 5 feet 2 inches of linear frontage and approximately 21 square feet of floor area.

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 uses and building, at the size and intensity contemplated and at the proposed location, would provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The proposal to upgrade the existing bank branch by adding an ATM located at the side property line, while providing convenience and ease for customers who reside and/or work in the NC-2 Zoning District, as well as people from other parts of the City and/or region who are passing through this Neighborhood Commercial District, is not necessary and desirable since it would impede pedestrian traffic on Pierce Street and add to the 9 other existing ATMs in the immediate vicinity.

B. The proposed project would 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 proposed ATM would occupy approximately 5 feet 2 inches in linear frontage extending approximately 6 feet 9 inches in height. Although the amount of time spent at an ATM is expected to be short, the configuration of the sidewalk and street trees narrows the path of the travel and would disrupt pedestrian access and flow along Pierce Street.

- 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;

Automobile traffic and parking problems would not be significantly increased since the proposed ATM is meant to attract pedestrians who live, work or patronize the Chestnut Street commercial corridor. The Subject Property is served by public transit via the 30-Stockton and 30X-Marina Express.

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

Installing an ATM at the façade of the existing financial service establishment would not significantly change the existing conditions at the Subject Property, and would not create noxious or offensive emissions. Nonetheless, the operator would be responsible for keeping the sidewalk in front of the property along Pierce Street free of litter on a daily basis.

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

The applicant would be required to obtain the necessary building permits for exterior alterations in order to install the ATM. All signage would be reviewed under a separate permit.

- 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 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.

The Project would provide opportunities for patrons of Chestnut Street to obtain money for shopping and dining at local commercial establishments, particularly after banking hours.

This policy includes guidelines for specific uses. The guidelines state that in some districts, the balance of commercial activities has been upset by the proliferation of financial services, which reduces the opportunities for other needed uses.

The guidelines provide that financial services should not be located near other financial service uses or add to an over-concentration within a single district. In most districts, it is preferable if financial services are at least 500 feet apart. Proximity to financial services should be considered in evaluating the need for and impacts of a new financial service.

The Subject Property is within 500 feet of four banks: Bank of America with 2 ATMs, Citibank with 1 ATM, Washington Mutual with 1 ATM, and Wells Fargo with 4 ATMs. Therefore, the proposed ATM at the existing financial service establishment is not an appropriate use for this neighborhood.

The guidelines provide that new financial service establishments should provide a detailed analysis of the potential impacts on existing transportation systems that serve the location and the proposed use should be designed to mitigate any traffic impacts. The location of limited financial services should be carefully evaluated as to the potential for double parking or illegal parking. If the proposed use includes ATMs, this evaluation is especially critical in determining the appropriateness of the use and its location.

The Project would not result in adverse traffic impacts or parking problems. The ATM is intended to service walk-by pedestrian traffic. Off-street parking and loading are not required.

The guidelines state that financial services should provide retail-banking services to serve the business community as well as the residential community.

The Project would provide services to both the residential and business community.

The guidelines state that new financial services should avoid, if feasible, the demolition of sound buildings that are compatible in scale and character with other buildings in the district.

The Project would not result in the demolition of any buildings.

The guidelines state that in neighborhood commercial districts where drive-up facilities are not permitted, financial offices should be pedestrian oriented.

Drive-up facilities are not permitted in the NC-2 Zoning District. The proposed project is pedestrian oriented.

The guidelines state that ATMs should be recessed from the sidewalk, when possible, or should be incorporated into limited financial service facilities inside the facility with adequate waiting space for patrons.

The proposed ATM cannot be recessed three feet due to service clearances on the inside of the shared ATM and lunch room. No other area of the building would feasibly accommodate the proposed ATM.

Policy 6.9:

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

Although ATMs are potential heavy vehicle trip generators, the Department is not aware of any significant problems associated with nearby existing ATMs. The Project is intended to service walk-by pedestrian traffic.

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 proposed ATM facility is designed to enhance the neighborhood serving retail by providing an additional financial service that is available after bank hours to the neighborhood's existing customers.

- 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 housing supply and neighborhood character would not be adversely affected by the Project since it is associated with an existing commercial structure.

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

There are no dwelling units involved with the Project.

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

The traffic generated by this Project would not interfere with MUNI transit service since it is expected that local residents and patrons of Chestnut Street would use the service the most. The Subject Property is served by public transportation and the Project is intended to service walk-by pedestrian traffic.

- 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.

There is no commercial office development associated with the Project. No industrial or service sector uses would be displaced.

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

The alterations proposed to allow for the installation of an ATM are minor and would be reviewed by the Department of Building Inspection in accordance with current seismic and life-safety codes.

- G. That landmarks and historic buildings be preserved.

Although the existing structure was built in 1907, it is not an architecturally rated building, nor is it included on any architectural survey. No historic resources would be impacted by the Project.

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

The Project would have no negative impact on existing parks and open spaces or their access to sunlight or vistas.

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 **DISAPPROVES Conditional Use Application No. 2008.0187C** 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. 17646. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on **July 10, 2008**.

Linda Avery
Commission Secretary

AYES: President Olague, Alexander, Antonini, Borden, Lee, Moore & Sugaya

NAYS: None

ABSENT: None

ADOPTED: July 10, 2008