



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

Inclusionary Housing (Sec. 315)

First Source Hiring (Admin. Code)

Jobs Housing Linkage Program (Sec. 313)

Child Care Requirement (Sec. 314)

Downtown Park Fee (Sec. 139)

Other

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Planning Commission Motion No. 17696

HEARING DATE: SEPTEMBER 11, 2008

Date: September 4, 2008
Case No.: **2007.1233C**
Project Address: **805 COLUMBUS AVENUE**
Zoning: North Beach Neighborhood Commercial
40-X Height and Bulk District
Block/Lot: 0074/047
Project Sponsor: Henry Karnilowicz
1019 Howard Street
San Francisco, CA 94103
Staff Contact: Amnon Ben-Pazi – (415) 575-9077
amnon.ben-pazi@sfgov.org
Recommendation: **Approval with conditions**

ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 722.21 AND 722.53 OF THE PLANNING CODE TO ALLOW A REAL-ESTATE OFFICE (D.B.A. BROWN AND COMPANY) ON THE FIRST FLOOR AND A NON-RESIDENTIAL USE LARGER THAN 1,999 SQUARE FEET WITHIN THE NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT AND A 65-A HEIGHT AND BULK DISTRICT.

RECITALS

1. On October 24, 2007, Henry Karnilowicz (Project Sponsor) filed an application with the Department for Conditional Use Authorization under Planning Code Sections 303, 722.21 and 722.53, to allow a real-estate office (d.b.a. Brown and Company) on the first floor and a non-residential use larger than 1,999 square feet within the North Beach Neighborhood Commercial District and a 40-X Height and Bulk District.
2. On September 11, 2008, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2007.1233C.
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. 2007.1233C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the recital 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 on the west side of Columbus Avenue between Lombard and Greenwich Streets, Block 0074, Lot 047, within the North Beach Neighborhood Commercial District and a 40-X height and bulk district. The property is developed with a four-story over garage mixed-use building built in 2004. The building covers the entire lot and has approximately 70 feet of frontage on Columbus Avenue. The commercial space has been vacant since the building was constructed. Prior to the construction of the present structure, the site was occupied by a single-story commercial building housing a laundry.
3. **Surrounding Properties and Neighborhood.** The west side of Columbus Avenue between Lombard and Greenwich Streets is developed with low- and mid-rise mixed use buildings, most with commercial ground floor and residential uses above. The east side of this block of Columbus Avenue is a triangular parcel recently purchased by the city, currently used as a surface parking lot but intended to house a park or library. The North Beach public library and Joe DiMaggio playground and pool are across Mason Street from the triangular parcel. Washington square is two blocks to the south east. The North Beach NCD provides convenience goods and services to residents of the North Beach and Telegraph Hill neighborhoods. The unique character of the district, created in part by the numerous apparel and specialty stores, restaurants, bars and nighttime entertainment venues, makes North Beach an important tourist destination and a regional attraction.
4. **Project Description.** The Project would establish a real-estate office measuring approximately 2,760 square feet on the first floor of a mixed-use building in the North Beach Neighborhood Commercial District. Real-estate offices are classified as Business or Financial Services per Code Section 790.108.
5. **Public Comment.** Letters and signatures expressing support for the project have been received from individuals, neighboring businesses and from the North Beach Neighbors. Proponents maintain that the Project would be an active use that would contribute to a lively street environment. Letters expressing opposition to the project have been received from a neighbor

and from the Telegraph Hill Dwellers. Opponents maintain that the Project would not be a neighborhood-serving use and that it would not provide the street activity needed at the site.

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. **Real-estate office on the first floor.** Per Planning Code Sections 722.53 and 790.108, a real-estate office is a Business or Professional Service which requires Conditional Use Authorization to operate on the ground floor in the North Beach Neighborhood Commercial District.

The proposed use would meet the criteria for a Business or Professional Service and would be located on the first floor. Conditional Use Authorization is hereby sought.

- B. **Non-residential use above 1,999 square feet.** Per Planning Code Section 722.21, non-residential uses whose floor area measures between 2,000 and 3,999 square feet require Conditional Use Authorization in the North Beach Neighborhood Commercial District.

The Project would occupy approximately 2,760 square feet. Conditional Use Authorization is hereby sought.

- C. **Parking.** Per Planning Code Section 722.22, off-street parking is not required for commercial uses whose occupied floor area does not exceed 5,000 square feet.

The Subject Property contains a total approximately 2,760 square feet of commercial space. The building contains an underground parking garage for residential use, however no commercial off-street parking is proposed and none is required.

- D. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code requires that NC Districts containing specific uses, including Business and Professional Service 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.

The subject building's street frontage measures approximately 70 feet, of which approximately 40 feet are devoted to entrance to the commercial space, windows into the commercial space, and display windows. The Project would retain these features.

- E. **Signage.** Currently, there is not a proposed sign program on file with the Planning Department. Any proposed signage will be subject to the review and approval of the Planning 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 uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The proposed real-estate office would provide necessary services by handling both for-sale and rental listings. The proposed location is on a block that has complex, six-way intersections at either end. The west side of the block, where the Project Site is located, is lined with commercial uses at the ground floor but the entire east side of the block is a parking lot. These factors make this block of Columbus Avenue less attractive to pedestrians than blocks further south, thus an active use at the Project Site is particularly desirable. At approximately 2,760 square feet, the proposed real-estate office would generate a higher level of desirable activity than would an office occupying the principally permitted 1,999 square feet.

- B. The proposed Project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the Project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The Project does not propose new structures and would not alter the size, shape or arrangement of structures at the Project Site.

- 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 this Project. The Project Site is well served by public transportation with several MUNI bus lines within two blocks of the site.

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

The proposed use is subject to conditions of approval outlined in Exhibit A. Conditions 9 and 10 specifically obligate the Project Sponsor to mitigate odor and noise generated by the use.

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

Landscaping and screening are not appropriate to the Project Site, which is on a densely developed pedestrian-oriented commercial street. The proposed real-estate office does not require outside service areas and parking and loading areas are both unnecessary and not required by the Planning Code. The Department shall review all lighting and signs proposed for the new business in accordance with Condition 7 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 North Beach Neighborhood Commercial District controls seek to ensure the livability and attractiveness of North Beach and to encourage small-scale, neighborhood-serving businesses. The project would increase the livability and attractiveness of the area by providing an active ground floor use. While the Project would be larger in square footage than is encouraged by the Planning Code and would not serve the neighborhood exclusively, it would not enlarge or combine any existing small commercial spaces, and a portion of its listings and customers would be local to the neighborhood.

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

COMMERCE AND INDUSTRY: 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.

While the size of the proposed real-estate office suggests that it would not cater exclusively to neighborhood residents and property owners, it would nevertheless serve neighborhood needs by handling some local listings. This is in keeping with the existing character of the neighborhood since, besides serving neighborhood needs, the North Beach NCD also serves as a regional destination and thus many businesses in it serve a wider customer base. In addition, in providing an active use on the ground floor of a location which is otherwise disadvantaged in terms of pedestrian interest, the Project would contribute to the economic health of the North Beach NCD and of neighborhood-serving businesses in the subject block of Columbus Avenue, and thus would contribute to the retention of neighborhood-serving establishments.

Policy 6.2:

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 proposed real-estate office would contribute to the economic vitality of the North Beach NCD by providing desirable services to patrons of the NCD and by contributing to an inviting pedestrian realm along Columbus Avenue. The proposed real-estate office would be an independently owned small business.

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 such businesses be enhanced.

The Project would occupy a commercial space that has been vacant for four years and thus would not displace existing uses. The business would be locally owned and would create employment opportunities for city residents.

- 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 would have no impact on housing since it is located in an existing commercial space. The proposed real-estate office would handle both sales and rentals, preserving the economic and cultural vitality of the neighborhood.

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

The Project would have no impact on housing since it is located in an existing commercial space.

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

The proposed real-estate office would not generate significant commuter traffic. The site is well served by transit, with several MUNI bus lines in the immediate area that can be used by patrons and employees of the proposed business.

- 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 does not propose commercial office development. It would occupy a commercial space that is currently vacant, thus it would not displace any service or industry establishment. The proposed real-estate office would create employment opportunities for city residents.

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

The Project will comply with all applicable codes.

- G. That landmarks and historic buildings be preserved.

The Project would be located in a non-historic building constructed in 2004.

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

The Project would not alter the building envelope and thus would not impact parks and 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. 2007.1233C** 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. 17696. 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 September 11, 2007.

Linda Avery
Commission Secretary

AYES: Antonini, Borden, Lee, Olague, Moore, Sugaya

NAYS:

ABSENT: Miguel

ADOPTED: September 11, 2007

Exhibit A

Conditions of Approval

1. Sections 303, 722.21 and 722..53, to allow a real-estate office (d.b.a. Brown and Company) on the first floor and a non-residential use larger than 1,999 square feet within 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 August 20, 2008 and stamped "EXHIBIT B" included in the docket for **Case No. 2007.1233C**, reviewed and approved by the Commission on September 11, 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 0074, Lot 047), 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 storefront fronting on Columbus Avenue at the Project Site shall be well-maintained, and provide transparency into the tenancy behind. Visibility of the commercial interior 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 at the Project Site.
6. 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.

7. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed.
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 maintain appropriate odor control equipment to prevent any significant noxious or offensive kitchen odors from escaping the premises.
10. The Project Sponsor shall operate the proposed real-estate office such that noise is kept at reasonable levels so as not to unduly disturb neighboring businesses and residents.
11. Refuse containers shall be provided inside the establishment for use by patrons. The operator of the use shall be responsible for maintaining the sidewalk within a one-block radius of the site free of paper or litter generated by the business.
12. An enclosed garbage area shall be provided within the establishment. All garbage containers shall be kept within the building until pick-up by the disposal company.
13. The Project Sponsor shall continue to work on design development with the Department, with particular attention given to making activity in the commercial space visible to pedestrians. Final designs shall be submitted for review by, and shall be satisfactory to the Director of the Department.
14. 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.
15. The Project Sponsor shall obtain a building permit for this project within three (3) years from the date of this Conditional Use Authorization, and construction shall thereafter be pursued diligently to completion or the said authorization shall be deemed null and void.