



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Inclusionary Housing (Sec. 315)
- Jobs Housing Linkage Program (Sec. 313)
- Downtown Park Fee (Sec. 139)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 314)
- Other

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Planning Commission Motion No. 18668

HEARING DATE: JULY 19, 2012

Date: July 24, 2012
Case No.: 2012.0540C
Project Address: 3228 SACRAMENTO STREET
Zoning: Sacramento Street Neighborhood Commercial District (NCD)
 40-X Height and Bulk District
Block/Lot: 1007/011
Project Sponsors: Nicolas and Andrea Delaroque (restaurant operators)
 1436 Vallejo Street
 San Francisco, CA 94109
 Jaiswal Family Revocable Trust (property owner)
 Balgobind Jaiswal & Mehri Jaiswal, Trustees of the 2008
 481 Kings Mountain Road
 Woodside, CA 94062
 Janet Crane (agent)
 Freebairn-Smith & Crane
 442 Post Street, 6th Floor
 San Francisco, CA 94102
Staff Contact: Sharon M. Young – (415) 558-6346
 sharon.m.young@sfgov.org
Recommendation: **Approval with Conditions**

ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION UNDER PLANNING CODE SECTIONS 303 AND 724.43 FOR A CHANGE OF USE OF A RETAIL COMMERCIAL TENANT SPACE INTO A RESTAURANT (D.B.A. CHEZ NICO) LOCATED AT 3228 SACRAMENTO STREET IN A ONE-STORY COMMERCIAL BUILDING WITHIN THE SACRAMENTO STREET NEIGHBORHOOD COMMERCIAL ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On April 24, 2012, Janet Crane on behalf of Nicolas and Andrea Delaroque (hereinafter “Project Sponsor”) made an application for Conditional Use authorization for the property at **3228 Sacramento Street, Lot 011 in Assessor’s Block 1007** (hereinafter “Subject Property”), for the change of use to convert a retail commercial tenant space with approximately 2,480 square feet of floor area (last occupied by a retail furniture and accessories store d.b.a. Pierre Deux and now temporarily occupied by a retail clothing store d.b.a. Blu) into a restaurant (d.b.a. Chez Nico) in a one-story commercial building within the Sacramento

Street Neighborhood Commercial Zoning District and a 40-X Height and Bulk District, in general conformity with plans dated April 20, 2012, and labeled "Exhibit B" (hereinafter "Project"). The proposal will involve interior and exterior tenant improvements to the ground floor commercial tenant space, with no expansion of the existing building envelope.

On **July 19, 2012**, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on **Conditional Use Application No. 2012.0540C**.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption.

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. 2012.0540C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the recitals above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project site at 3228 Sacramento Street is on the north side of Sacramento Street between Lyon Street and Presidio Avenue, Assessor's Block 1007, Lot 011. It is located within the Sacramento Street Neighborhood Commercial District (NCD) and a 40-X Height and Bulk District. The subject lot is approximately 3,192 square feet (25 feet wide by 127.688 feet deep) in size and is occupied by a one-story commercial building built in 1960. The building, which has a faux Victorian facade, is not listed in the Planning Department's 1976 Architectural Survey or the National or California Registers as having architectural significance. The subject commercial tenant space was last occupied by a retail furniture and accessories store d.b.a. Pierre Deux and now temporarily occupied by a retail clothing store d.b.a. Blu.
3. **Surrounding Properties and Neighborhood.** The subject property fronts Sacramento Street, between Lyon Street and Presidio Avenue in Presidio Heights. The surrounding development consists of a variety of residential, commercial, and mixed-use buildings mostly featuring residential uses above ground-floor commercial establishments. The scale of development in the area consists of an eclectic mix of low-and mid-rise buildings (one- to three-story structures) built between the Victorian era and the 1990s. Generally, the commercial establishments characterizing this portion of Sacramento Street include a mix of specialty shops featuring antiques, home furnishings, clothing, restaurants, business and personal service establishments, a market/liquor store, a bank, a school, and the Vogue movie theater. The surrounding zoning is primarily RM-1

(Residential, Mixed, Low Density) District and RH-2 (Residential, House, Two-Family) District zoning. Some of the existing commercial establishments on the subject and opposite blocks include Citibank, Anthem, The Desk Set, Wisteria, Mabel Chong, Vintage a la Mode, Aedicule, Petcamp Cat Safari, Rendez-Vous, Birch, Fouls Hair Studio, Wiking Inc. Wine & Liquor, and Osteria Italian Restaurant.

4. **Project Description.** The proposal is a request for Conditional Use authorization under Planning Code Sections 303 and 724.44 to convert a retail commercial tenant space (last occupied by a retail furniture and accessories store d.b.a. Pierre Deux and now temporarily occupied by a retail clothing store d.b.a. Blu) into a restaurant (d.b.a. Chez Nico) in a one-story commercial building within the Sacramento Street Neighborhood Commercial Zoning District and a 40-X Height and Bulk District. The proposed restaurant, with approximately 2,480 square feet in floor area, will consist of main and private dining rooms with seating for approximately 65 persons, kitchen, office and storage areas, and restrooms. The proposal will involve interior and exterior tenant improvements to the ground floor commercial tenant space, with no expansion of the existing building envelope.
5. **Issues and Other Considerations.**
 - The proposed restaurant d.b.a. Chez Nico is not considered a formula retail use under Section 703.3 of the Planning Code. According to the project sponsors, the proposed restaurant will offer contemporary California / French cuisine, fusing together traditional French techniques with modern cooking and seasonal ingredients. The project sponsors are intending to request an Alcohol Beverage License Type 41 from the Department of Alcohol Beverage Control in order to serve beer and/or wine on the premises.
6. **Public Comment.** As of July 19, 2012, the Department received approximately 30 letters/emails and a petition from the project sponsor with 60 signatures in support of the project. The Department received approximately 20 letters and 5 phone calls in opposition to the project, expressing concerns primarily regarding parking, traffic congestion, noise, odor, and that the proposed restaurant would be an inappropriate addition to the neighborhood.
7. **Use District.** The project site is within the Sacramento Street Neighborhood Commercial Zoning District (NCD) located in the Presidio Heights neighborhood in north-central San Francisco. The Sacramento Street Neighborhood Commercial District functions as a small-scale linear shopping area. It extends along Sacramento Street between Lyon and Spruce. Interspersed among residential buildings and garages, the district's daytime-oriented retail stores provide a limited array of convenience goods to the immediate neighborhood. Sacramento Street also has many elegant clothing, accessory, and antique stores and services, such as hair salons, which attract customers from a wider trade area. Its numerous medical and business offices draw clients from throughout the City. Evening activity in the district is limited to one movie theater, a few restaurants, and some stores near Presidio Avenue.

The Sacramento Street District controls are designed to promote adequate growth opportunities for development that is compatible with the surrounding low-density residential neighborhood. The building standards monitor large-scale development and protect rear yards at the grade level

and above. Most new commercial development is permitted at the first story; general retail uses are permitted at the second story only if such use would not involve conversion of any existing housing units. Special controls are designed to protect existing neighborhood-serving ground-story retail uses. New medical service offices are prohibited at all stories. Personal and business services are restricted at the ground story and prohibited on upper stories. Limits on new ground-story eating and drinking uses, as well as new entertainment and financial service uses, are intended to minimize the environmental impacts generated by the growth of such uses. The daytime orientation of the district is encouraged by prohibiting bars and restricting late-night commercial activity. New hotels and parking facilities are limited in scale and operation to minimize disruption to the neighborhood. Most new automobile and drive-up uses are prohibited to promote continuous retail frontage. Housing development in new buildings is encouraged above the second story. Existing residential units are protected by limitations on demolitions and prohibitions of upper-story conversions.

8. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Restaurant Use in the Sacramento Street NCD.** Planning Code Section 724.44 states that a Conditional Use authorization is required to establish a restaurant use, as defined by Planning Code Section 790.90.

A restaurant is defined under Planning Code Section 790.90 as:

A retail eating or eating and drinking use which serves prepared, ready-to-eat cooked foods to customers for consumption on or off the premises and which has seating. It may have a Take-Out Food use as defined by Planning Code Section 790.122 as a minor and incidental use. It may provide on-site beer, wine, and/or liquor sales for drinking on the premises (with ABC license types 41, 47, 49, 59, or 75); however, if it does so it shall be required to operate as a Bona Fide Eating Place as defined in Section 790.142. It is distinct and separate from a Limited-Restaurant as defined in Section 790.90.

It shall not be required to operate within an enclosed building pursuant to Section 703.2(b)(1) so long as it is also a Mobile Food Facility as defined in Section 102.34. Any associated outdoor seating and/or dining area is subject to regulation as an Outdoor Activity Area as set forth elsewhere in this Code.

The current proposal is a request for Conditional Use authorization under Sections 303 and 724.44 of the Planning Code to establish a new restaurant use on the project site as specified in Planning Code Section 790.92.

- B. **Hours of Operation.** Section 724.27 allows hours of operation from 6 a.m. until 12 a.m. as of right and requires Conditional Use authorization to operate between the hours of 12 a.m. and 6 a.m.

Currently, the project sponsor proposes that the hours of operation of the restaurant will be 5:30 p.m. to 10:30 p.m. for dinner service, Tuesday through Saturday. The project sponsor will consider modifying the restaurant's hours of operation to add lunch service or add an extra day it will be open from 5 to 6 days a week once the restaurant is operating and established in the neighborhood.

- C. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code requires that within NC Districts space for active uses shall be provided within the first 25 feet of building depth on the ground floor and 15 feet on floors above from any facade facing a street at least 30 feet in width. In addition, the floors of street-fronting interior spaces housing non-residential active uses and lobbies shall be as close as possible to the level of the adjacent sidewalk at the principal entrance to these spaces. Frontages with active uses that must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building. The use of dark or mirrored glass shall not count towards the required transparent area. Any decorative railings or grillwork, other than wire mesh, which is placed in front of or behind ground floor windows, shall be at least 75 percent open to perpendicular view. Rolling or sliding security gates shall consist of open grillwork rather than solid material, so as to provide visual interest to pedestrians when the gates are closed, and to permit light to pass through mostly unobstructed. Gates, when both open and folded or rolled as well as the gate mechanism, shall be recessed within, or laid flush with, the building facade.

Approximately 80% of the street frontage (20 feet) at the ground level on Sacramento Street is fenestrated with transparent windows and doorways allowing for visibility to the inside of the building.

- D. **Off-Street Parking and Loading.** Section 151 requires off-street parking for every 200 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet. Section 152 requires one off-street loading space for retail stores between 10,001 and 60,000 gross square feet.

The commercial tenant space, with approximately 2,480 square feet of floor area, will not require any off-street parking or loading spaces.

- E. **Signage.** Any proposed signage will be subject to the review and approval of the Planning Department and must comply with Article 6 of the Planning Code.
9. **Section 303(c)** 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:
- (1) 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 project is to allow the establishment of a restaurant on the ground floor of the building. There will be interior and exterior tenant improvements made to the existing commercial tenant space with no expansion of the existing building envelope.

- (2) 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:

- (A) Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The size and shape of the site and the arrangement of the structures on the site are adequate for the proposed project. There will be no physical expansion of the existing building.

- (B) 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;

Existing traffic patterns will not be significantly affected by the proposed project. Public transit that is in close proximity to the proposed restaurant includes Muni Lines 1, 1BX, 2, 3, 4, and 43 located at bus stops on the corner of California Street and Presidio Avenue. There is on-street parking in front of the subject property and in the surrounding neighborhood. In addition, there are two public parking garages (Jewish Community Center public parking garage and UCSF Laurel Heights Campus public lot) within a two-block radius of the proposed project. The project sponsor will also consider establishing a valet parking service for the restaurant if needed.

- (C) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

No noxious or offensive emissions such as noise, glare, dust, or odor are expected to be produced by the proposed project and the restaurant will be subject to the Conditions of Approval #9 and #10.

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

The existing building, like other buildings on the block, occupies most of its site; no landscaping is provided on site. There will be no addition of parking spaces, loading facilities, open space or service areas. All project signage and projections will be consistent with the controls of the Planning Code.

- i. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The proposed 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.

- ii. 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 purpose of the Sacramento Street NCD in that the intended use is a neighborhood-serving business.

10. **General Plan Compliance.** The Project is consistent with the Objectives and Policies of the General Plan in that:

COMMERCE AND INDUSTRY ELEMENT

GENERAL/CITYWIDE

OBJECTIVE 1:

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

Policy 1:

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

The proposed project would be compatible with and complimentary to the types of uses characterizing this portion of the Sacramento Street NCD, which include a mixture of specialty shops featuring antiques, home furnishings, clothing, restaurants, and business and personal service establishments.

Policy 3:

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

Approval of the proposed project would be consistent with the mixed commercial-residential character of this portion of the Sacramento Street NCD. The proposed project would not adversely affect any affordable housing resources in the neighborhood.

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 6:

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 1:

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

No existing commercial tenant will be displaced. The proposed project will 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.

Policy 2:

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

An independent entrepreneur is sponsoring the proposal. The proposed use is a neighborhood-serving use. The proposed eating and drinking establishment is not considered a Formula Retail Use.

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.

Eating and Drinking Establishments

Eating and drinking establishments include bars, sit-down restaurants, fast food restaurants, self-service restaurants, and take-out food. Associated uses which can serve similar functions and create similar land use impacts include ice cream stores, bakeries and cookie stores. Guidelines for eating and drinking establishments are needed to achieve the following purposes:

- Regulate the distribution and proliferation of eating and drinking establishments, especially in districts experiencing increased commercial activity;
- Control nuisances associated with their proliferation;
- Preserve storefronts for other types of local-serving businesses; and
- Maintain a balanced mix of commercial goods and services.

The regulation of eating and drinking establishments should consider the following:

- Balance of retail sales and services;
- Current inventory and composition of eating and drinking establishments;
- Total occupied commercial linear frontage, relative to the total district frontage;
- Uses on surrounding properties;
- Available parking facilities, both existing and proposed;
- Existing traffic and parking congestion; and
- Potential impacts on the surrounding community.

The Commerce and Industry Element of the General Plan contains Guidelines for Specific Uses. For eating and drinking establishments, the Guidelines state, "the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20 percent of the total occupied commercial frontage." The project sponsor conducted a site survey of the current inventory and composition of eating and drinking establishments within the immediate neighborhood (covering Sacramento Street between Laurel and Lyon Streets) within this portion of the Sacramento Street NCD. Currently, 3 of the 60 existing commercial establishments are eating and drinking establishments (Osteria Italian Restaurant, Café Luna, and Eunice's Café), which occupy approximately 7% of the total occupied commercial linear frontage. The other types of commercial establishments within this portion of the Sacramento Street NCD include a mixture of specialty shops featuring antiques, home furnishings, clothing, and business and personal service establishments.

Policy 4:

Encourage the location of neighborhood shopping areas throughout the city so that essential retail goods and personal services are accessible to all residents.

The proposed project will be accessible to all residents in this portion of the Sacramento Street NCD.

Policy 9:

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

The proposed project would not adversely affect public transit or place a burden on the existing supply of parking in the neighborhood. Many patrons would be able to walk from their residences or places of employment, and the proposed project is well served by public transportation. There is on-street parking in front of the subject property and in the surrounding neighborhood. In addition, there are two public parking garages (Jewish Community Center public parking garage and UCSF Laurel Heights Campus public lot) within a two-block radius of the proposed project. The project sponsor will also consider establishing a valet parking service for the restaurant if needed.

11. **Section 101.1(b)** establishes eight priority planning policies and requires the review of permits that authorize changes of use for consistency with said policies:

- (1) That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced.

The proposed project will be complimentary to the existing commercial establishments within the immediate neighborhood. According the project sponsor, the proposed project will provide approximately 10-12 new job opportunities to the City and will add more jobs if the restaurant provides lunch service.

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

The proposed project will preserve and enhance the cultural and economic diversity of the neighborhood by allowing the establishment of a new business in the area. Existing housing will not be affected by the proposed project.

- (3) That the City's supply of affordable housing be preserved and enhanced.

The proposed project will not displace any affordable housing.

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

The proposed project would not significantly increase the automobile traffic congestion and parking problems in the neighborhood. The proposal is a neighborhood-serving use which residents can access by walking or taking public transit.

- (5) That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

There is no commercial office development associated with the proposed project and there would be no displacement of any existing industrial or service businesses in the area.

- (6) That the City achieves the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The proposed project will comply with all applicable earthquake safety standards and built to the current standards of the California Building Code.

- (7) That landmark and historic buildings be preserved.

The proposed project will not significantly affect any landmarks or historic buildings.

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

The proposed project will not affect any city-owned park or open space.

12. 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.

13. 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. 2012.0540C** 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. 18668. 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 19, 2012.

Linda Avery
Commission Secretary

AYES: Commissioners Antonini, Borden, Moore, Sugaya, Wu

NAYS: None

ABSENT: Commissioner Fong

ADOPTED: July 19, 2012

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use allow the change of use to convert an approximately 2,480 square-foot retail commercial tenant space (last occupied by a retail furniture and accessories store d.b.a. Pierre Deux and now temporarily occupied by a retail clothing store d.b.a. Blu) into a restaurant (d.b.a. Chez Nico) in a one-story commercial building located at 3228 Sacramento Street in Assessor's Block 1007, Lot 011, pursuant to Planning Code Sections 303 and 724.44 within the Sacramento Street Neighborhood Commercial Zoning District and a 40-X Height and Bulk District; in general conformance with plans and stamped "EXHIBIT B" included in the docket for Case No. 2012.0540C and subject to conditions of approval reviewed and approved by the Commission on July 19, 2012, under Motion No. 18668. The proposal will involve interior and exterior tenant improvements to the ground floor commercial tenant space, with no expansion of the existing building envelope. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use 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 subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on July 19, 2012 under Motion No. 18668.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18668 shall be reproduced on the Index Sheet of construction plans submitted with the site or building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Conditional Use authorization is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained 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 diligently to completion. The Commission may also consider revoking the approvals 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.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

2. **Extension.** This authorization may be extended at the discretion of the Zoning Administrator only where failure to issue a permit by the Department of Building Inspection to perform said tenant improvements is caused by a delay by a local, State or Federal agency or by any appeal of the issuance of such permit(s).

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

DESIGN – COMPLIANCE AT PLAN STAGE

3. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

4. **Odor Control Unit.** In order to ensure any significant noxious or offensive odors are prevented from escaping the premises once the project is operational, the building permit application to implement the project shall include air cleaning or odor control equipment details and manufacturer specifications on the plans. Odor control ducting shall not be applied to the primary façade of the building.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

MONITORING - AFTER ENTITLEMENT

5. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

6. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

7. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-.5810, <http://sfdpw.org>

8. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>

9. **Noise Control.** The premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.

For information about compliance with the fixed mechanical objects such as rooftop air conditioning, restaurant ventilation systems, and motors and compressors with acceptable noise levels, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, www.sfdph.org

For information about compliance with the construction noise, contact the Department of Building Inspection, 415-558-6570, www.sfdbi.org

For information about compliance with the amplified sound including music and television contact the Police Department at 415-553-0123, www.sf-police.org

10. **Odor Control.** While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.

For information about compliance with odor or other chemical air pollutants standards, contact the Bay Area Air Quality Management District, (BAAQMD), 1-800-334-ODOR (6367), www.baaqmd.gov and Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

11. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

12. **Lighting.** All Project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.

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