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Planning Commission Motion No. 18834 HEARING DATE: APRIL 4, 2013

Date: March 28, 2013
Case No.: **2012.1551C**
Project Address: **2238-2240 MARKET STREET**
Zoning: Upper Market Street Neighborhood Commercial Transit District
40-50-X Height and Bulk District
Block/Lots: 3560/005 and 006
Project Sponsor: Richard Thomas
651 36th Avenue
San Francisco, CA 94121
Staff Contact: Doug Vu – (415) 575-9120
Doug.Vu@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303 AND 733.56 OF THE PLANNING CODE, TO ALLOW TEMPORARY AUTOMOBILE PARKING ON THE PORTION OF THE ACCESSORY PARKING FOR A MORTUARY (D.B.A. SULLIVAN'S FUNERAL HOME), LOCATED WITHIN THE UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL TRANSIT (NCT) DISTRICT AND 40-50-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On December 19, 2012, Richard Thomas (hereinafter "Project Sponsor") filed an application (hereinafter "Application") with the Planning Department (hereinafter "Department") for Conditional Use authorization pursuant to Planning Code Sections 303 and 733.56, on the properties located at 2238-2240 Market Street, Assessor's Lots 005 and 006 in Block 3560 (hereinafter "Properties"), to allow temporary automobile parking on a portion of the accessory parking for a mortuary (d.b.a. Sullivan's Funeral Home), per the application dated December 19, 2012 and labeled "EXHIBIT B" (hereinafter "Project"), within the Upper Market Street Neighborhood Commercial Transit District (hereinafter "Upper Market Street NCT") and 40-50-X Height and Bulk District.

On April 4, 2013, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2012.1551C.

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

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 Sponsor, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2012.1551C, 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 33 accessory parking spaces for Sullivan's Funeral Home are located on three separate parcels totaling 11,833 sq. ft. The two parcels along Market Street contain 23 spaces and are located in the Upper Market Street Neighborhood Commercial Transit (NCT) District. The third parcel along 15th Street contains ten spaces and is located within a RH-2 (Residential – House, Two Family) District. All three parcels are within a 40-50-X Height and Bulk District. The two Subject Properties proposed for use as temporary automobile parking are located on the north side of Market Street between Noe and Sanchez Streets, have an area of 8,245 sq. ft. and 75 feet of frontage. Although the lots are accessed along a driveway on Market Street, the third parcel along 15th Street has an existing driveway and is used solely for egress.

Located at 2248-2254 Market Street, Sullivan's Funeral Home was originally constructed in 1924 and underwent an expansion during the 1940's to encompass two lots (3560/007-008). The Sullivan Family subsequently purchased the Subject Properties throughout the 1950's and 1960's to provide needed parking for the mortuary, which currently has 33 spaces. Through an agreement with the mortuary, the Project Sponsor has been operating the accessory parking lot as a commercial parking lot since 1996 during weekend evenings when it is not needed by the mortuary. The commercial parking is used primarily by patrons of the nearby restaurants, bars and entertainment venues in the Castro District. The mortuary has experienced a reduction in business, and currently utilizes the accessory parking only three to four times per week.

3. **Surrounding Properties and Neighborhood.** Land uses located within the subject block of Market Street includes a mix of two- and three-story buildings that contain multi-purpose commercial uses on the ground and upper floors, which provide limited convenience goods to adjacent neighborhoods but also serves as a shopping street for a broader trade area. In addition, several buildings within the block contain multi-family dwelling units above the ground floor. This area of the Upper Market Street NCT bounds the Upper Market Street Neighborhood

Commercial District (NCD) to the southwest, and the width of Market Street and its use as a major arterial diminishes the perception of this Transit District as a single commercial district. This Upper Market Street corridor is surrounded throughout by residential neighborhoods consisting of multi-family homes and apartment buildings.

This district is well served by transit and is anchored by the Market Street subway (with stations Church Street and Castro Street) and the F-Market historic streetcar line. All light-rail lines in the City traverse the district, including the F, J, K, L, M, N and T, and additional key cross-town transit service crosses Market Street at Fillmore and Castro Streets. Additionally, Market Street is a primary bicycle corridor. Housing density is limited not by lot area, but by the regulations on the built envelope of buildings, including height, bulk, setbacks, and lot coverage, and standards for residential uses, including open space and exposure, and urban design guidelines. Residential parking is not required and generally limited. Commercial establishments are discouraged or prohibited from building accessory off-street parking in order to preserve the pedestrian-oriented character of the district and prevent attracting auto traffic. There are prohibitions on access (i.e. driveways, garage entries) to off-street parking and loading on Market and Church Streets to preserve and enhance the pedestrian-oriented character and transit function.

The Upper Market Street NCT controls are designed to promote moderate-scale development which contributes to the definition of Market Street's design and character. They are also intended to preserve the existing mix of commercial uses and maintain the livability of the district and its surrounding residential areas. Large-lot and use development is reviewed for consistency with existing development patterns. To promote mixed-use buildings, most commercial uses are permitted with some limitations above the second story. In order to maintain continuous retail frontage and preserve a balanced mix of commercial uses, ground-story neighborhood-serving uses are encouraged, and eating and drinking, entertainment, and financial service uses are limited. Ground floor-commercial space is required along Market and Church Streets, and most automobile and drive-up uses are prohibited or conditional.

4. **Project Description.** The Project necessitates a Conditional Use Authorization, pursuant to Planning Code Sections 303 and 733.56, to allow automobile parking on the portion of the accessory parking for a mortuary (d.b.a. Sullivan's Funeral Home) that is located within the Upper Market NCT District. The granting of this Conditional Use Authorization will allow the Project Sponsor (d.b.a. RT Parking) to operate 23 existing off-street parking spaces as a temporary automobile parking lot when not needed as accessory parking through an agreement with Sullivan's Funeral Home for up to two years. The spaces to be utilized as automobile parking are located adjacent to the mortuary on two separate lots that are accessed along Market Street, and a driveway located on a separate lot along 15th Street will be used solely for egress.
5. **Public Comment.** The Department has received one letter in support of the proposed Project and is not aware of any opposition.
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. **Screening of Parking.** Planning Code Section 156(d) requires any parking lot for two or more automobiles which adjoins a lot in any other Residential (R) District, or which faces a lot in any R District across a street or alley, to be screened from view except at driveways necessary for ingress and egress, by solid fence, a solid wall, or a compact evergreen hedge not less than four feet in height.

The frontage along 15th Street is adjacent to, and faces an R District. The existing parking lot already meets this requirement and has an existing 6-foot solid wall that screens the parking lot from view.

- B. **Lighting.** Planning Code Section 156(f) requires that all lighting used to illuminate a parking lot for any number of automobiles shall be so arranged that all direct rays from such lighting fall entirely within the parking lot.

The subject parking lot already meets this requirement and is currently illuminated by several spotlights that are arranged to direct all rays downward directly onto the lot.

- C. **Permanent Parking Lots.** Planning Code Section 156(h) prohibits permanent parking lots in NCT Districts, and stipulates that temporary parking lots may be approved as conditional uses, pursuant to the provisions of Section 303 for a period not to exceed two years from the date of approval.

This requirement is met because the Project Sponsor has acknowledged, and will be required to receive Conditional Use Authorization two years from the date of this approval to continue the use of the 23 accessory parking spaces as a temporary automobile parking lot.

- D. **Automobile Parking.** Planning Code Section 733.56 states that a Conditional Use authorization is required for automobile parking in the Upper Market Street Neighborhood Commercial Transit (NCT) District, as defined by Planning Code Section 790.8.

The Project Sponsor proposes to provide parking for patrons of nearby businesses daily on an hourly/daily basis when not needed as accessory parking through an agreement with the mortuary. This Conditional Use Authorization will allow the Sponsor to operate the automobile parking lot for up to two years.

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 Subject Properties include the portion of the existing accessory parking lot that contains 23 spaces for a mortuary (d.b.a. Sullivan's Funeral Home). Since the mortuary has experienced a reduction in

business and only requires the accessory parking three to four times per week, the Project Sponsor proposes to utilize the 23 spaces that are within the Upper Market NCT as an automobile parking lot on a daily basis when it is not needed by the mortuary. This additional off-street parking will provide supplemental parking for patrons of the nearby bars, restaurants and entertainment venues. The under-utilized spaces will provide a temporary use that is necessary and desirable for the neighborhood, and the existing parking lot will not be enlarged or altered to accommodate this temporary use.

- 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 include any physical improvements to the Subject Properties since the proposed use is an existing surface parking lot. The Project will not add any new curb cuts that would interfere with pedestrian, vehicular or MUNI traffic. The Project will benefit the surrounding neighborhood by providing needed parking for patrons of the nearby bars, restaurants and entertainment venues.

- 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;

Traffic conditions will remain substantially unaltered by this Project because the proposed use provides 23 existing spaces for patrons of nearby bars, restaurants and entertainment venues. The Project may even alleviate traffic since the existing on-street demand for parking will be reduced by providing unused spaces for the public to park their cars.

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

The Project includes the utilization of parking spaces that have existed for over 50 years, and will therefore not create any additional noxious or offensive emissions such as glare, dust or odors.

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

The existing parking lot complies with the landscaping, screening and lighting requirements of the Planning Code, and the Project does not propose any additional improvements.

- 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 Project is consistent with the stated purposes of the Upper Market Street NCT because it utilizes existing facilities and does not propose any new driveways or access points along Market Street that will adversely impact the District's pedestrian-oriented character or transit function, and attract additional auto traffic. Furthermore, the livability of the District and its surrounding residential areas will be maintained by providing the convenience associated with off-street parking for patrons of the nearby businesses.

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

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

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 availability of existing unused parking at the Subject Properties for use as a temporary parking lot for patrons of surrounding businesses offers relief in parking demand, thereby contributing to the economic vitality of the area.

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.

Allowing the Project Sponsor to utilize the existing unused parking spaces as a temporary parking lot will allow for a more equitable business, thereby ensuring the retention of this integral neighborhood-serving mortuary business that has operated since 1924. Furthermore, the use the existing accessory off-street

parking as a temporary parking lot will not prevent the Upper Market Street NCT from achieving optimal diversity in the types of goods and services available throughout the neighborhood.

Policy 6.2:

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.

The Project Sponsor is an independent San Francisco entrepreneur and has responded to the demand for additional off-street parking by patrons of the nearby bars, restaurants and entertainment venues.

TRANSPORATION ELEMENT

General

Objectives and Policies

OBJECTIVE 1:

MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE, CONVENIENT AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH QUALITY LIVING ENVIRONMENT OF THE BAY AREA.

Policy 1.2:

Ensure the safety and comfort of pedestrians throughout the City.

Citywide Parking

Objectives and Policies

OBJECTIVE 30:

ENSURE THAT THE PROVISION OF NEW OR ENLARGED PARKING FACILITIES DOES NOT ADVERSELY AFFECT THE LIVABILITY AND DESIRABILITY OF THE CITY AND ITS VARIOUS NEIGHBORHOODS

Policy 30.6:

Make existing and new accessory parking available to nearby residents and the general public for use as short-term or evening parking when not being utilized by the business or institution to which it is accessory.

The Project will utilize existing unused parking spaces to provide convenient parking for patrons of nearby businesses, in addition to alleviating parking demand in order to maintain the high quality living environment of the Castro/Upper Market Street Neighborhood.

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 granting of this Conditional Use Authorization will alleviate on-street parking demand and therefore support the neighborhood-serving retail uses along Market Street and nearby secondary streets including Noe, Sanchez and Church Streets.

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

The immediate vicinity is characterized by commercial and mixed-use buildings along Market Street. No changes are proposed to the existing parking lot and no existing housing will be removed. The Project will utilize an existing facility to alleviate parking demand, and will preserve and enhance the cultural and economic diversity of the neighborhood.

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

No housing will be removed for this Project.

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

The Project will not impede MUNI service or overburden streets or neighborhood parking. Rather, the Project will mitigate the neighborhood's parking scarcity by utilizing existing unused parking spaces.

- 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 industrial and service sector uses or related employment opportunities. Ownership of industrial or service sector businesses will not be affected by this Project.

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

The Project does not involve any physical or structural improvements to the Site.

- G. That landmarks and historic buildings be preserved.

The Project does not propose any alterations or improvements to a potentially historic building.

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

The Project does not include any alterations to the existing building and will have no negative impact on existing 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. 2012.1551C** 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. 18834. 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 April 4, 2013.

Jonas P. Ionin
Acting Commission Secretary

AYES: Commissioners Hillis, Sugaya, Fong, Antonini, Borden, Moore, and Wu

NAYES: None

ABSENT: None

ADOPTED: April 4, 2013

EXHIBIT A

AUTHORIZATION

This authorization is for a Conditional Use, pursuant to Planning Code Sections 303 and 733.56, to allow temporary automobile parking on the portion of the accessory parking that consists of 23 spaces located adjacent to a mortuary (d.b.a. Sullivan's Funeral Home), for the use located at 2238-2240 Market Street (Block 3560, Lots 005 and 006) within the Upper Market Street NCT District and 40-50-X Height and Bulk District, subject to Conditions of Approval reviewed and approved by the Commission on April 4, 2013 under Motion No. 18834. 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 April 4, 2013 under Motion No. 18834.

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

3. **Signage.** Any signs on the property shall be made to comply with the requirements of Article 6 of the Planning Code.

MONITORING

4. **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

5. **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

6. **Temporary Parking Lot.** The authorization to operate this temporary automobile parking lot is limited to the 23 spaces located on Assessor's Lots 005 and 006 in Block 3560 and is valid for a period not to exceed two years from the date of approval of this Conditional Use, pursuant to Planning Code Section 156(h). Temporary automobile parking is not permitted on Assessor's Lot 025 in Block 3560, and shall only be used for egress.

7. **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>

8. **Community Liaison.** Prior to the implementation of 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 community liaison officer will be Richard Thomas (d.b.a. RT Parking), who can be contacted at (415) 215-1964. 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