



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. 18858

HEARING DATE: MAY 9, 2013

Date: May 10, 2013
Case No.: 2013.0025C
Project Address: 1946 FILLMORE STREET
Zoning: Upper Fillmore Street Neighborhood Commercial District
 40-X Height and Bulk District
Block/Lot: 0660/023
Project Sponsor: Ian McCormick (applicant) Bart Seidler (property owner)
 2835 Union Street 1940 Fillmore Street
 San Francisco, CA 94123 San Francisco, CA 94115
 Marsha Garland (agent)
 Garland Public & Community Relations
 535 Green Street
 San Francisco, CA 94133
Staff Contact: Sharon M. Young – (415) 558-6346
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Recommendation: **Approval with Conditions**

ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION UNDER PLANNING CODE SECTIONS 303, 718.24, 718.44, 718.44, 790.70, AND 790.91 TO ALLOW THE CHANGE OF USE FROM A LIMITED RESTAURANT (PREVIOUSLY OCCUPIED BY JOHNNY ROCKETS) TO A RESTAURANT (D.B.A. GLAZE TERIYAKI) AND TO ALLOW AN ‘OUTDOOR ACTIVITY AREA’ (DINING PATIO) AT THE REAR OF THE RESTAURANT LOCATED AT 1946 FILLMORE STREET WITHIN THE UPPER FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On January 8, 2013, Marsha Garland on behalf of Ian McCormick (hereinafter “Project Sponsor”) made an application for Conditional Use authorization for the property at **1946 Fillmore Street, Lot 023 in Assessor’s Block 0660** (hereinafter “Subject Property”), to allow the change of use from a Limited Restaurant (previously occupied by Johnny Rockets) to a Restaurant (d.b.a. Glaze Teriyaki) and to allow an ‘Outdoor Activity Area’ (dining patio) at the rear of the restaurant within the Upper Fillmore Street Neighborhood Commercial District and a 40-X Height and Bulk District, in general conformity with plans submitted March 22, 2013, and labeled “Exhibit B” (hereinafter “Project”). Tenant improvements were filed under a separate permit and there will be no expansion of the existing building envelope.

On **May 9, 2013**, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on **Conditional Use Application No. 2013.0025C**.

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. 2013.0025C, 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 1946 Fillmore Street is located on Fillmore Street on the southeast corner of Fillmore and Pine Streets; Assessor's Block 0660; Lot 023. The project site is located within the Upper Fillmore Street Neighborhood Commercial District and a 40-X Height and Bulk District. The subject lot is 4,062.5 square feet (50 feet wide by 81.25 feet deep) in size and is occupied by a two-story commercial building constructed circa 1900. The subject commercial tenant space is one of three commercial tenant spaces on the ground floor of the building and office use (utilized by the property owner) on the second floor of the building. The other commercial tenant spaces are occupied by a retail jewelry store d.b.a. Alexis Bittar and an art gallery d.b.a. Thomas Reynolds.
3. **Surrounding Properties and Neighborhood.** The surrounding development consists of a variety of commercial and mixed-use buildings mostly featuring residential uses above ground-floor commercial establishments. The scale of development in the area consists of a mix of low-and mid-rise buildings (one- to three-story structures), some of which were built in the early 1900s. Generally, the commercial establishments characterizing this portion of Fillmore Street include a mixture of restaurants, apparel/accessory stores and specialty shops, and medical and personal service establishments. Some of the existing commercial establishments on the subject and opposite blocks include Paper Source, Osaka Japanese Restaurant, Ruby Living Design, Florio Café restaurant, SPQR restaurant, Perfect Cleaners, Zinc Details Design store, Crossroads Trading Co., Sterling Bank and Trust, Cassandria Blackmore, Fraiche Yogurt, Woodhouse Fish Co., Bo Concept, Fillmore Hardware, the Shade Store, and a psychotherapy office.
4. **Project Description.** The proposal is a request for Conditional Use Authorization pursuant to Planning Code Sections 303, 718.24, 718.44, 790.70, and 790.91 to allow the change of use from a Limited Restaurant (previously occupied by Johnny Rockets) to a Restaurant (d.b.a. Glaze Teriyaki) and to allow an 'Outdoor Activity Area' (dining patio) at the rear of the restaurant within the Upper Fillmore Street Neighborhood Commercial District and a 40-X Height and Bulk District.

The proposal involves converting an approximately 1,500 square foot commercial tenant space (previously occupied by Johnny Rockets, a Limited Restaurant use) into a Restaurant use which will operate as a Bona Fide Eating Place and which will serve beer and wine on the premises with an Alcohol Beverage Control License Type 41. The proposal includes adding an outdoor dining area with tables and chairs to accommodate up to 15 restaurant patrons located on an approximately 400 square-foot patio at the rear of the restaurant. The patio was utilized by the previous restaurant as an outdoor dining area without the benefit of a permit before the change of restaurant ownership occurred. The restaurant has an interior dining area to accommodate approximately 30 restaurant patrons. Tenant improvements were filed under a separate permit and there will be no expansion of the existing building envelope.

5. Issues and Other Considerations.

- The proposed restaurant (d.b.a. Glaze Teriyaki) is independently owned and is not considered a formula retail use under Section 703.3 of the Planning Code. According to the project sponsor, the restaurant use specializes in Asian cuisine with a focus on using local natural organic ingredients.

6. Public Comment. As of May 9, 2013, the Department has received two letters and three emails from (a business owner, residents, and the Fillmore Street Merchants Association) in support of the proposed project. The Department has not received any letters or phone calls in opposition to the proposed project. The project sponsor also conducted a community outreach meeting on March 25, 2013 (one person attended) and has met with Officer Dave Frias of San Francisco Police Department (Northern Station) to discuss the proposed project.

7. Use District. The project site is within the Upper Fillmore Street Neighborhood Commercial Zoning District (NCD). The Upper Fillmore Street NCD is situated in the south-central portion of Pacific Heights. It runs north-south along Fillmore Street from Jackson to Bush and extends west one block along California and Pine Streets. This medium-scaled, multi-purpose commercial district provides convenience goods to its immediate neighborhood as well as comparison shopping goods and services on a specialized basis to a wider trade area. Commercial businesses are active during both day and evening and include a number of bars, restaurants, specialty groceries, and specialty clothing stores.

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 within the Upper Fillmore Street NCD. Planning Code Section 712.44 allows a restaurant within the Upper Fillmore Street NCD on the 1st story.

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 to allow the change of use from a Limited Restaurant use to a Restaurant use on the ground floor of the two-story commercial building.

- B. Daytime Usage of Restaurants within the Upper Fillmore Street NCD.** Under Planning Code Sections 718.42, and 718.43, in considering a conditional use for a Restaurant use under Planning Code Section 718.44, the Planning Commission shall consider whether the use proposes lunch service or other daytime usage in order to limit the number of such establishments on the block that have no daytime activity.

The Restaurant use proposes lunch service in addition to dinner service.

- C. Outdoor Activity Area.** Planning Code Section 718.24 states that a Conditional Use authorization is required for a new outdoor activity area in the Upper Fillmore Street NCD.

The project sponsors intend to add an 'outdoor activity area' pursuant to Planning Code Section 718.24 to include an outdoor dining area with tables and chairs to accommodate up to 15 restaurant patrons located on a 400-square foot patio within the rear yard of the restaurant.

- D. Rear Yard.** Planning Code Section 134 states that rear yard shall be provided at the second story and at each succeeding story of the building, and at the first story if it contains a dwelling unit.

The proposed project complies with the rear yard requirements pursuant to Planning Code Section 134 since the existing commercial building has the subject restaurant on the first floor and office use on the second floor.

- E. Use Size Limits.** Section 121.2 establishes size limits on non-residential use sizes in the Upper Fillmore Street NCD. Under Planning Code Section 710.21, Conditional Use authorization is required for any non-residential use that meets or exceeds 2,500 square feet.

The restaurant use, with approximately 1,500 square feet of floor area, is within the principally permitted use size limitations.

- F. Hours of Operation.** Section 718.27 allows hours of operation from 6 a.m. until 2 a.m. as of right and requires Conditional Use authorization to operate between the hours of 2 a.m. and 6 a.m.

The project sponsor has indicated that the proposed hours of operation of the restaurant use will be 11 a.m. to 11 p.m., Sunday through Thursday and 11 a.m. to 1 a.m. Friday and Saturday.

- G. 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 90% of the street frontage at the ground level on Fillmore Street (approximately 45 feet) and approximately 60% of the street frontage at the ground level on Pine Street (approximately 13 feet) is fenestrated with transparent windows and doorways allowing for visibility to the inside of the building.

- H. **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 subject commercial tenant space, with approximately 1,500 square feet of floor area, will not require any off-street parking or loading spaces.

- I. **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. **Planning Code Section 145.2** establishes criteria for the Planning Commission to consider when reviewing applications for Outdoor Activity Areas in Neighborhood Commercial Districts that are not contiguous to the front property line.

- A. The nature of the activity operated in the outdoor activity area is compatible to surrounding uses.

The proposed project is located within the Upper Fillmore Street NCD, a district that encourages ground floor commercial activity. The proposed outdoor activity area (dining patio) is located at the rear of the restaurant's interior courtyard bounded by the exterior walls of the subject building. There are no residential units that look into this courtyard.

- B. The operation and design of the outdoor activity area does not significantly disturb the privacy or affect the livability of adjoining or surrounding residences.

The operation and design of the outdoor activity area will not significantly disturb the privacy or affect the livability of adjoining or surrounding residences. The proposed outdoor dining area will primarily be bounded by blank walls of the subject building which abut the property owner's office on the second floor that is used primarily in the daytime hours and a psychotherapy office. There are no residential units in the building. The adjacent neighbors and business owners have not expressed any opposition to the proposed project.

- C. The hours of operation of the activity in the outdoor activity area are limited so that the activity does not disturb the viability of surrounding uses.

Within the Upper Fillmore NCD, the permitted hours of operation are 6 a.m. to 2 a.m. The proposed hours of operation of the outdoor activity area (dining patio) are the same hours as the proposed hours of the restaurant for interior dining 11 a.m. to 11 p.m. Sunday through Thursday and 11 a.m. to 1 a.m. Friday and Saturday.

10. **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 project is to allow the establishment of a Restaurant use (d.b.a. Glaze Teriyaki) to replace a Limited Restaurant and Formula Retail use (d.b.a. Johnny Rockets) which vacated the tenant commercial space 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 or commercial tenant space.

- (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 (Muni Lines 3 and 22) are within walking distance of the Project Site. There is on-street parking in front of the subject property and in the surrounding neighborhood.

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

No significant noxious or offensive emissions such as glare, dust, or odor are expected to be produced by the proposed restaurant and outdoor activity area (rear dining patio) and shall be adequately controlled under the Conditions of Approval for the proposed project under Exhibit A.

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

There will be no addition of off-street parking spaces, loading facilities, open space or service areas. Existing loading zones are located in front of the subject property and on the subject block. 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 Upper Fillmore Street NCD in that the intended use is a neighborhood-serving business.

11. **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 Upper Fillmore Street NCD, which include a mixture of restaurants, grocery stores, specialty shops, and medical 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 Upper Fillmore 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 and providing an outdoor dining option 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.

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 current proposal will not result in a net change in of the total occupied commercial frontage within this Upper Fillmore Street NCD since the proposed restaurant use will replace an eating and drinking establishment which vacated the premises. From a survey conducted by the Planning Department in 2012, approximately 37 of 120 commercial establishments within the Upper Fillmore NCD are eating and drinking establishments, which occupy approximately 22% of the total occupied commercial linear frontage. The other types of commercial establishments within the Upper Fillmore Street NCD include liquor and grocery stores, medical and personal service establishments, and retail specialty stores.

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 entrepreneur is sponsoring the proposed project. The proposed restaurant is neighborhood-serving and is not a Formula Retail Use.

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 Upper Fillmore 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 since it will replace an eating and drinking establishment use (Johnny Rockets) which previously existed on the project site. 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 the surrounding neighborhood.

12. **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. The proposed project will provide job opportunities to the City by employing approximately 12 people.
- (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 restaurant use 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.

13. 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.

14. 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. 2013.0025C** 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. 18858. 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 May 9, 2013.

Jonas P. Ionin
Acting Commission Secretary

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

NAYS: None

ABSENT: Commissioner Borden

ADOPTED: May 9, 2013

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow the change of use from a Limited Restaurant (previously occupied by Johnny Rockets) to a Restaurant (d.b.a. Glaze Teriyaki) and to allow an 'Outdoor Activity Area' (dining patio) at the rear of the restaurant located at 1946 Fillmore Street in Assessor's Block 0660, Lot 023, pursuant to Planning Code Sections 303, 718.24, 718.44, 790.70, and 790.91 within the Upper Fillmore Street Neighborhood Commercial 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. 2013.0025C and subject to conditions of approval reviewed and approved by the Commission on May 9, 2013, under Motion No. 18858. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

The proposal involves converting an approximately 1,500 square foot commercial tenant space (previously occupied by Johnny Rockets, a Limited Restaurant use) into a Restaurant use which will operate as a Bona Fide Eating Place and which will serve beer and wine on the premises with an Alcohol Beverage Control License Type 41. The proposal includes adding an outdoor dining area with tables and chairs to accommodate up to 15 restaurant patrons located on an approximately 400 square-foot patio at the rear of the restaurant.

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 May 9, 2013 under Motion No. 18858.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18858 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.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
3. **Diligent pursuit.** 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. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

MONITORING - AFTER ENTITLEMENT

6. **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

7. **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

8. **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>

9. **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>

10. **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

11. **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

12. **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

13. **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.

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

14. **Hours of Operation.** The hours of operation of the restaurant and 'outdoor activity area' (dining patio) are 11 a.m. to 11 p.m. Sunday through Thursday and 11 a.m. to 1 a.m. Friday and Saturday. (All restaurant operations shall cease by the closing hours of operation.)

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