



# SAN FRANCISCO PLANNING DEPARTMENT

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*Subject to: (Select only if applicable)*

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|--|--|
| <input type="checkbox"/> Affordable Housing (Sec. 415)           | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412)            | <input type="checkbox"/> Other                             |

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## Planning Commission Motion No. 19035

HEARING DATE: DECEMBER 12, 2013

CONSENT CALENDAR

*Date:* November 14, 2013  
*Case No.:* **2013.1328C**  
*Project Address:* **1650 MISSION STREET**  
*Zoning:* NCT-3 (Moderate Scale Neighborhood Commercial Transit) District  
85-X Height and Bulk District  
*Block/Lot:* 3512/008  
*Project Sponsor:* Lesley Giovannelli  
City and County of San Francisco  
25 Van Ness Avenue, Suite 400  
San Francisco, CA 94102  
*Staff Contact:* Danielle J. Harris – (415) 575-9102  
[danielle.j.harris@sfgov.org](mailto:danielle.j.harris@sfgov.org)

**ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303 AND 731.83 OF THE PLANNING CODE TO ALLOW A PUBLIC (OFFICE) USE WITHIN THE NCT-3 (MODERATE SCALE NEIGHBORHOOD COMMERCIAL TRANSIT) DISTRICT AND AN 85-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On September 17, 2013 Lesley Giovannelli (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Section 731.83 of the Planning Code to allow a new Public Use within the NCT-3 (Moderate Scale Neighborhood Commercial Transit) District and a 85-X Height and Bulk District.

On December 12, 2013, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.1328C.

The project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 Categorical Exemption. The Commission has reviewed and concurs with said determination. The categorical exemption and all pertinent documents may be found in the files of the Planning Department (hereinafter "Department"), as the custodian of records, at 1650 Mission Street, San Francisco.

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. 2013.1328C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

## **FINDINGS**

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project is located on the west side of Mission Street between South Van Ness Avenue and Duboce Street, Lot 008 in Assessor's Block 3512. The subject property is located within the NCT-3 (Moderate Scale Neighborhood Commercial Transit) Zoning District and an 85-X Height and Bulk District. The property is developed with a five-story office building built in 1962 containing approximately 216,000 total square feet, with tenants including several City departments and a ground floor parking garage. From November 1987 to July 2011, John's Café, a local deli, occupied the ground floor limited-restaurant use. Since its tenancy the space has remained vacant. This tenant space occupies approximately 44 feet of the 293 feet of street frontage along Mission Street, which includes retail entrance, office lobby entry, and a garage opening.
3. **Surrounding Properties and Neighborhood.** The project site is located on the western side of Mission Street between South Van Ness Avenue and Duboce Street. The area surrounding the project site is mixed-use in character. A variety of office uses including the Planning Department, residential mixed-use, commercial spaces and automobile oriented services are located within ground floor storefronts in the surrounding area. Directly across from the proposal is a 10-story residential mixed use building with 212 residential units. To the north of the proposal is Enterprise, an automobile rental use. A variety of two and three-story light industrial, commercial establishments and City government offices are located to the west of the proposal along Otis Street. City government offices are also located to the south of the proposal, at 1660 and 1680 Mission Street.

Most of the area is zoned the NCT-3 (Moderate Scale Neighborhood Commercial Transit). The C-3-G (Downtown General) Zoning District associated with the Van Ness & Market Downtown Residential Special Use District is to the north.

4. **Project Description.** The project is to establish a new Public use in a space formerly occupied by a limited-restaurant use at the ground floor at 1650 Mission Street. The new Public use will be used as office space by the City and County of San Francisco. The project includes interior ground floor tenant improvements, window treatments, and ADA access improvements. The existing space, which has been vacant since July 2011, is approximately 2,300 square feet. The new space will contain 1,000 square feet of limited-restaurant use and 1,300 square feet of Public office use. The limited-restaurant space would be occupied by an undetermined limited-restaurant use, which the City has determined will not be formula-retail.
5. **Public Comment.** The Department has received no public comment on the project.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Public Use.** Planning Code Section 731.83 states that a Conditional Use Authorization is required for a Public Use, as defined by Planning Code Section 790.80.

*The Project Sponsor seeks a change of use from a limited-restaurant to Public use. The new Public use would serve as a small office for an undetermined City and County of San Francisco government office.*

- B. **Parking.** Planning Code Section 731.22 does not require off-street parking for commercial or institutional uses.

*No parking is required in the NCT-3 Zoning District.*

- C. **Street Frontages.** Planning Code Section 145 requires all frontages with active uses that are not residential or PDR 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 Project Sponsor will be removing the window tint on all street facing windows to allow transparency into the two uses.*

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 size of the proposed use is in keeping with other uses on the block face. The immediate block along Mission Street features a number of City government office uses, as well as general commercial,*

*automobile services, and retail sales. This new Public use will be consistent with the existing City government offices and mix of goods and services currently available in the area.*

- 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 height and bulk of the existing building will remain the same. The proposal will provide window fenestration and active building entrance that will reactivate the vacant storefront and will improve the pedestrian environment. The proposed work involves minor exterior alterations in the form of window treatments and will not affect the building envelope.*

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

*The Planning Code does not require parking for the proposed use. The proposed use should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide.*

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

*The proposed project will comply with the City's requirements to minimize noise, glare, odors, or other harmful emissions. Conditions of approval are included to address potential issues.*

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

*The proposed change of use does not require significant tenant improvements. The proposal will not include loading or service areas, unusual lighting or signage. The Project Sponsor will not alter the existing neighborhood landscape, screening or open space.*

- 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 proposed project is consistent with the stated purposes of NCT-3 Districts in that the intended use is located at the ground floor and will contribute to a diversified commercial environment.*

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

## **NEIGHBORHOOD COMMERCE**

### **Objectives and Policies**

#### **OBJECTIVE 1:**

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

#### **Policy 1.1:**

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

*The proposed 1,300 square feet Public office use is within a building housing over 200,000 square feet of City government offices; therefore, this small additional Public office use should not result in any undesirable consequences. Furthermore 1,000 square feet of the existing limited-restaurant use will be retained and reactivated by a new tenant, which will activate and improve the pedestrian environment and economic vitality of the block by providing desirable goods and services to the neighborhood and surrounding district.*

#### **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 Project will retain 1,000 square feet of the existing limited-restaurant use.*

#### **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.

*No commercial tenant would be displaced and the project would not prevent the district from achieving optimal diversity in the types of goods and services available in 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 proposal will provide 1,000 square feet for a limited restaurant use that the City intends to rent to a locally-owned business. The City will not lease the space to a Formula Retail use.*

**MARKET & OCTAVIA AREA PLAN  
LAND USE AND URBAN FORM**

**Objectives and Policies**

**OBJECTIVE 1.1:**

CREATE A LAND USE PLAN THAT EMBRACES MARKET AND OCTAVIA NEIGHBORHOOD'S POTENTIAL AS A MIXED-USE URBAN NEIGHBORHOOD.

**Policy 1.1.2:**

Concentrate more intense uses and activities in those areas best served by transit and most accessible on foot.

*Generally, the Market & Octavia Area Plan does not possess specific policies or objectives relating to Public uses. However, the proposed project is not in conflict with the policies and objectives of the Market & Octavia Area Plan. The proposed project is compatible with the existing City and County of San Francisco government offices in the vicinity; therefore, reducing the adverse impacts associated with office uses such as parking. Furthermore the proposal is located within two blocks of the Van Ness Avenue MUNI Metro Station and 8 MUNI bus routes.*

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 proposal would maintain 1,000 square feet of limited-restaurant space. This would ensure a reasonable retail space for a small locally owned business that is able to provide several employment opportunities for the community. The proposed alterations are within the existing building footprint.*

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

*The proposal will not impact the existing housing or neighborhood character. The surrounding neighborhood has a mixed character composed of residential, commercial and light industrial uses.*

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

*No housing is removed for this Project.*

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

*The project site is on Mission Street and is well served by transit. Presumably, patrons will arrive by transit, for the location is within two blocks of the Van Ness Avenue MUNI Metro Station and eight MUNI bus routes. Public parking is available on the street, within the building garage, and the surrounding neighborhood within a one-block vicinity.*

- 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 proposed project will not displace any industrial and service sector uses. The proposal is for a small Public office use and will not adversely affect future opportunities for resident employment and ownership.*

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

*The Project is within a building that conforms to the structural and seismic safety requirements of the City Building Code. This proposal will not impact the property's ability to withstand an earthquake.*

- G. That landmarks and historic buildings be preserved.

*A landmark or historic building does not occupy the Project site.*

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

*The project will have no negative impact on existing parks and open spaces. The Project does not have an impact on 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.

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. 2013.1328C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated February 2012, and stamped "EXHIBIT B", 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. 19035. 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 November 21, 2013.

Jonas P. Ionin  
Commission Secretary

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

NAYES: None

ABSENT: Commissioner Borden

ADOPTED: December 12, 2013

## **EXHIBIT A**

### **AUTHORIZATION**

This authorization is for a conditional use to allow a Public (office) use located at 1650 Mission Street, Block 3512 and Lot 008 pursuant to Planning Code Section(s) 731.83 within the NCT-3 District and a 85-X Height and Bulk District; in general conformance with plans, dated February 2012, and stamped "EXHIBIT B" included in the docket for Case No. 2013.1328C and subject to conditions of approval reviewed and approved by the Commission on November 21, 2013 under Motion No. **19035**. 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 November 21, 2013 under Motion No. **19035**.

### **PRINTING OF CONDITIONS OF APPROVAL ON PLANS**

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **19035** 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](http://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](http://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](http://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](http://www.sf-planning.org)*

## MONITORING

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](http://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](http://www.sf-planning.org)*

## OPERATION

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 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](http://www.sf-planning.org)*

## DESIGN – COMPLIANCE AT PLAN STAGE

9. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be

subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*