



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
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Planning Commission Motion No. 19203 HEARING DATE: JULY 24, 2014

Date: July 17, 2014
Case No.: **2013.1859C**
Project Address: **1501 B SLOAT BOULEVARD**
Zoning: NC-S (Neighborhood Commercial Shopping Center) District
 Lakeshore Special Use District
 26-40-X Height and Bulk District
Block/Lot: 7255/004
Project Sponsor: Jeremy Paul
 Quickdraw Permit Consulting
 1325 California Street
 San Francisco, CA 94109
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 703.4 AND 303 OF THE PLANNING CODE TO ESTABLISH A FORMULA RETAIL LIMITED-RESTAURANT (D.B.A. SUBWAY) IN THE 810 SQUARE-FOOT TENANT SPACE OCCUPIED BY QUIZNO’S LIMITED-RESTAURANT WITHIN THE LAKESHORE PLAZA SHOPPING CENTER, LOCATED WITHIN A NC-S (NEIGHBORHOOD, COMMERCIAL, SHOPPING CENTER) DISTRICT, THE LAKESHORE PLAZA SPECIAL USE DISTRICT AND A 26-40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On December 20, 2013, Jeremy Paul on behalf of Subway (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Section(s) 703.4 and 303 to establish a formula retail limited-restaurant (d.b.a. Subway) in the 810 square-foot tenant space occupied by Quizno’s in the Lakeshore Plaza Shopping Center located within a NC-S (Neighborhood, Commercial, Shopping Center) District, the Lakeshore Plaza Special Use District, and a 26-40-X Height and Bulk District.

On July 24, 2014, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.1859C.

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. 2013.1859C, 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.** The project site is located at 1501 Sloat Boulevard within the Lakeshore Plaza Shopping Center, south side of the street between Everglade and Havenside Drives in NC-S (Neighborhood, Commercial, Shopping Center) District, the Lakeshore Plaza SUD (Special Use District), and a 26-40-X Height and Bulk District.

The project site is a 1.4 acre parcel and one of 4 parcels, bounded by Sloat Boulevard, Ocean Avenue, Clearfield Drive, and Everglade Drive that form Lakeshore Shopping Plaza an approximately 220,000-square-foot, two-story, auto oriented, commercial shopping center comprised of three buildings surrounding a large surface parking lot. The shopping center provides a variety of goods and services to the Lakeshore Acres, Crestlake, and Merced Manor neighborhoods. The shopping center is anchored by "Lucky" supermarket and includes many other national retailers. The subject tenant space is approximately 810 square-feet and located near the northeast corner of the shopping center between "Ono Hawaii BBQ" and "Game Stop". The address is 1501 Sloat Blvd and it is currently occupied by "Quizno's".

3. **Surrounding Neighborhood.** The neighborhood surrounding the shopping center is characterized by mostly mid-century, detached, two-story, single-family dwellings with large front setbacks. The streets are wide to facilitate vehicular movement and aligned in a grid. The street grid becomes curvilinear as it nears Lake Merced. Sloat Boulevard is the primary east/west arterial street in the neighborhood.
4. **Project Description.** The applicant proposes to retain the limited-restaurant, sandwich shop use and change from one formula retail tenant "Quizno's" to another "Subway". The project includes minor tenant improvements. The proposed operation would have 2-4 employees.

5. **Public Comment.** The Department has not received public comments regarding the proposed 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. **Parking Requirement.** Section 151 requires retail stores to provide one parking space for every 500 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.

The project is part of a Planned Unit Development (PUD) which was authorized in 1988. The PUD authorization set forth the parking requirement for the shopping center based upon a specific mix of uses. The limited-restaurant would replace an existing limited-restaurant to maintain the balance of uses that was authorized by the PUD.

- B. **Loading.** Section 152 requires off-street freight loading for uses above a certain size. Eating Retail uses up to 10,000 square feet in gross floor area are not required to provide off-street freight loading.

The project is part of a Planned Unit Development (PUD) which was authorized in 1988. The PUD authorization set forth the freight loading requirements for the shopping center based upon a specific mix of uses. The restaurant would replace an existing restaurant to maintain the balance of uses that was authorized by the PUD.

- C. **Use Size.** Section 713.21 establishes size limits on nonresidential uses in the NC-S District. Within the District, conditional use authorization is required for any nonresidential use that exceeds 6,000 square feet.

At ~810 square feet, the Project does not require Conditional Use authorization for use size.

- D. **Hours of Operation.** Pursuant to Sections 780.1 and 713.27 of the Code, the principally permitted hours of operation within the Lakeshore Plaza SUD are from 6 a.m. to 11 p.m.

- E. **NC-S (Neighborhood Commercial Shopping Center) District.** Section 713.1 of the Code defines NC-S Districts as areas that are intended to serve as small shopping centers or supermarket sites which provide retail goods and services for primarily car-oriented shoppers. They commonly contain at least one anchor store or supermarket, and some districts also have small medical office buildings. The range of services offered at their retail outlets usually is intended to serve the immediate and nearby neighborhoods. These districts encompass some of the most recent (post-1945) retail development in San Francisco's neighborhoods and serve as an alternative to the linear shopping street.

Shopping centers and supermarket sites contain mostly one-story buildings which are removed from the street edge and set in a parking lot. Outdoor pedestrian activity consists primarily of trips between the parking lot and the stores on-site. Ground and second stories are devoted to retail sales and some personal services and offices.

The NC-S standards and use provisions allow for medium-size commercial uses in low-scale buildings. Rear yards are not required for new development. Most neighborhood-serving retail businesses are permitted at the first and second stories, but limitations apply to fast-food restaurants and take-out food uses. Some auto uses are permitted at the first story. Limited storage and administrative service activities are permitted with some restrictions.

Housing development in new buildings is permitted. Existing residential units are protected by limitations on demolitions and prohibitions of upper-story conversions.

- F. **Limited Restaurants.** Section 790.90 of the Planning Code defines a limited-restaurant as a:
- a) A retail eating and/or drinking use which serves foods and/or drinks to customers for consumption on or off the premises, that may or may not have seating. It may include wholesaling, manufacturing, or processing of foods, goods, or commodities on the premises as an accessory use as set forth in Section 703.2(b)(1)(C)(v).
 - b) It includes, but is not limited to, specialty foods provided by bakeries, delicatessens, and confectioneries meeting the above characteristics, but it is distinct from a Restaurant, as defined in Section 790.91, and a Bar, as defined in Section 790.22. It may also operate as a Take-Out Food use as defined in Section 790.122.
 - c) It shall not provide on-site beer and/or wine sales for consumption on the premises, but may provide off-site beer and/or wine sales for consumption off the premises with a California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) within the accessory use limits as set forth in Section 703.2(b)(1)(C)(vi). This use must comply with the controls set forth in Section 703.5.
7. **Planning Code 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:

- 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 project is necessary and desirable because it maintains the balance of commercial uses with the shopping center by replacing one formula-retail limited-restaurant selling sandwiches with another limited-restaurant selling sandwiches.

- 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 size and shape of the site and the size, shape and arrangement of the shopping center will not be altered as part of this project. The proposed work 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 Project will not affect public transit or overburden the existing supply of parking in the neighborhood. The Project is not intended to be a destination use but one that is meant to serve the needs of local residents who visit the shopping center for other goods and services. The general neighborhood is auto-oriented and the shopping center is well served with off-street parking in response.

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

The Project will not produce noxious or offensive emissions related to noise, glare and dust.

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

The project would not alter the sites landscaping, open spaces, parking and loading areas, service areas, and lighting. Any new signage will be required to comply with the requirements of the Planning Code.

- 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 purpose of the NC-S District in that the intended use is located at the ground floor, will provide a compatible convenience service for the immediately surrounding neighborhoods during daytime hours, and is consistent with the limitations on certain uses within the Lakeshore Plaza SUD.

8. **Planning Code Section 703.3** provides additional criteria for the Planning Commission to consider when considering any discretionary review pursuant Section 703.3, Formula Retail Uses:

- a. The existing concentrations of formula retail uses within the district.

There are approximately 23 existing formula retail establishments, and 1 recently approved new formula retail use, out of approximately 30 retail and 38 commercial establishments within the Lakeshore Plaza Neighborhood Commercial Special Use District. The existing intensity of formula retail uses is approximately 61% of all businesses within the district. The proposed establishment is a formula retail use with more than 37,000 locations worldwide, according to http://www.subway.com/subwayroot/about_us/history.aspx.

- b. The availability of other similar retail uses within the district.

None of the other establishments in the district are self-service limited-restaurant sandwich shops in the Lakeshore Plaza Neighborhood Commercial Special Use District, though Lucky Supermarket likely has a deli.

- c. The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the district.

The Lakeshore Plaza Neighborhood Commercial Special Use District is located on a 9 acre parcel bounded by Sloat Boulevard, Ocean Avenue, Clearfield Drive and Everglade Drive surrounding by single-family neighborhoods. The district was originally designed to be and functions as a small neighborhood shopping center providing a variety of retail goods with a strong daytime and family orientation. The character of the Lakeshore Plaza NC SUD supports a high ratio of formula-retail establishments

- d. The existing retail vacancy rates within the district.

There are currently 3 vacancies out of 38 establishments amounting to an 8% vacancy rate.

- e. The existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the district.

The district was originally designed to be and functions as a small neighborhood shopping center providing a variety of retail goods with a strong daytime and family orientation. While some establishments may serve the Citywide population, most establishments are catered to the single family neighborhoods surrounding the shopping center.

9. **General Plan Compliance.** The Project is, on balance, consistent with the 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.

Policy 1.2:

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

Policy 1.3:

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

The proposed development will provide desirable goods and services to the neighborhood and will provide resident employment opportunities to those in the community. The conditions of approval will ensure that the use meets minimum, reasonable performance standards. Further, the Project Site is located within a Neighborhood Commercial District and is thus consistent with activities in the commercial land use plan.

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 an existing commercial activity and will enhance the diverse economic base of the City.

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.

10. **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 replace a formula-retail use with another formula-retail use and thus it would not alter the balance of formula-retail uses within the shopping center. 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 Project would not impact the character or diversity of the neighborhood.

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

The Project would not have any impact on the City's supply of affordable housing.

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

The Project would not adversely impact public transit or place a burden on the existing supply of parking in the neighborhood. The Project Site is well-served by off-street parking.

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 service or industry establishment. The project will not affect industrial or 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 is designed and will be constructed to conform 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.

The existing building is not a landmark and it is not historically rated.

- 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.

11. 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.
12. 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. 2013.1859C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated May 12, 2014, 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. 19203. 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.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on July 24, 2014.

Jonas Ionin
Commission Secretary

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

NAYES: None

ABSENT: Commissioner Moore

ADOPTED: July 24, 2014

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow a formula retail limited-restaurant (d.b.a. Subway) located at 1501 Sloat Boulevard within the Lakeshore Plaza Shopping Center, Block 7255, Lot 004 pursuant to Planning Code Sections 703.4 and 303 within a NC-S District, the Lakeshore Plaza Special Use District and a ~~26-40-X~~ Height and Bulk District; in general conformance with plans, dated **December 20, 2013** and stamped "EXHIBIT B" included in the docket for Case No. **2013.1859C** and subject to conditions of approval reviewed and approved by the Commission on **March 6, 2014** under Motion No. **19203**. 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 **March 6, 2014** under Motion No. **19203**.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **19203** shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

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

CHANGES AND MODIFICATIONS

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

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of

Building Inspection to construct the project and/or commence the approved use must be issued as this Conditional Use authorization is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

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

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

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

MONITORING

3. **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.

OPERATION

4. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the tenant space 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/>

5. **Seating.** Seating in the limited-restaurant shall not exceed 16 seats with no more than 400 square feet of floor area devoted to seating.

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

6. **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

MONITORING - AFTER ENTITLEMENT

7. **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

8. **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