



# 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. 19244

HEARING DATE: SEPTEMBER 18, 2014

*Date:* September 4, 2014  
*Case No.:* **2014.0270C**  
*Project Address:* **2206 Polk Street**  
*Zoning:* (NCD) Polk Street Neighborhood Commercial District  
65-A Height and Bulk District  
*Block/Lot:* 0549/014  
*Project Sponsor:* Marsha Garland  
535 Green Street  
San Francisco, CA 94133  
*Staff Contact:* Kanishka Burns – (415) 575-9112  
[kanishka.burns@sfgov.org](mailto:kanishka.burns@sfgov.org)  
*Recommendation:* **Approval with Conditions**

**ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 723.44, and 790.91 OF THE PLANNING CODE TO ESTABLISH A RESTAURANT (DBA KINJO) WHICH WILL OPERATE AS A BONA FIDE EATING PLACE. THE PROPERTY IS LOCATED WITHIN THE POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT AND A 65-A HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On February 19, 2014, Marsha Garland (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Section(s) 723.44 and 790.91 to establish a restaurant (d.b.a. Kinjo) within the Polk Street Neighborhood Commercial (NCD) Zoning District and a 65-A Height and Bulk District.

On September 11, 2014, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing of a regularly scheduled meeting on Conditional Use Application No. 2014.0270C.

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 Authorization requested in Application No. 2014.0270C, 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 Site is located on the east side of Polk Street between Vallejo and Green Streets, Assessor's Block 0549, Lot 014. It is located within the Polk Street Neighborhood Commercial (NCD) Zoning District and the 65-A Height and Bulk District.

The Project Site is occupied by a three-story mixed-use building, with two ground floor commercial spaces and six dwelling units above. The subject commercial space was occupied by a furniture and antique store (d.b.a. Interior Visions) from 1993 to 2013. The commercial space has been vacant since January 1, 2014 when the former use closed. The adjacent commercial space in the building is occupied by a Limited Restaurant (d.b.a. Royal Grounds Coffee).

3. **Surrounding Properties and Neighborhood.** The Project Site is located in the Russian Hill neighborhood, where surrounding development contains a variety of residential, commercial and mixed use buildings, many of which feature residential uses above ground floor commercial establishments. A variety of commercial establishments are located within ground floor storefronts in the Neighborhood Commercial District, including eating and drinking uses, personal services, grocery stores and other types of retailers. Buildings in the vicinity typically range from two to four stories in height and were built between the Victorian era and present day. The Polk Street NCD zoning runs along Polk Street from Filbert Street to Post Street. The subject property is located in the upper Polk Street area and the surrounding zoning consists of RC-3, RM-2 and RH-3 resulting in high to moderate density residential and commercial uses.

The adjacent property to the north consists of a two story commercial structure (d.b.a Polk and Green Produce Market) at 2222 Polk Street. Adjacent to the south at the northeast corner of Polk Street and Vallejo Street is a three-story structure consisting of a ground floor clothing store (d.b.a Les Cents Culottes) and six dwelling units above.

4. **Project Description.** The project sponsor seeks a Conditional Use Authorization, pursuant to Planning Code Section 303 and 723.44 to establish an 1,840 square foot Restaurant (d.b.a Kinjo) which will operate as a Bona Fide Eating Place in a vacant ground floor commercial space. The

commercial space was previously occupied by a retail furniture and antique store (d.b.a. Interior Visions) and has been vacant since January 1, 2014. The project sponsor is proposing to operate an eating and drinking establishment with ABC license type 41 allowing the sale of beer and wine for consumption on the premises. No exterior alterations are proposed. The proposed Restaurant is independently owned and operated and is not a formula retail use.

5. **Public Comment.** To date, the Department has received five letters of support for the project. Two letters are from neighborhood residents, one from the Russian Hill Neighbors, one from Asian, Inc. and one from the owner of Taps Social House and Kitchen, a restaurant located a block away from the proposed use.
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. **Use.** Restaurants are conditionally permitted in the Polk Street Neighborhood Commercial District pursuant to Planning Code Section 723.44 and may only add ABC license types 47, 49 or 75 at the ground floor if the restaurant is operating as a bona fide eating place. A restaurant is defined in Section 790.91 of the Planning Code 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 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.

*The Project Sponsor is seeking Conditional Use authorization to establish a Restaurant and provide on-site beer and wine sales for drinking on the premises with an ABC license type 41. The proposed Restaurant will operate as a Bona Fide Eating Place as defined by Section 790.142.*

- B. **Use Size.** Section 723.21 establishes size limits on non-residential uses in the Polk Street NCD. Conditional Use authorization is required for any non-residential use that meets or exceeds 2,500 square feet. Non-residential uses up to 2,499 square feet are principally permitted.

*At 1,840 square feet (gsf), the Project is within the principally permitted use size.*

- C. **Hours of Operation.** Section 723.27 states that hours of operation from 6 AM to 2 AM are principally permitted. Conditional Use Authorization is required to operate between the hours of 2 AM and 6 AM. Hours of operation are defined by Planning Code Section 790.48 as the permitted hours during which any commercial establishment may be open.

*The Project's proposed hours of operation will be from 11 AM to 2 PM and 5 PM to 10 PM daily. The Project will operate within the principally permitted hours of operation.*

- D. **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 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.

*The Subject commercial tenant space has approximately 300 square foot façade along Polk Street. This entire space will be occupied by the active use of "Kinjo", which is a Restaurant use that complies with Section 145.1(c)(3). Approximately 19 feet of the 20 foot Polk Street frontage provides visibility into the active use through clear glazed windows and a clear glazed door at the façade. Unobstructed views into the interior of the tenant space provide approximately 75% transparency. There are no changes proposed to the commercial frontage.*

- E. **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. Section 231(h)(3) requires that all truck loading associated with this business shall be limited in such a way as to avoid undue interference with sidewalks, or with crosswalks, bus stops, hydrants and other public features.

*The Subject commercial tenant space, with approximately 1,840 square feet of floor area, will not require any off-street parking or loading spaces. All loading for this business is required to be conducted in such a way as to avoid undue interference with sidewalks, crosswalks, bus stops, hydrants and other public features.*

- F. **Signage.** Currently, there is not a proposed sign program on file with the Planning Department. Any proposed signage will be subject to Planning Department review for code compliance and historical compatibility.
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 Project will occupy the storefront with a desirable neighborhood-serving use. The proposed use will activate the commercial space that has been vacant for approximately nine months. There are no exterior changes proposed and the midsized, 1,840 square foot Restaurant will be compatible with the existing mix of small to midsized commercial and retail establishments in the District.*

- 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 Project Site is compatible with the patterns of development in the area. The Project does not involve any alterations to the exterior of the subject building 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 Project would not adversely impact public transit or overburden the existing supply of parking in the neighborhood. The Project Site is well served by public transit as it is located within ¼ mile of eight MUNI lines and stops including the Powell-Hyde Cable Car line.*

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

*The Project is not anticipated to produce noxious or offensive emissions related to noise, glare and dust or odor. The Restaurant will be subject to the Condition of Approval No. 11 regarding odor control. The Project Sponsor will not be installing any rooftop mechanical equipment and will be using an oven hood that is vented with a unit that cleans and allows air return from inside the building.*

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

*The Project does not propose any exterior modifications and the Department shall review all lighting and signs proposed for the new business in accordance with Article 6 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. The Project as a whole 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 Polk Street NCD functions as a neighborhood serving marketplace, providing convenience goods and specialty goods and services to residents in the Polk Gulch, Nob Hill, Russian Hill and Pacific Heights areas. Further described in Planning Code Section 723.1, commercial uses include many apparel and specialty stores, broader serving automobile uses and offices, as well as commercial establishments like bars and restaurant that "keep the district active into the evening." The Polk Street district controls are designed to encourage neighborhood serving businesses while limiting additional parking congestion and other nuisances.*

*Kinjo will be a neighborhood serving Restaurant that would continue to activate the block and intersection that consists of eating and drinking and retail uses. The area is well served by MUNI and bicycle infrastructure and the establishment of a Restaurant will have little effect on traffic patterns.*

- E. The existing concentration of eating and drinking uses should not exceed 25% of the total commercial frontage as measured in linear feet within the immediate area of the subject site, per Planning Code Section 303(p). The immediate area shall be defined as all properties located within 300 feet of the subject property and also located within the same zoning district.

*Planning staff has performed a site survey of the Polk Street Neighborhood Commercial District including the immediate area of the Subject Site. With the proposed Restaurant use, approximately 34% of the frontage of the immediate area (within a 300 foot radius) of the Subject Site is attributed to eating and drinking establishments. The proposed change of use from vacant commercial to Restaurant will result in a net increase of 2% of commercial frontage dedicated to eating and drinking uses within the immediate area.*

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.

**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 Project will provide desirable goods and service and create an active use in the neighborhood. No existing commercial tenant will be displaced as the Project will fill a vacant commercial space. 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. The 1,840 square foot Restaurant will seat approximately 48 customers, making it a midsized neighborhood service.*

**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 enable a new business to be located in a compatible neighborhood. The Project will allow a desirable neighborhood-serving use to operate, thereby contributing to the commercial activity for the subject block and neighborhood and enhancing the diverse economic base of the City.*

**OBJECTIVE 3:**

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

**Policy 3.1:**

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

*The Project will provide additional employment opportunities for local residents as well as unskilled and semi-skilled workers.*

**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.

**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.

**Policy 6.3:**

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

**Policy 6.9:**

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

*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. An independent entrepreneur is sponsoring the proposal. The businesses owners own and operate two successful Japanese restaurants in the Bay Area (San Carlos and Noe Valley) and wish to bring their dining concept to the Russian Hill neighborhood. The proposed use is a neighborhood-serving use. The proposed eating and drinking establishment is not considered a formula retail use.*

*The proposed project will contribute to the mixed-use character of the neighborhood and District. The Project Site consists of an 1,840 square foot ground floor commercial space and six dwelling units. The proposed project would not adversely affect public transit or place a burden on the existing supply of parking in the neighborhood. Many patrons would be able to walk from their residences or places of employment and the proposed project is well served by public transportation.*

**Eating and Drinking Establishments**

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 include bars, limited restaurants, and restaurants. 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.

In districts where the proliferation of eating and drinking establishments could generate problems, the following guidelines should be employed in the consideration of new establishments, relocations, changes from one kind of eating and drinking establishment to another (e.g. from self-service restaurant to full-service restaurant), expansion or intensification of existing establishments:

- The establishment should not add to an over-concentration of eating and drinking establishments in a single district. The balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage. Proposals for eating and drinking establishments which would increase the proportion of total occupied commercial frontage above 20% should be reviewed to ensure that they would not reduce the variety of neighborhood-serving uses; nor create substantial noise, traffic, parking problems or other nuisances in the district or surrounding neighborhood. Those establishments that would do the above should not be permitted. Except in districts with an established pattern of service to a broad market, such as North Beach, such establishments should not occupy more than 25% of the total commercially occupied frontage in a district. To minimize the problems they can create, eating and drinking uses should generally be at least 100 feet apart from each other, unless there are factors making clustering of uses appropriate. For example, a configuration of clustered eating and drinking uses where off-street parking is shared might be more appropriate than an even distribution of such establishments.
- New, expanding or relocating eating and drinking uses should not impose significant adverse impacts on traffic and transit volumes and circulation and parking congestion. If such impacts are anticipated, especially on transit-preferential streets, the proposed use, expansion or relocation should be redesigned to mitigate such impacts, or it should be prohibited.

- Eating and drinking uses should be adequately soundproofed or insulated for noise and operated so as to reasonably protect adjoining and surrounding upper-story residences from disturbances from fixed source equipment.

*The General Plan states that there is a concern with the potential over-concentration of food-service establishments. 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% of the total occupied commercial frontage." Planning staff has performed a site survey of the Polk Street Neighborhood Commercial District which contains the proposed use. The proposed change of use from vacant commercial to Restaurant will have no impact on the 22% eating and drinking concentration in the Polk NCD. This NCD is one of the City's larger NCDs and consists of 414 ground floor commercial uses. It stretches along approximately 14 blocks on Polk Street from Filbert Street to Post Street. It also extends east from Polk Street along California Street to Larkin Street and south on Larkin Street from California Street to Post Street. Of the 414 ground floor commercial uses, 131 are eating and drinking establishments, 48 of which are Restaurants.*

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 Project will not displace any existing retail uses within the neighborhood. The business would be locally owned and will be complementary to the existing commercial establishments within the immediate neighborhood. The proposed project will create approximately three full-time and three to four part-time job opportunities for local residents.*

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

*The existing residential units in the surrounding neighborhood would not be adversely affected by the Project. The Project is consistent with the surrounding neighborhood character and the proposed hours of operation are within the standard principally permitted hours in the Polk Street NCD.*

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

*No housing will be removed for this Project.*

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

*The 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.*

- 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 will comply with all applicable earthquake safety standards and be built to the current standards of the California Building Code.*

- G. That landmarks and historic buildings be preserved.

*The subject property is a known historic resource and the proposed use is considered appropriate. There are no exterior changes proposed. The Project will not significantly affect the historic building.*

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

*The Project will have no negative effect on existing parks and open spaces. The Project does not have an effect on open spaces as there are no exterior expansions.*

10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
11. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

**DECISION**

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2014.0270C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated May 18, 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. 19244. 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 September 18, 2014.

Jonas P. Ionin  
Commission Secretary

AYES: Commission President Wu, Commissioners Antonini, Hillis, Johnson, Moore, Richards

NAYS: N/A

ABSENT: Commission Vice-President Fong

ADOPTED: September 18, 2014

## **EXHIBIT A**

### **AUTHORIZATION**

This authorization is for a conditional use to allow a change of use from retail to restaurant (d.b.a. Kinjo) located at 2206 Polk Street, Lot 014 in Assessor's Block 0549 pursuant to Planning Code Section(s) 303, 723.44 and 790.91 within the Polk Street Neighborhood Commercial District and a 65-A Height and Bulk District; in general conformance with plans, dated May 18, 2014, and stamped "EXHIBIT B" included in the docket for Case No. 2014.0270C and subject to conditions of approval reviewed and approved by the Commission on September 11, 2014 under Motion No. 19244. 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 September 11, 2014 under Motion No. 19244.

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

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19244 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)*

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](http://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](http://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](http://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](http://www.sfdph.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](http://www.baaqmd.gov) and Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://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](http://www.sf-planning.org)*

13. **Closing Hours.** The subject establishment must close by 10:00pm on Sunday through Thursday and by 11:00pm on Friday and Saturday.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*