

# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)	
☐ Inclusionary Housing (Sec. 315)	☐ First Source Hiring (Admin. Code)
☐ Jobs Housing Linkage Program (Sec. 313)	☐ Child Care Requirement (Sec. 314)
□ Downtown Park Fee (Sec. 139)	☐ Other

1650 Mission St. Suite 400 San Francisco, CA 94103-2479

Reception: 415.558.6378

Fax: 415.558.6409

## **Planning Commission Motion No. 17669**

**HEARING DATE: AUGUST 8, 2008** 

Planning Information: 415.558.6377

Date: August 1, 2008
Case No.: 2007.1256 C

Project Address: 401-431 COLUMBUS AVENUE

Zoning: North Beach NCD (Neighborhood Commercial District)

40-X Height and Bulk District

*Block/Lot:* 0131/026

Project Sponsor: Ahmad Larizadeh dba Bana Construction Consulting

71 Blake Street

San Francisco, CA 94118

Staff Contact: Kevin Guy - (415) 558-6163

kevin.guy@sfgov.org

Recommendation: Approval with Conditions

ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZING THE EXPANSION OF AN EXISTING FULL-SERIVCE RESTAURANT AND BAR (D.B.A "PANTA REI RESTAURANT") TO A USE SIZE IN EXCESS OF 2,000 SQUARE FEET AT 401-431 COLUMBUS AVENUE ON ASSESSOR'S BLOCK 0131, LOT 026, LOCATED WITHIN THE NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

#### **RECITALS**

1. On October 31, 2007, Ahmad Larizadeh (Project Sponsor) applied for a Conditional Use, Application No. 2007.1256C, on the property at 401-431 Columbus Avenue, Lot 026 in Assessor's Block 0131 (Project Site), to expand an existing full-service restaurant and bar (d.b.a. "Panta Rei Restaurant") as defined in Planning Code Sections 790.22 and 790.92 to occupy a vacant ground-floor commercial storefront, in general conformity with plans labeled Exhibit B dated August 8, 2008 (Project). The proposed use would exceed 2,000 square feet, and would therefore require conditional use authorization pursuant to Planning Code Section 722.21. The proposed use is not formula retail as defined in Section 703.3 of the Planning Code. There would be no physical expansion of the existing building. The site is within the North Beach NCD, North Beach Financial Service Subdistrict, and a 40-X Height and Bulk District.

- 2. The Project was determined by the Planning Department (Department) to be categorically exempt from the environmental review process pursuant to Title 14 of the California Code of Regulations.
- 3. On July 24, 2008, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2007.1256C.
- 4. This Commission has reviewed and considered reports, studies, plans, and other documents pertaining to this Project.
- 5. 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.
- 6. After considering all written materials pertaining to the project and hearing oral testimony from the applicant, Department staff, and other interested parties at the public hearing on July 24, 2008, the Commission voted to adopt a motion of intent to approve the Project. The Commission directed staff to draft a motion for approval that would be voted upon at the public hearing of August 8, 2008.
- 7. **MOVED**, that the Commission hereby approves the conditional use requested in Application No. 2007.1256C, subject to the conditions contained in <u>Exhibit A</u>, based on the following findings:

#### **FINDINGS**

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

- 1. The above recitals are accurate and constitute findings of this Commission.
- 2. **Site Description.** The Project Site is located on the west side of Columbus Avenue at the intersection of Columbus Avenue and Stockton Street, Assessor's Block 0131, Lot 026. The property is located within the North Beach Neighborhood Commercial District, the North Beach Financial Service Subdistrict, and a 40-X Height and Bulk District.

The Project Site is located on the western side of Columbus Avenue, between Stockton and Vallejo Streets. The property is developed with commercial uses and apartment units within a two-story building that covers 100% of the lot. A portion of the building facing the corner of Vallejo Street and Columbus Avenue reaches a height of three stories. The building occupies the majority of a triangular-shaped block, with frontage on Columbus Avenue, Stockton Avenue, and Vallejo Street. A total of eleven dwelling units occupy the upper floors, while restaurants, retail uses, and other commercial establishments occupy the ground floor. A sampling of these establishments includes: Panta Rei Restaurant (the subject of the proposed expansion), Caffe Grecco, Trattoria Pinocchio, Little City Meats, Dr. Cecilia Muy (optometrist), and Wayne's Co.

(apparel and other imported goods). The storefront to be occupied by the expansion is currently vacant, but previously housed a shoe repair business and a cutlery/knife sharpening business.

3. **Surrounding Neighborhood.** The Panta Rei restaurant is located at the intersection of Columbus Avenue and Stockton Street, within the North Beach Neighborhood Commercial District (NCD). The North Beach NCD is a generally linear district situated along Columbus Avenue between Grant Avenue and Francisco Street. The District hosts a mixture of commercial establishments, but is heavily oriented toward full-service and small self-service restaurants.

The surrounding area is mixed-use in character. A variety of commercial establishments are located within ground floor storefronts in the vicinity, including restaurants, financial institutions, apparel stores, and other types of retailers. Upper floors of buildings are generally occupied by offices, residential units, or tourist-hotels. Other nearby uses include the Church of Saint Peter and Paul (located two blocks to the north), Washington Square Park (located one block to the north), and the Saint Francis of Assisi Church (located one block to the south).

4. **Project Description.** The Project proposes to expand an existing restaurant and bar within an adjacent vacant storefront. The restaurant would expand by approximately 540 square feet, to occupy a total of 2,040 square feet. In 2004, the Planning Commission granted conditional use authorization to operate a bar on the site. The restaurant holds a Type 47 liquor license that allows for the sale of beer, wine, and spirits in association with substantial sales of meals as a bona fide eating place. The Project Sponsor would need to expand the area covered by this license in order to serve alcohol within the enlarged restaurant area.

There would be no physical expansion of the building, and no storefront alterations are proposed. Interior renovations would be needed to to convert the former retail space into a restaurant, reconfigure the bathroom, and make other minor modifications. No storefront alterations are proposed.

#### 5. Public Comment.

The Project Sponsor has submitted numerous signatures and letters from the North Beach Chamber of Commerce, North Beach Neighbors, local residents, and business owners in support of the application.

The Planning Commission has received communications from the Telegraph Hill Dwellers and residents in the area who are opposed to the project. They are concerned about the loss of neighborhood-serving retail businesses, changes to the fine-grained character of small businesses, and excessive intensity for a single establishment.

At the public hearing on July 24, 2008, the Planning Commission heard oral testimony from approximately 14 speakers in favor of the Project and two speakers opposed to 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:

SAN FRANCISCO
PLANNING DEPARTMENT

A. **Floor Area Ratio.** Section 124 establishes basic floor area ratios (FAR) for all zoning districts. FAR is the ratio of the gross floor area of all the buildings on a lot to the total area of the lot. Under Section 124(a), the FAR for the North Beach NCD is 1.8 to 1. Under Section 124(b), in NCDs, the floor area ratio limits listed in Subsection (a) do not apply to dwellings or other residential units.

With a lot area of 14,671 square feet, 26,408 nonresidential gross square feet can be developed on the Project Site. Since the Project will not include the physical expansion of the commercial space, there will be no increase in nonresidential gross floor area.

B. **Parking Requirement.** Section 151 requires eating and drinking establishments to provide one parking space for every 200 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.

With a gross floor area of under 5,000 square feet, the Project is not required to provide parking.

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

With a gross floor area of under 10,000 square feet, the Project is not required to provide off-street loading. There are nearby yellow zones that can be used for deliveries.

D. **Formula Retail.** Section 703.3 places notification requirements and other restrictions on formula retail uses.

The Project is not considered to be a Formula Retail Use as defined by Section 703.3 of the Planning Code. The proposed location would be the only outlet for this particular business.

E. **Hours of Operation.** Section 722.27 allows hours of operation from 6:00AM until 2:00AM as of right and requires conditional use authorization to operate between the hours of 2:00AM and 6:00AM.

The Project Sponsor is not requesting conditional use authorization to operate between the hours of 2:00AM and 6:00AM.

F. **Bar Use.** Pursuant to Section 722.41, Conditional Use authorization is required for a new or expanded bar use (including restaurants that serve distilled spirits) within the North Beach NCD.

The existing restaurant serves previously received Conditional Use authorization to serve distilled spirits in conjunction with the Panta Rei restaurant. The Project would expand the footprint of the existing restaurant, therefore, the Project Sponsor is requesting Conditional Use authorization to expand the associated bar use.

G. **Full-Service Restaurant Use.** Pursuant to Section 722.42, Conditional Use authorization is required for a new or expanded full-service restaurant within the North Beach NCD.

The Project Sponsor is requesting Conditional Use Authorization to expand the existing full-service restaurant.

H. **Use Size**. Section 121.2(a) establishes size limits on nonresidential uses in all NCDs. In the North Beach NCD, conditional use authorization is required for any nonresidential use that exceeds 1,999 square feet.

The existing restaurant measures approximately 1,500 square feet. The Project would expand the restaurant to incorporate the adjacent storefront, for a total size of approximately 2,040 square feet. The Project Sponsor is requesting conditional use authorization for the proposed use size.

- 7. **Conditional Use Findings.** Under Section 303(c), the Commission may authorize a conditional use after finding 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.

A recent survey conducted by the Department indicated that over 40 percent of the commercial storefronts in the North Beach NCD are devoted to eating and drinking establishments. To prevent an overconcentration of restaurant and bar uses, the Commerce and Industry Element of the General Plan calls for no more than 25 percent of commercial storefronts in most Neighborhood Commercial Districts to be set aside for eating and drinking establishments. The Commerce and Industry Element specifically identifies North Beach as a District with an established pattern of service to a broad market, where a higher proportion of eating and drinking establishments may be appropriate. The restaurants in North Beach serve diners in the local community both the local community, as well as visitors to the City who are drawn to the District for the thriving activity on Columbus Avenue.

The General Plan emphasizes the importance of preserving a balance of land uses, including retail establishments and personal services that meet the convenience needs of local residents. While the proposed expansion would occupy a former retail storefront, the vacant space is relatively small and may not be viable as a standalone retail establishment selling products that meet the needs of local residents. The Project would allow for a small expansion of an existing business that is locally-owned and staffed, and would fill a vacant storefront to provide activity to the streetscape. The area is conducive to pedestrian activity and is well served by public transit, therefore, the proposed expansion should not exacerbate traffic or parking problems in the area.

If the proposed use exceeds the square footage limitations specified for the Neighborhood Commercial District in which the use is located, Section 303(c)(1)(A) requires that the following be considered:

SAN FRANCISCO
PLANNING DEPARTMENT

i. The intensity of activity in the district is not such that allowing the larger use will be likely to foreclose the location of other needed neighborhood-servicing uses in the area.

While the proposed expansion would occupy a storefront that could potentially host a retail establishment, this storefront may not be viable as a standalone retail establishment due to its small size. A large concentration of restaurants are located on the 400- and 500-blocks of Columbus Avenue. Commercial areas beyond Columbus Avenue host a wider variety of establishments that meet the convenience needs of local residents. For example, Stockton Street is located to the west, and hosts a bank, a variety of clothing stores, and several small produce markets. Grant Avenue is located to the east, and hosts small markets, clothing stores, dry cleaners, and beauty salons. The presence of the expanded Panta Rei restaurant, fronting on Columbus Avenue, should not hamper the viability of the locally-serving businesses on these adjacent streets within the North Beach NCD.

ii. The proposed use will serve the neighborhood, in whole or in significant part, and the nature of the use requires a larger size in order to function.

The restaurants in North Beach serve both a local clientele, as well as a broader market of visitors drawn to San Francisco from outside the City. The restaurants in the area vary greatly in size. The existing space occupied by Panta Rei is triangular in shape, making it difficult to maximize the utility of the interior. The expansion will create more usable area to compensate for the irregular shape of the existing space.

iii. The building in which the use is to be located is designed in discrete elements which respect the scale of development in the district.

The interior space of the existing restaurant will be connected to the adjacent storefront to allow the restaurant to function as a single unit. The existing storefront has a unique, multi-faceted recessed entry that would not be modified as part of the project. The expanded area will therefore read as a distinct storefront that is separate from the existing Panta Rei restaurant.

- 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 building are adequate for the Project.

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 adversely impact public transit or overburden the existing supply of parking in the neighborhood. The Project is intended to be a walk-in facility for pedestrian traffic. Furthermore, the Project site is well-served by public transportation (9X, 9AX, 9BX-San Bruno Express, 12-Folsom/Pacific, 20-Columbus, 30, 30X-Stockton/Marina Express, 41-Union, and 45-Union/Stockton). Off-street parking and loading are not required for the Project.

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

Planning staff is not aware of any formal complaints regarding offensive noise or odors at the Panta Rei Restaurant. In 2004, the restaurant received conditional use authorization to obtain a Type 47 liquor license. The Planning Commission added a condition to this authorization requiring that all noise and odors be regulated so as not to be a nuisance to nearby businesses or residents. This provision is also included in the Conditions of Approval for the Project, as contained in Exhibit A.

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

The Project Site is completely built-out at the commercial ground level, therefore, no landscaping will need to be provided. All lighting and signage would be required to comply with the requirements of the Planning Code, the approved signage program, the Secretary of the Interior's Standards for the Treatment of Historic Properties (Secretary Standards) and the Urban Design Element of the General Plan.

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 the applicable requirements of the Planning Code. The Commerce and Industry Element of the General Plan states that the mix of land uses in most NCD's should favor locally-serving businesses, and discourage an overconcentration of eating and drinking establishments. These Policies specifically identify North Beach as a District with an established pattern of service to a broad market, where a higher proportion of eating and drinking establishments may be appropriate. The restaurants in North Beach serve both the local community, as well as a larger market of visitors to the City. Locally-serving retail and service establishments can be found on adjacent streets within the North Beach NCD, such as Stockton and Grant Streets. The Project is a relatively small expansion of an existing restaurant, and will not substantially alter the mix of land uses within the NCD as a whole. The Project will not adversely affect the General Plan.

D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

The North Beach NCD functions as a neighborhood-serving marketplace, citywide dining district, and tourist attraction. The storefronts along Columbus Avenue have trended toward uses that are oriented

toward visitors, particularly eating and drinking establishments. Many locally serving uses exist on other streets within the NCD, and will not be negatively impacted by the project.

8. **General Plan Compliance.** The Project is not consistent with the Objectives and Policies of the General Plan in that:

#### COMMERCE AND INDUSTRY ELEMENT

#### **Neighborhood Commerce**

#### **OBJECTIVE 6:**

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

#### Policy 1:

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the City's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

In order for a neighborhood commercial district to remain viable and serve the needs of the surrounding neighborhood, it must exhibit a healthy balance of different types of commercial uses. The North Beach NCD is heavily weighted toward eating and drinking establishments. While the proposed expansion will occupy a storefront that could be occupied by a neighborhood-serving use, the vacant storefront is relatively small and may not be viable as a standalone establishment. The small expansion will not substantially alter the mix of land uses in the NCD or preclude the provision of substantial neighborhood-serving retail and service uses. In addition, the restaurant will continue to serve patrons who live within the North Beach community, as well as visitors from other parts of the City or from outside of the Bay Area.

- 9. **General Plan Findings.** Section 101.1(b) establishes eight priority planning policies and requires the review of permits for consistency with said policies:
  - (1) That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced.
    - The Project would allow for a small expansion of an existing business that is locally-owned and staffed. Neighborhood-serving retail uses are prevalent on other streets within the North Beach NCD, such as Stockton and Grant Streets. The Project will allow for a small expansion of an existing restaurant that will not hinder the viability of the neighborhood-serving retail uses in the overall North Beach NCD.
  - (2) That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

No housing will be impacted by the Project. The expansion of the restaurant will fill a vacant commercial storefront on Columbus Avenue, contributing to the vitality and pedestrian activity within the District.

(3) That the City's supply of affordable housing be preserved and enhanced.

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

(4) 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 area is well-served by public transportation.

(5) That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

There is no commercial office development associated with the Project. No industrial or service sector uses would be displaced.

(6) That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

Although there would be some interior tenant improvements to the subject commercial space, the Project does not involve any construction activities that would compromise the structural integrity of the existing building or trigger any Building Code requirements for a seismic upgrade.

(7) That landmarks and historic buildings be preserved.

The existing building is listed as a contributor in the North Beach Survey of historic buildings in a potential district or district boundary extension. If approved, any storefront alterations and signage would be required to comply with "Secretary Standards". No exterior alterations are proposed by the Project.

(8) That our parks and open space and their access to sunlight and vistas be protected from development.

The Project, which does not include any physical expansion of the existing building envelope, would not impact any parks or open spaces or their access to sunlight.

12. On balance, 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. 2007.1256C.** 

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this approval of a Conditional Use Authorization application to the Board of Supervisors within thirty (30) days after the date of this Motion No. 17669. 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 94012.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on August 8, 2008.

Linda Avery
Commission Secretary

AYES:

NAYS:

ADOPTED:

ABSENT:

### **Exhibit A**

## **Conditions of Approval**

- 1. This authorization is to expand an existing full-service restaurant and bar as defined in Planning Code Sections 790.22 and 790.92, and to operate a use size in excess of 2,000 square feet pursuant to Planning Code Section 722.21, in general conformity with plans labeled <u>Exhibit B</u>; dated August 8, 2008, and review by the Commission on July 24, 2008 and August 8, 2008.
- 2. Prior to issuance of building permits, significant progress shall be made toward the abatement of all planning code violations occurring on the property, to the satisfaction of the Zoning Administrator.
- 3. All alcoholic beverages shall be served with meals. All meals shall be served on china with metal eating utensils. Meals shall be ordered and served at tables, and shall be paid for after consumption.
- 4. The Project Sponsor shall obtain a building permit for this project within three (3) years from the date of this Conditional Use Authorization, and construction shall thereafter be pursued diligently to completion or the said authorization shall be deemed null and void. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection within three years is delayed by a City, state or federal agency, or by appeal of the issuance of such permit.
- 5. No exterior alterations are permitted by this authorization. The Project Sponsor shall work with staff to ensure that all future exterior alterations, including signage, are consistent with the Secretary of Interior's Standards for Treatment of Historical Properties. Signage size shall be appropriate for the scale of the historic building, and materials and lighting shall be compatible with the historical character of the building.
- 6. Ground level storefronts shall be maintained in an attractive manner, providing transparency into the tenancy behind. Visibility of the commercial interiors and activity through all storefront windows shall be maintained in order to ensure that the ground level of the building remains visually active, provides visual interest to pedestrians, and enhances sidewalk security. Commercial interior layouts should be designed with these requirements in mind. Generally, storefront windows should not be visually obscured with the following: blinds, shades or curtains; shelving; equipment; darkly tinted, translucent or opaque film; painted, stenciled or adhesive signage applied to individual window surfaces that has an overall transparency of less than 50%, or any signage that covers more than 1/3 of the area of any individual window; full or partial height interior partition walls placed directly against or within 10 feet from the window glazing; or any other items that significantly block the vision of pedestrians through the

storefront windows into the occupiable commercial space. Solid roll-down security gates shall not be installed in storefront openings. The property owner shall ensure that this condition of approval is incorporated into all commercial leases.

- The operator of the establishment shall maintain the entrances and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at minimum, daily sweeping, litter pickup and disposal, and washing or steam/pressure cleaning of the main entrance and abutting sidewalks at least once every two weeks.
- 8. Noise and odors shall be regulated so as not to be a nuisance to nearby businesses or residents.
- 9. An enclosed waste storage area shall be provided within the establishment. All trash and recycling containers shall be kept within the building until pick-up by the disposal company.
- 10. The Project Sponsor shall appoint a Community Liaison to address issues and matters of concern to nearby residents or commercial lessees. This liaison or designated representative shall be available at the establishment at all times during business hours. The Project Sponsor shall report the name and telephone number of this liaison to the Zoning Administrator for reference.
- 11. Should monitoring of the Conditions of Approval of this Motion be required, the Project Sponsor shall pay fees as established in Planning Code Section 351(e)(1).
- 12. 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 are subsequently reported to the Zoning Administrator 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 in accordance with the hearing notification and conduct procedures as set forth in Sections 174, 306.3, and 306.4 of the code to consider revocation of this conditional use authorization.
- 13. The Project Sponsor shall assure the execution and recordation of the specified conditions as a Notice of Special Restrictions at the Office of the County Recorder / County Clerk.

SAN FRANCISCO
PLANNING DEPARTMENT

12



