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## Planning Commission Motion No. 17799

HEARING DATE: JANUARY 8, 2009

*Date:* January 8, 2009  
*Case No.:* 2008.0648C  
*Project Address:* 514 27<sup>th</sup> Avenue (6255 Geary Boulevard)  
*Zoning:* NC-3(Neighborhood Commercial, Moderate-Scale)  
 40-X Height and Bulk District  
*Block/Lot:* 1518/027A  
*Project Sponsor:* Tony Fong  
 2618 26<sup>th</sup> Avenue  
 San Francisco, CA 94116  
*Staff Contact:* Christine Lamorena – (415) 575-9085  
 christine.lamorena@sfgov.org

**ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 303 AND 712.54, TO ALLOW A NEW MASSAGE ESTABLISHMENT (DBA WONDERFOOT HEALTH CENTER) AT THE GROUND FLOOR COMMERCIAL SPACE LOCATED AT 514 27<sup>TH</sup> AVENUE (AKA 6255 GEARY BOULEVARD) ON ASSESSOR’S BLOCK 1518, LOT 027A, LOCATED IN AN NC-3 (NEIGHBORHOOD COMMERCIAL, MODERATE-SCALE) ZONING DISTRICT.**

### PREAMBLE

On June 3, 2008, Tony Fong (hereinafter “Project Sponsor”) filed an application (hereinafter “Application”) for Conditional Use Authorization under Planning Code Sections 303 and 712.54 of the Planning Commission to allow a massage establishment (dba Wonderfoot Health Center) to be located at the ground floor commercial space at 514 27<sup>th</sup> Avenue (aka 6255 Geary Boulevard), in general conformity with plans filed with the Application, located within a NC-3 (Neighborhood Commercial, Moderate-Scale) Zoning District and 40-X Height and Bulk District.

On January 8, 2009 the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2008.0648C.

The Application was determined by the San Francisco Planning Department (hereinafter "Department") to be categorically exempt from environmental review. The Commission has reviewed and concurs with said determination.

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 Project Sponsor, Department staff, and other interested parties.

**MOVED**, that the Commission hereby authorizes the Conditional Use requested in Application No. 2008.0648C, 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 southeast corner of Geary Boulevard and 27<sup>th</sup> Avenue. The proposed project would be located on 27<sup>th</sup> Avenue while an existing full-service restaurant (dba Mayflower Restaurant) currently fronts on Geary Boulevard. The project site contains a two-story building occupied by the commercial uses at the ground level and 4 residential units on the upper level.
3. **Surrounding Properties and Neighborhood.** Surrounding development consists of a variety of residential, commercial and mixed-use buildings generally featuring residential uses above ground floor commercial establishments. The scale of development in the area consists primarily of one- to three-story structures. Most of the commercial establishments are a mix of restaurants, specialty stores and medical and professional service offices. The subject property is more than 1,000 feet from any other legally established, licensed massage establishments.
4. **Project Description.** The applicant is requesting Conditional Use Authorization to allow a new foot massage establishment as defined in Planning Code Section 790.60 in an NC-3 (Neighborhood Commercial, Moderate-Scale) Zoning District, which is conditionally permitted under Section 712.54 of the Planning Code.

The proposed project is to convert a personal service use salon (dba Beauty House) with approximately 628 square feet of floor area into a massage establishment (dba Wonderfoot Health Center) on the ground floor of the subject building. The proposed massage establishment will primarily provide foot massage but also provide general massage services. The proposal would involve tenant improvements to the existing space and would include a waiting area, 3 foot massage rooms, 1 general massage room, a restroom, and storage room. There will be no expansion to the existing building envelope.

The proposed hours of operation are 10 a.m. to 10 p.m. seven days a week. Pursuant to Section 712.27 of the Planning Code, a massage establishment has no limit to the hours of operation as of right. The proposed business will employ approximately 4 to 5 employees. All employees engaged in performing massage will be licensed by a State-sanctioned Board.

5. **Public Comment.** The Department has received no comments about this 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. **Massage Establishment.** Planning Code Section 712.54 allows a massage establishment in an NC-3 Zoning District with Conditional Use Authorization, so long as the use is located no less than 1,000 feet from any other massage establishment, as defined by Code Section 790.60.

*The Project is more than 1,000 feet from any other legally established, licensed massage establishment.*

- B. **Hours of Operation.** Planning Code Section 712.27 states that there are no limits on hours of operation as defined by Code Section 790.48.

*Although there are no hours of operation limitations for the Subject Property, the Business Owner intends to operate from 10 a.m. to 10 p.m. daily.*

- C. **Parking.** Planning Code Section 712.22 and 151 of the Planning Code requires off-street parking for every 300 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.

*The proposed massage establishment intends to occupy approximately 628 square feet of floor area and thus does not require any off-street parking.*

- D. **Signage.** Any proposed signage will be subject to the review and approval of the Planning Department.

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 is compatible and desirable to the neighborhood, in that it will provide therapeutic massage services in an area that lacks a wider variety of neighborhood-serving retail uses. The commercial establishments within the immediate neighborhood are mainly restaurants, specialty stores and medical*

*and professional service offices. The proposed massage establishment is located in an area where no such use is known to exist within at least 1,000 feet of the Subject Property.*

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

*The height and bulk of the existing building will remain the same and the Project will not alter the existing appearance or character of the project vicinity. No expansion of the building envelope is proposed.*

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

*The Planning Code does not require parking or loading for a 628 square foot massage establishment. The Project is located in an area well served by Muni bus lines 2, 29, and 38. The proposed use is designed to meet the needs of the immediate neighborhood and should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide.*

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

*The Project is for a change of use from a personal service use to a massage establishment and is not expected to negatively impact the existing conditions. The proposed massage establishment's operational format is similar to other massage establishments and therefore is not expected to generate noxious or offensive omissions such as noise, glare, dust and odor.*

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

*The proposed massage establishment does not propose any exterior tenant improvements. The Planning Department will review any lighting and signs proposed for the new business in accordance with Condition 9 of Exhibit A.*

- 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 Project is consistent with the stated purpose of NC-3 Districts in that the intended use is located at the ground floor and will provide a compatible convenience service for the immediately surrounding neighborhoods during daytime and evening hours.*

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

## **NEIGHBORHOOD COMMERCE**

### **Objectives and Policies**

#### **OBJECTIVE 1:**

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

#### **Policy 1.1:**

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

*The Project would provide a service that is not currently provided within the immediate neighborhood.*

**OBJECTIVE 3: PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.**

#### **Policy 3.1:**

Promote measures designed to increase the number of San Francisco jobs held by San Francisco residents.

*The Project would provide four to five additional job opportunities.*

**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.

*The proposed project includes minor interior modifications and would therefore upgrade an existing commercial space for another commercial use that would diversify the type of neighborhood-serving uses within the immediate area.*

**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.

*An independent entrepreneur is sponsoring the proposal. The proposed use is neighborhood-serving.*

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 would enhance the district by providing a personal service that is not currently available within a 1,000 foot radius. The business would be locally owned and it creates 4-5 more employment opportunities for the community.*

- 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 is within an existing commercial space and proposes no changes to the number of housing units in the building.*

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

*The City's affordable housing stock will not be affected. No housing is removed for this Project.*

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

*The Project Site is located on 27<sup>th</sup> Avenue and Geary Boulevard and is well served by transit. It is presumed that most employees and patrons would commute by transit or by foot, thereby mitigating possible impacts on street parking. Geary Boulevard has three Muni bus lines (2, 29 and 38).*

- 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 enhance NC-3 District's personal-services diversity and promote job opportunities. Ownership of industrial or service sector businesses will not be negatively affected by this project.*

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

*There is no major construction proposed as part of this Project. Any future construction shall 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.

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

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

*The project will have no negative impact on existing parks and open spaces.*

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 Project Sponsor, 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. 2008.0648C** subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

**APPEAL AND EFFECTIVE DATE OF MOTION:** Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 17799. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on January 8, 2009.

Linda Avery  
Commission Secretary

AYES: Commissioners Antonini, Borden, Lee, Miguel and Sugaya

NAYES: None

ABSENT: Commissioners Moore and Olague

ADOPTED: January 8, 2009

## Exhibit A

# Conditions of Approval

1. This approval is for a Conditional Use Authorization under Planning Code Section 712.54 of the Planning Code to allow a massage establishment (dba Wonderfoot Health Center) at 514 27<sup>th</sup> Street (aka 6255 Geary Boulevard) within the NC-3 (Neighborhood Commercial, Moderate-Scale) District and a 40-X Height and Bulk District, in general conformance with plans filed with the Application as received on June 3, 2008 and stamped "EXHIBIT B" included in the docket for Case No. 2008.0648C, reviewed and approved by the Commission on January 8, 2009.
2. The entry to the massage establishment shall be directly visible from the street and not through a subordinate corridor shared with adjacent tenants or any vestibule area with two sets of doors. The entrance shall be a single set of door(s) that open directly into the reception area. If any additional doors are required by the Building Code for emergency egress purposes, such door shall be labeled "for emergency use only" and shall have an audible alarm that will sound when the door is opened.
3. No locks shall be allowed on any interior door of the Massage Treatment rooms, except that a lock for privacy may be permitted on the bathroom door.
4. All persons engaged in performing massage shall be licensed for that purpose by the State of California and the licenses shall be prominently displayed on walls of the business.
5. Prior to the issuance of the Building Permit 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 premises (Assessor's 1518, Lot 027A), which notice shall state that construction has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied.
6. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$250 a day in accordance with Planning Code Section 176.
7. Should monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(e)(1).
8. The property owner shall maintain the main entrance to the building and all sidewalks abutting the Subject Property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.

9. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed.
10. The Project shall appoint a Community Liaison Officer to address issues of concern to neighbors related to the operation of this Project. The Project Sponsor shall report the name and telephone number of this Officer to the Zoning Administrator and the neighborhood for reference. The Project Sponsor will keep the above parties apprised should a different staff liaison be designated.
11. 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.
12. The authorization and right vested by virtue of this action shall be deemed void and canceled, if within 3 years of this Motion a site permit or building permit for the Project has not been secured by Project Sponsor. 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 is delayed by a city, state, or federal agency or by appeal of the issuance of such permit.