

File No. 170907

Committee Item No. _____

Board Item No. 33

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date: _____

Board of Supervisors Meeting

Date: September 12, 2017

Cmte Board

- | | | |
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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER

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|--------------------------|-------------------------------------|---|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Appeal Letter - August 4, 2017</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Planning Response Letter - September 5, 2017</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Hearing Notice and Clerical Documents</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |

Prepared by: Brent Jalipa

Date: September 7, 2017

Prepared by: _____

Date: _____

CEQA Appeal to San Francisco Board of Supervisors regarding the Planning Commission's Approval of a Conditional Use Authorization on June 6, 2017

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2017 AUG -4 AM 11:19

Esteemed Members of the San Francisco Board of Supervisors:

Stephan Volker's attached letter to the Planning Commission dated July 5th, 2017, presents a detailed legal explanation as to why Paul Scott's application for a Conditional Use Authorization for Julius' Castle should not have been treated as exempt from CEQA.

Appellants contend, as Mr. Volker did, that an Environmental Impact Report should have been required prior to the Planning Commission's granting of a CUA. In this appeal we want to underscore both the Planning Commission's wanton disregard for the environmental issues raised in Mr. Volker's letter and the remarkable inconsistencies in the Planning staff report upon which the PC's decision was based, particularly those issues associated with increased traffic, congestion and emergency access to the neighborhood. We also request that the hours of operation of the restaurant be required to remain as granted, with closing at 10PM, without possibility of extension through variance.

Traffic, Valet Parking and Public Transit

We are told in the staff report that, "The subject site is accessible via public transit, including Muni bus lines 39 and 82X as well as the E and F streetcars running along the Embarcadero." As noted in the attached petition that was provided to the Planning Commission at the June 6th hearing, but which was not read by the Commission prior to making their decision,

We strongly question whether a single customer has ever gone to dinner at Julius Castle using the #82X bus or the E and F streetcars in its entire history, since all of these serve the Embarcadero, 300* stairs below the restaurant. The #39 bus stops running at 7PM and is thus largely irrelevant. Further, the restaurant never was a "neighborhood-serving use" as indicated in the staff report, but rather a high-end "destination restaurant" as featured in promotional material when the property was for sale. Close to 100% of the customers of the restaurant will arrive, as in the past, by cars, limousines, taxis or tour buses.

** Correction: on Filbert, there are 298 steps between Sansome and upper Montgomery, but only 210 steps on Greenwich between Sansome and Julius' Castle.*

The inconsistency of the staff report claim cannot be overemphasized. It disregards, for purposes of public transit, not only the vertical distance between Julius' Castle and the closest stops for the 82X, E and F, but also the enormous horizontal distances involved. The closest E/F streetcar stop at Embarcadero and Greenwich is 1,030 feet away. The closest 82X stop at Battery and Filbert is 1,210 feet away. These can hardly be said to be sufficiently close to the restaurant to make it accessible by public transit.

Yet we were told by both Paul Scott and Planning staff that valet parking is essential to the operation of the restaurant when there is a public parking garage at the base of the Greenwich

Steps, only 410 feet away. It is understandable that the project proponent would favor this have-your-cake-and-eat-it-too logic, but not that Planning staff would have any reason to take the same incoherent position.

The inconsistency here is that apparently, for both Scott and Planning staff, vertical distances are irrelevant to people who would come to the restaurant by public transit but unacceptable to those who would come in their own cars. Since it should be obvious that, practically speaking, nobody would ever come to the restaurant by public transit in the first place, this may be a moot point, but for Planning staff to include such grossly misleading statements calls into question the credibility of the planning process for this project.

Valet parking was a huge traffic generator when Julius' Castle was open, contrary to the staff report, which states, without any supporting traffic count data, "*The proposed Restaurant will not adversely affect traffic or parking in the neighborhood.*" The attached letter from Dan Lorimer to Scott Sanchez explains why valet parking is particularly problematic:

For each valet parked car, unless the valets park the cars in the neighborhood, which exacerbates the parking shortage we already have, the following trips occur on Montgomery St.:

- (1) trip in for owner of car
- (1) trip down to the remote parking lot by the valet
- (2) round trip by another valet to pick up the valet at the lot
- (2) another round trip to drop the valet at the car
- (1) trip back to the restaurant with the car
- (1) trip out for the owner of the car

That results in a total of 8 car trips up or down Montgomery (and every other street on the route to the parking lot) for every single car.

With taxis, Uber and Lyft, the situation is better, but still far from ideal: one trip in and one out to deliver the customer, one in and one out to take them away, for a total of 4 trips. The problem with both of these is the deadhead trips: 6 for the valets, and 2 for the taxis. As noted in the letter, Julius' Castle generated at least 90% of the traffic on Montgomery when it was open.

With a public parking garage just over 400 feet from the restaurant, what excuse can there be for the proponent's claim that valets are necessary to his success when he would have us believe that the restaurant is served by public transit that is 2-1/2 to 3 times farther away? For Paul Scott or Planning staff to state valet parking is necessary to the restaurant is to openly admit that the assertion that there is public transit accessibility was deceptive. If those who use public transit can climb the Greenwich Steps, so can those who arrive in private cars. To further encourage use of the parking garage, the proponent should offer reimbursement to customers who use the public lot and the stairs.

Valet Parking's Effect upon Congestion and Emergency Access

As noted in the attached letters from Oz Erickson and Garret Shean to Jonathan Vimr, there are already significant issues with ingress and egress in the neighborhood. Because Montgomery Street between Union and Greenwich is a one-lane street in each direction, congestion rises above the level of nuisance. Ambulances and fire trucks can be blocked from getting where they need to go by a single car, let alone multi-vehicle jam-ups. Resulting delays to emergency vehicles could easily result in properties burning down or loss of life. This is an additional reason that the CUA should not have been granted prior to an EIR.

Between Union Street and Greenwich Street, Montgomery Street has a "lower" Montgomery side and an "upper" Montgomery side. There is a median strip between the two containing trees and plants. Both lower Montgomery and upper Montgomery are one lane streets due to parking (which is in very short supply). Lower Montgomery Street is one-way going north. Upper Montgomery Street is one-way going south. At Greenwich Street there is no outlet other than turning around 180 degrees and returning to Union Street on upper Montgomery. The turn around area is fairly large but cars nevertheless cannot make a U turn in a single move but must do a three-step U turn (sharp turn to the left, back up several car lengths, then a forward turn to the left onto upper Montgomery).

If multiple vehicles (which would include taxis, limousines, Uber and Lyft cars, and private cars) are dropping off Julius Castle customers at approximately the same time, the residents of both lower Montgomery and upper Montgomery are likely to be delayed because those vehicles would not park and there is only a limited amount of room for them to stop for pickup or drop off without blocking traffic. If valet parking is added, this would result in cars being left on the street until a valet driver is available to remove same and the same thing can happen when a valet returns the vehicle from the offsite parking facility which is likely to be at least 6 to 8 blocks away. It is not reasonable to expect that the valet would have sufficient valet employees to remove all cars almost immediately upon arrival or have the restaurant customers outside almost immediately when a valet employee returns the car back from the offsite parking facility, particularly at the required 10 o'clock closing time. Indeed, it is likely that a single valet employee who will remove a car from Julius Castle will not return to remove a second car for well over five minutes because of the distance to the valet lot and the traffic both at the restaurant and the traffic between Julius Castle and the lot. One needs to keep in mind the intricacies of navigating the area around JC due to dead-ends, one-way lanes, etc.

With taxi, Uber and Lyft vehicles and valet parking there is near certainty that those of us who live on Montgomery between Union and Greenwich will be blocked at times from leaving our homes (or in some cases getting to our homes and garages) a significant percentage of time that the restaurant is open assuming that Julius Castle is successful (which we would expect it to be). If we are only dealing with taxi, Uber and Lyft vehicles, there is a likelihood that there could be some delays but not nearly to the extent that would occur if the restaurant is permitted to have valet parking. The best, and perhaps the only, solution to this is to have customers shuttled from an offsite parking facility arranged by the restaurant operator that is publicized to customers.

For those of us who live on lower Montgomery it is important to point out that there could be an emergency that would require trying to leave the neighborhood. Being blocked in is unacceptable at any time but in the case of a medical emergency or fire this could be life threatening. There is also the possibility that an ambulance called for a restaurant patron who needs emergency help will be unable to reach the restaurant because of blocked traffic. The failure of the Planning Commission to even investigate this possibility with an appropriate EIR is unconscionable and if necessary, there are neighbors who intend to pursue legal options. Indeed it is not clear that the San Francisco Fire Department has been consulted regarding emergency services to the area as no EIR has been prepared.

Hours of Operation

The staff report and approval call for the restaurant to close at 10PM, per the limitations in the Project Description and §790.48 of the San Francisco Municipal Code. We requested that Mr. Vimr clarify that this means the restaurant actually is to close at 10PM per the Project Description, and not that the last customer would be allowed to enter at that time as proposed in the informal agreement between Paul Scott and Aaron Peskin that is included in the Planning Commission package.

Mr. Vimr did not modify the package, but did state that the restaurant was to close at 10PM at the hearing on June 6th. At that time, however, he also noted that the NC-1 District's principally permitted hours would allow operation until 11PM and that it would be possible for the project sponsor to apply for a variance allowing operation until as late as 2AM. These provisions are found in §710.27 of the Municipal Code.

We request that the CUA conditions be clarified to stipulate that the restaurant is to close no later than 10PM, as is indicated in several places in the staff report, and further that the right to apply for a variance to have extended hours be specifically eliminated as part of any approval by the Board of Supervisors' of a CUA, whether or not an EIR is required prior to said approval.

Conclusion

There is a simple solution to many of the traffic problems: a stipulation in the CUA that there is to be no valet parking. We ask that you include this stipulation if an EIR is not to be required. We believe that there needs be an EIR for Julius' Castle for a multitude of reasons, but there is to be no EIR, there should be no valet parking.

Given the traffic and potential safety issues cited above regarding JC, an obvious mitigation step would be to prohibit valet parking. This will not eliminate problems but will substantially reduce the negative impact of traffic on the neighborhood and reduce the risk of an adverse outcome related to access for emergency vehicles.

Restaurant operation hours should be clearly stated and understood such that the restaurant indeed closes at 10pm with no room for interpretation to allow later closing possible. The restaurant is the only commercial activity in a residential neighborhood and should respect the

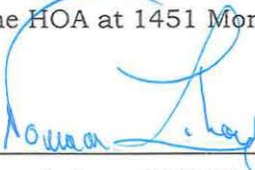
rights of residents to peaceful enjoyment (and a good night's sleep before work the next day!)
The hours of operation do not appear to be a contested item at this point, but the vagueness of
the approval by the Planning Commission as to what they might be in the future should be
addressed now so as not to require revisiting this issue in future hearings.

We thank you for your consideration of the issues that we have presented, and pray that you
will recognize, first and foremost, that this project should not have been deemed exempt from
CEQA, and that an EIR is necessary.

Sincerely,



Gordon Francis, representing the 9-unit La
Colline HOA at 1451 Montgomery Street



Norman Laboe, 1310 Montgomery Street



Dan Lorimer, 1315 Montgomery Street



**SAN FRANCISCO
PLANNING DEPARTMENT**

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CEQA Categorical Exemption Determination

4

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)	
302 Greenwich Street/1531 Montgomery Street		0079/004-005 (two lots)	
Case No.	Permit No.	Plans Dated	
2016-001273CUA	TBD	07/07/2014	
<input checked="" type="checkbox"/> Addition/ Alteration	<input type="checkbox"/> Demolition (requires HRER if over 45 years old)	<input type="checkbox"/> New Construction	<input type="checkbox"/> Project Modification (GO TO STEP 7)
Project description for Planning Department approval. Change in use to restore Restaurant use at City Landmark No. 121: Julius' Castle.			

STEP 1: EXEMPTION CLASS

TO BE COMPLETED BY PROJECT PLANNER

Note: If neither class applies, an Environmental Evaluation Application is required.

<input type="checkbox"/>	Class 1 – Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.
<input checked="" type="checkbox"/>	Class 3 – New Construction/ Conversion of Small Structures. Up to three (3) new single-family residences or six (6) dwelling units in one building; commercial/office structures; utility extensions.; ; change of use under 10,000 sq. ft. if principally permitted or with a CU. Change of use under 10,000 sq. ft. if principally permitted or with a CU.
<input type="checkbox"/>	Class ____

STEP 2: CEQA IMPACTS

TO BE COMPLETED BY PROJECT PLANNER

If any box is checked below, an Environmental Evaluation Application is required.

<input type="checkbox"/>	Air Quality: Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities) within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g., backup diesel generators, heavy industry, diesel trucks)? <i>Exceptions: do not check box if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Article 38 program and the project would not have the potential to emit substantial pollutant concentrations. (refer to EP_ArcMap > CEQA Catex Determination Layers > Air Pollutant Exposure Zone)</i>
<input type="checkbox"/>	Hazardous Materials: If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential? If yes, this box must be checked and the project applicant must submit an Environmental Application with a Phase I Environmental Site Assessment. <i>Exceptions: do not check box if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Maher program, a DPH waiver from the</i>

	<i>Mahey program, or other documentation from Environmental Planning staff that hazardous material effects would be less than significant (refer to EP_ArcMap > Mahey layer).</i>
<input type="checkbox"/>	Transportation: Does the project create six (6) or more net new parking spaces or residential units? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?
<input type="checkbox"/>	Archeological Resources: Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? (refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area)
<input type="checkbox"/>	Subdivision/Lot Line Adjustment: Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography)
<input type="checkbox"/>	Slope = or > 20%: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography) If box is checked, a geotechnical report is required.
<input type="checkbox"/>	Seismic: Landslide Zone: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report is required.
<input type="checkbox"/>	Seismic: Liquefaction Zone: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report will likely be required.
If no boxes are checked above, GO TO STEP 3. <u>If one or more boxes are checked above, an <i>Environmental Evaluation Application</i> is required, unless reviewed by an Environmental Planner.</u>	
<input checked="" type="checkbox"/>	Project can proceed with categorical exemption review. The project does not trigger any of the CEQA impacts listed above.
Comments and Planner Signature (optional):	

**STEP 3: PROPERTY STATUS – HISTORIC RESOURCE
TO BE COMPLETED BY PROJECT PLANNER**

PROPERTY IS ONE OF THE FOLLOWING: (refer to Parcel Information Map)	
<input checked="" type="checkbox"/>	Category A: Known Historical Resource. GO TO STEP 5.
<input type="checkbox"/>	Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.
<input type="checkbox"/>	Category C: Not a Historical Resource or Not Age Eligible (under 45 years of age). GO TO STEP 6.

STEP 4: PROPOSED WORK CHECKLIST
TO BE COMPLETED BY PROJECT PLANNER

Check all that apply to the project.	
<input checked="" type="checkbox"/>	1. Change of use and new construction. Tenant improvements not included.
<input type="checkbox"/>	2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	3. Window replacement that meets the Department's <i>Window Replacement Standards</i> . Does not include storefront window alterations.
<input type="checkbox"/>	4. Garage work. A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , and/or replacement of a garage door in an existing opening that meets the <i>Residential Design Guidelines</i> .
<input type="checkbox"/>	5. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	6. Mechanical equipment installation that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	7. Dormer installation that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input type="checkbox"/>	8. Addition(s) that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.
Note: Project Planner must check box below before proceeding.	
<input type="checkbox"/>	Project is not listed. GO TO STEP 5.
<input type="checkbox"/>	Project does not conform to the scopes of work. GO TO STEP 5.
<input type="checkbox"/>	Project involves four or more work descriptions. GO TO STEP 5.
<input checked="" type="checkbox"/>	Project involves less than four work descriptions. GO TO STEP 6.

STEP 5: CEQA IMPACTS – ADVANCED HISTORICAL REVIEW
TO BE COMPLETED BY PRESERVATION PLANNER

Check all that apply to the project.	
<input checked="" type="checkbox"/>	1. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
<input type="checkbox"/>	2. Interior alterations to publicly accessible spaces.
<input type="checkbox"/>	3. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character.
<input type="checkbox"/>	4. Facade/storefront alterations that do not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	5. Raising the building in a manner that does not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	6. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
<input type="checkbox"/>	7. Addition(s) , including mechanical equipment that are minimally visible from a public right-of-way and meet the <i>Secretary of the Interior's Standards for Rehabilitation</i> .
<input type="checkbox"/>	8. Other work consistent with the <i>Secretary of the Interior Standards for the Treatment of Historic Properties</i> (specify or add comments):

<input type="checkbox"/>	<p>9. Other work that would not materially impair a historic district (specify or add comments):</p> <p><i>(Requires approval by Senior Preservation Planner/Preservation Coordinator)</i> _____</p>
<input type="checkbox"/>	<p>10. Reclassification of property status. <i>(Requires approval by Senior Preservation Planner/Preservation Coordinator)</i></p> <p><input type="checkbox"/> Reclassify to Category A <input type="checkbox"/> Reclassify to Category C</p> <p>a. Per HRER dated: _____ <i>(attach HRER)</i></p> <p>b. Other <i>(specify)</i>:</p>
<p>Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST check one box below.</p>	
<input type="checkbox"/>	<p>Further environmental review required. Based on the information provided, the project requires an <i>Environmental Evaluation Application</i> to be submitted. GO TO STEP 6.</p>
<input checked="" type="checkbox"/>	<p>Project can proceed with categorical exemption review. The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. GO TO STEP 6.</p>
<p>Comments <i>(optional)</i>:</p>	
<p>Preservation Planner Signature: Jonathan Vimr Digitally signed by Jonathan Vimr Date: 2017.06.28 16:48:07 -07'00'</p>	

STEP 6: CATEGORICAL EXEMPTION DETERMINATION
TO BE COMPLETED BY PROJECT PLANNER

<input type="checkbox"/>	<p>Further environmental review required. Proposed project does not meet scopes of work in either <i>(check all that apply)</i>:</p> <p><input type="checkbox"/> Step 2 – CEQA Impacts</p> <p><input type="checkbox"/> Step 5 – Advanced Historical Review</p> <p>STOP! Must file an <i>Environmental Evaluation Application</i>.</p>	
<input checked="" type="checkbox"/>	<p>No further environmental review is required. The project is categorically exempt under CEQA.</p>	
	<p>Planner Name: Jonathan Vimr</p> <hr/> <p>Project Approval Action:</p> <p>Planning Commission Hearing</p> <p><small>If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.</small></p>	<p>Signature:</p> <p>Jonath an Vimr Digitally signed by Jonathan Vimr Date: 2017.06.28 16:48:29 -07'00'</p>
<p><small>Once signed or stamped and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code.</small></p> <p><small>In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination can only be filed within 30 days of the project receiving the first approval action.</small></p>		

**STEP 7: MODIFICATION OF A CEQA EXEMPT PROJECT
TO BE COMPLETED BY PROJECT PLANNER**

In accordance with Chapter 31 of the San Francisco Administrative Code, when a California Environmental Quality Act (CEQA) exempt project changes after the Approval Action and requires a subsequent approval, the Environmental Review Officer (or his or her designee) must determine whether the proposed change constitutes a substantial modification of that project. This checklist shall be used to determine whether the proposed changes to the approved project would constitute a "substantial modification" and, therefore, be subject to additional environmental review pursuant to CEQA.

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address (If different than front page)		Block/Lot(s) (If different than front page)
Case No.	Previous Building Permit No.	New Building Permit No.
Plans Dated	Previous Approval Action	New Approval Action
Modified Project Description:		

DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION

Compared to the approved project, would the modified project:	
<input type="checkbox"/>	Result in expansion of the building envelope, as defined in the Planning Code;
<input type="checkbox"/>	Result in the change of use that would require public notice under Planning Code Sections 311 or 312;
<input type="checkbox"/>	Result in demolition as defined under Planning Code Section 317 or 19005(f)?
<input type="checkbox"/>	Is any information being presented that was not known and could not have been known at the time of the original determination, that shows the originally approved project may no longer qualify for the exemption?
If at least one of the above boxes is checked, further environmental review is required. A TEX FORM	

DETERMINATION OF NO SUBSTANTIAL MODIFICATION

<input type="checkbox"/>	The proposed modification would not result in any of the above changes.
If this box is checked, the proposed modifications are categorically exempt under CEQA, in accordance with prior project approval and no additional environmental review is required. This determination shall be posted on the Planning Department website and office and mailed to the applicant, City approving entities, and anyone requesting written notice.	
Planner Name:	Signature or Stamp:



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use

HEARING DATE: JULY 6, 2017
CONTINUED FROM JUNE 1, 2017

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Date: June 26, 2017
Case No.: 2016-001273CUA/VAR/COA
Project Address: 302 Greenwich Street/1531 Montgomery Street
Historic Landmark: Julius' Castle; Landmark No. 121
Zoning: RH-3 (Residential, House - Three Family)
40-X Height and Bulk District
Block/Lot: 0079/004-005
Project Sponsor: Paul Scott
Pier 9, The Embarcadero, Suite 100
San Francisco, CA 94111
Staff Contact: Jonathan Vimr – (415) 575-9109
Jonathan.vimr@sfgov.org
Recommendation: Approve with Conditions

PROJECT DESCRIPTION

The proposed project ("Project") is a change of use to return the property at 302 Greenwich Street to its historic use as a Restaurant (dba "Julius' Castle"). The Project would feature a street level bar with dining at the second and third floors, including the third floor terrace located at the rear of the property.

SITE DESCRIPTION AND PRESENT USE

The project site is located at the north side of Greenwich Street at the end of Montgomery Street in the North Beach neighborhood, Assessor's Block 0079, Lots 004 and 005. The property, Julius' Castle (City Landmark No. 121), occupies two lots that in sum are approximately 3,906 square feet in area. The landmark building is a three (3) story wood frame building constructed in 1923 and expanded in 1928 and again 2007 without benefit of permit or entitlement. The property operated as a restaurant from 1923 until 2007. It has been vacant since 2007.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The project site is located within the North Beach/Telegraph Hill neighborhood at the north side of Greenwich Street at the end of Montgomery Street, approximately 150 feet downslope from Coit Tower on Telegraph Hill. Beyond Coit Tower, surrounding development consists almost entirely of a variety of low-density residential buildings. These residential buildings have a range of heights corresponding to topography, but structures rarely exceed four stories above grade. The surrounding zoning is primarily RH-3 (Residential, House - Three Family) and P (Public) for Pioneer Park.

ENVIRONMENTAL REVIEW

The project is exempt from the California Environmental Quality Act (“CEQA”) as a Class 3 categorical exemption.

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	June 16, 2017	June 14, 2017	22 days
Posted Notice	20 days	June 16, 2017	June 14, 2017	22 days
Mailed Notice	20 days	June 16, 2017	June 16, 2017	20 days

PUBLIC COMMENT/COMMUNITY OUTREACH

To date, the Planning Department (“Department”) has received twenty-five (23) letters in support of the proposed Project and twelve (11) letters in opposition. Two (2) petitions in support of the project have been received, with signatures from eighteen individuals in total; one (1) petition opposing the project has been received, representing twelve individuals. One (1) neighborhood organization, the Telegraph Hill Neighborhood Center, has also expressed its support. Those in support of the Project speak to the landmark’s long history as a neighborhood institution as well as a desire for the increased activity that it could bring. The concerns of opposing parties pertain to the potential for increased traffic and related pedestrian safety issues, as well as noise and activity that may emanate from the restaurant. One property owner noted concerns pertaining to the cracked roadway and the settling of rubble underneath the street.

The project sponsor is working with the Telegraph Hill Dwellers to develop an agreement, outside of the standard Conditions of Approval that will be tied to this Conditional Use, pertaining to: hours of operation, live entertainment, and traffic management. The sponsor included a draft of this document as an attachment to his Conditional Use Authorization Application filed on February 23, 2017. This document includes communications between the sponsor and Aaron Peskin, who was not at that time serving on the Board of Supervisors.

ISSUES AND OTHER CONSIDERATIONS

- Background: The subject building is Julius’ Castle, City Landmark No. 121, which was constructed in 1923 and expanded in 1928 by architect Louis Mastropasqua. It is one of San Francisco’s oldest continuously operated restaurants and retains its original location and name. Per the landmark ordinance, the significance of the building lies in its architectural design and its role as a restaurant that serves as “a living slice from the history of the local Italian and restaurant communities.”

Julius’ Castle operated as a restaurant from its date of construction, 1923, until 2007, when this use was halted by the previous property owner, James Payne. Mr. Payne purchased the property in 2006 and subsequently performed work without benefit of permit or entitlement, including an

addition over the front staircase and the expansion of a small vertical addition at the northwest corner of the building (this vertical addition is referred to as a “detached building” in the various Certificate of Appropriateness cases as it is distinct from the main building’s massing and can be accessed at grade due to the steeply-sloping topography of the site). In response to this work, a complaint was filed in January 2016 with the Planning Department subsequently issuing a Notice of Violation on May 17, 2007. Mr. Payne was issued a Certificate of Appropriateness (COA) (Case No. 2007.0653A) on December 17, 2008 with conditions of approval for abating the violation, but did not pursue the project and the COA expired on December 17, 2011.

The current property owner, Paul Scott, purchased the property in April 2012 and submitted an updated COA application. This COA (Motion No. 0213, Case No. 2012.1197A) was issued with conditions of approval by the Historic Preservation Commission (HPC) on October 16, 2013. The HPC requested that the Planning Commission consider a condition of approval as part of its potential conditional use authorization that all scopes of work defined in the COA be completed prior to the building operating as a restaurant.

In the case report for COA 2012.1197A, Department staff indicated that the project would require a rear yard variance to legalize portions of the building and a Conditional Use Authorization to restore the Restaurant use. Overall, the project would return the building to its condition prior to completion of all non-permitted work other than the expansion of the vertical addition. In its approval, the HPC assessed means of improving the architectural compatibility of the non-permitted expansion, which entailed the replacement of non-historic windows and doors at the vertical addition with more appropriate versions, and with the understanding that the Planning Commission and Zoning Administrator approvals may require further refinement of the proposed project. Building Permits to complete this work were issued in January, 2016 (Permit Nos. 2016.0122.7812 and 2016.0122.7818). An Administrative COA (2016-001273COA) was approved on July 21, 2016 to complete minor work not addressed in the approval for COA 2012.1197A.

- Conditional Use Authorization: The proposal requires Conditional Use Authorization pursuant to Planning Code Sections 186.3, 303, and 710.44 to allow the restoration of a Restaurant use at the subject property located within a RH-3 Zoning District. In a Letter of Determination dated August 14, 2014, the Zoning Administrator found that the legally nonconforming restaurant use at the landmark property had been discontinued for a period of at least three years. This use may be restored pursuant to Planning Code Section 186.3, which states that any use permitted as a principal or conditional use on the ground floor of the NC-1 Zoning District is allowed in a structure on a landmark site (designated pursuant to Article 10 of the Planning Code) with Conditional Use Authorization provided that the use: 1) conforms to the provisions of Section 303; and, 2) is essential to the feasibility of retaining and preserving the landmark. Restaurant uses are permitted on the ground floor of the NC-1 Zoning District; therefore Conditional Use Authorization may be sought to allow restoration of a restaurant use at the subject property.
- Variance: The project sponsor is also seeking a Variance from rear yard requirements in order to legalize the horizontal expansion of the rear addition at the northwest corner of the property. The entirety of this expansion is located within the required rear yard and also extends over the rear property line and into Pioneer Park by approximately 2'. The Historic Preservation Commission reviewed this portion of the proposed project under COA Case No. 2012.1197A for

compatibility with the character-defining features of the subject property and its policies and guidelines. The HPC granted the COA with the understanding the Zoning Administrator, in his discretion, may require the rear addition to return to its original footprint based on other factors not related to historic preservation. This reduction in scope would not require the HPC to review the proposed project as it would require the rear addition to return to its historic condition.

- Eating and Drinking Establishments: There are currently no eating and drinking establishments within a 300' radius of the property. The restoration of the Restaurant use at this property would not affect the historic concentration rate in the surrounding neighborhood.
- Operations Conditions: The Sponsor has agreed to implement the operations conditions sought by the Telegraph Hill Dwellers as outlined in the attachment to the Sponsor's application. The Department has included several of these conditions as conditions of approval; however several of their agreements are not enforceable under the Planning Code and must remain in the format of a private agreement.

As an additional means of monitoring the effects of the project on the surrounding neighborhood, Condition of Approval No. 15 in the attached Draft Motion stipulates that the Project Sponsor shall submit a written performance update six (6) months after the property begins operation as a Restaurant. This update will include any recorded complaints with the San Francisco Police Department as well as any other general feedback from neighbors regarding operation of the Restaurant use. The Planning Commission may request a full hearing in response to this memo at their discretion.

REQUIRED COMMISSION ACTION

For the project to proceed, this Commission must grant Conditional Use Authorization to allow the restoration of a Restaurant use at the landmark site pursuant to Planning Code Sections 186.3, 303, and 710.44.

BASIS FOR RECOMMENDATION

- The proposal returns a popular, historic neighborhood-serving use and fills a space that has been vacant for approximately ten years. Julius' Castle was originally built as a restaurant and acted as such for its entire history until becoming vacant under the previous property owner. As stated in the landmark ordinance, this type of use is a character-defining feature of the property and is therefore essential to be maintained for the preservation of the landmark. The Historic Preservation Commission reinforced this in its approval of Certificate of Appropriateness Case No. 2012.1197A (Motion No. 0213), in which exterior restoration of the building was approved with the understanding that a Conditional Use Authorization would be filed in the future to restore the property's historic operation as a restaurant.
- Beyond the Restaurant use being a character-defining feature of the landmark, abandoning this use and converting the property into housing may necessitate significant interior and exterior alterations that would damage the building's historic material and character.
- Returning the property's historic function as a Restaurant would provide residents throughout the city the opportunity to experience and enjoy a local landmark. This opportunity would be eliminated if the property were converted to a private residence.

- The subject site is accessible via public transit, including Muni bus lines 38 and 82X as well as the E and F streetcars running along the Embarcadero.
- Motor vehicle traffic is not perceived as a recent problem in this area and Julius' Castle operated as a restaurant as recently as 2007. Various voluntary traffic calming measures have been included as part of the project as conditions of approval to address the concerns of several area residents. The rise in ride-sharing as a means of transportation may help to ameliorate parking issues.
- The project meets all applicable requirements of the Planning Code.
- The project is desirable for and compatible with the surrounding neighborhood in that it facilitates the preservation of a highly-visible historic property and restaurant use that has operated with minimal interruption at the site since 1923.

RECOMMENDATION: Approve with Conditions

Attachments:

Draft Motion

Block Book Map

Sanborn Map

Zoning Map

Aerial Photograph

Site Photographs

Project Sponsor Submittal, including:

- Applications
- Operations agreement developed with Telegraph Hill Dwellers
- Recreation and Park Department letter of support for Variance
- Reduced Plans

Landmark Designation Ordinance

Case Report, Case No. 2012.1197A

HPC Motion No. 0213

Administrative COA, Case No. 2016-001273COA

Public Correspondence

Letter of Determination (August 14, 2014)

Exhibit Checklist

- | | |
|---|---|
| <input checked="" type="checkbox"/> Executive Summary | <input checked="" type="checkbox"/> Project sponsor submittal |
| <input checked="" type="checkbox"/> Draft Motion | Drawings: <u>Existing Conditions</u> |
| <input type="checkbox"/> Environmental Determination | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u> |
| <input type="checkbox"/> Height & Bulk Map | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Block Book Map | <input type="checkbox"/> Health Dept. review of RF levels |
| <input checked="" type="checkbox"/> Sanborn Map | <input type="checkbox"/> RF Report |
| <input checked="" type="checkbox"/> Aerial Photos | <input type="checkbox"/> Community Meeting Notice |
| <input checked="" type="checkbox"/> Context Photo | <input checked="" type="checkbox"/> Public Correspondence |
| <input checked="" type="checkbox"/> Site Photo | |

Exhibits above marked with an "X" are included in this packet

IV
Planner's Initials



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
- Other

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Draft Motion

HEARING DATE: JULY 6, 2017

Date: June 26, 2017
Case No.: 2016-001273CUA/VAR/COA
Project Address: 302 Greenwich Street/1531 Montgomery Street
Historic Landmark: Julius' Castle: Landmark No. 121
Zoning: RH-3 (Residential, House - Three Family)
 40-X Height and Bulk District
Special Use District: Telegraph Hill-North Beach Residential Special Use District
Block/Lot: 0079/004-005
Project Sponsor: Paul Scott
 Pier 9, The Embarcadero, Suite 100
 San Francisco, CA 94111
Staff Contact: Jonathan Vimr - (415) 575-9109
Jonathan.vimr@sfgov.org
Recommendation: Approve with Conditions

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 186.3, 303, 710.44 OF THE PLANNING CODE TO ALLOW A RESTAURANT USE (D.B.A. JULIUS' CASTLE) WITHIN THE RH-3 (RESIDENTIAL, HOUSE - THREE FAMILY) ZONING DISTRICT, TELEGRAPH HILL - NORTH BEACH RESIDENTIAL SPECIAL USE DISTRICT, AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On February 23, 2017 Paul Scott (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 186.3, 303, and 710.44 to allow a Restaurant (d.b.a. Julius' Castle) use within the RH-3 (Residential, House - Three Family) Zoning District, Telegraph Hill - North Beach Residential Special Use District (SUD), and a 40-X Height and Bulk District (hereinafter "Project").

On November 16, 2016 Project Sponsor filed an application with the Department for a Rear Yard Variance under Planning Code Sections 134 to legalize the previous expansion of the building at the rear without benefit of permit or entitlement.

On July 21, 2016 the Department approved an Administrative Certificate of Appropriateness pursuant to Article 10 of the Planning Code to address items that were not included, and to clarify certain scopes of work, in the Certificate of Appropriateness approved on October 16, 2013 in Motion No. 0213 (Case No. 2012.1197A). All other aspects of the project approved in Historic Preservation Commission Motion No. 0213 remain unchanged.

The Planning Department Commission Secretary is the custodian of records; the file for Case No. 2016-001273CUA is located at 1650 Mission Street, Suite 400, San Francisco, California.

On July 6, 2017, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2016-001273CUA.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 3 categorical exemption.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2016-001273CUA, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The Project is located on the north side of Greenwich Street at the end of Montgomery Street, Block 0079, Lots 004 and 005 in the Telegraph Hill/North Beach neighborhood. The property is located within the RH-3 (Residential, House – Three Family) District, Telegraph Hill – North Beach Residential SUD, and 40-X Height and Bulk District. The property is developed with an existing three-story structure which is currently vacant. The subject property is a corner lot, with approximately 63 feet of frontage along Greenwich Street. The lot is approximately 87% covered by the irregularly shaped subject building, with portions of the northern and eastern ends of the building extending approximately 2' over property lines. The property is known as Julius' Castle, City Landmark No. 121, which was built in 1923 and expanded in 1928 by Architect Louis Mastropasqua. Operated as a restaurant from 1923 until becoming vacant in 2007, Julius' Castle was one of San Francisco's oldest continuously operated restaurants in its original location. The building's design relies heavily from a number of popular stylistic movements at the time, including Storybook and Roadside architecture; while its design motifs are primarily derived from the Gothic Revival and Arts & Crafts styles. The prominent character-defining features include its corner turret and crenellated parapet, painted wood shingle cladding, and large-scale painted signage visible from the waterfront. Per the landmark

ordinance, the significance of the building lies in its architectural design and its role as a restaurant that serves as “a living slice from the history of the local Italian and restaurant communities.”

3. **Surrounding Properties and Neighborhood.** The property is located approximately 150 feet downslope from Coit Tower on Telegraph Hill. Surrounding development is almost exclusively multi-family and single-family homes. The Project Site is located in a RH-3 District with few neighborhood-serving commercial uses nearby. Residential buildings define the district. The surrounding properties are located within the RH-3 (Residential, House – Three Family) and P (Public) Districts.
4. **Project Description.** The applicant proposes to restore the abandoned Restaurant Use of City Landmark No. 121, Julius’ Castle. The building fulfilled this use from its construction in 1923 to 2007 when it became vacant. The building would not be enlarged, aside from the proposal to legalize an approximately 120sqft expansion of the building at the northwest corner of the property. This expansion has existed at the site since approximately 2007, as outlined in Variance Case No. 2016-001273VAR.

A building permit for tenant improvements has not yet been filed. The proposed commercial use will occupy a floor area of approximately 4,892 square feet, which is under 5,000 square feet in size and therefore has no on-site parking requirement. The proposed Restaurant would include 30-35 employees over the course of the day, including waiters, valets, kitchen staff, management, and janitorial staff. The Project Sponsor intends to hire from the surrounding neighborhood as is feasible. With a maximum occupancy of 152 people, the operation would accommodate a maximum of approximately 115 guests at a given time. Although the subject site is served by public transit (stops for the 39 and 82X bus lines as well as the E and F streetcar lines are within a ¼ mile of the Property), due in part to the terrain of the neighborhood, the Project Sponsor has agreed to implement certain traffic calming and operations measures, as described in Conditions of Approval No. 11 and No. 20, so that customers will not adversely affect traffic flow or pedestrian safety. The Restaurant is intended to primarily operate from 5pm to 10pm, daily, and may provide a brunch service from 11am-2pm on weekends.

5. **Public Comment.** Residents of the area have sent twenty-three letters in support of the proposal and eleven in opposition. Two supporting petitions with signatures from a total of eighteen individuals have been received, with one opposing petition representing twelve individuals having also been received. One neighborhood organization, the Telegraph Hill Neighborhood Center, has also stated its support for the proposal. The concerns of opposing parties relate to increased traffic and related pedestrian safety issues, as well as noise and activity that may emanate from the Restaurant.
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. **Non-Residential Use in Landmark Buildings in RH and RM Districts.** Planning Code Section 186.3 states that any use listed as a principal or conditional use permitted on the

ground floor in an NC-1 District, when located in a structure or landmark site designated pursuant to Article 10 of the Planning Code, is permitted with Conditional Use Authorization pursuant to Section 303, provided that such authorization conforms to the applicable provisions of Section 303 and the authorized use is essential to the feasibility of retaining and preserving the landmark.

A Restaurant Use is a conditionally-permitted use on the ground floor in the NC-1 District, pursuant to Planning Code Section 710.44. The subject property is Julius' Castle, City Landmark No. 121. It was constructed as a restaurant in 1923 and served that purpose until 2007 when it became vacant. Its use as a restaurant is a significant aspect of its historic character per the landmark ordinance. Further, conversion of the building to residential use may necessitate dramatic alterations to the historic material and character of the property. Built as and for a restaurant, serving this purpose for its entire history, and significant in part because of this use, restoring a restaurant use at Julius' Castle is essentially to retain and preserve the landmark. This was reflected by the Historic Preservation Commission's approval of Certificate of Appropriateness Case No. 2012.1197A (Motion No. 0213), which entailed exterior work to restore the building to the historic operation of a landmark restaurant. The case report for 2012.1197A specifically noted that the building was constructed as a restaurant and would maintain this historic use through Conditional Use Authorization.

- B. **Rear Yard Requirement in the RH-3 District.** Planning Code Section 134 states that the minimum rear yard depth shall be equal to 45 percent of the total depth of a lot in which it is situated, but in no case less than 25 percent, or 15 feet, whichever is greater.

The project seeks to legalize an expansion at the northwest corner of the property that encroaches entirely into the required 15.75' rear yard, extending to the rear property line. This expansion was built without benefit of permit around 2007 and will be addressed under Variance Case No. 2016-001273VAR.

- C. **Parking.** Planning Section 151 of the Planning Code requires off-street parking for every 200 square-feet of occupied floor area, where the occupied floor area exceeds 5,000 square-feet.

The Subject Property contains approximately 4,892 square-feet of occupied floor area and thus does not require any off-street parking.

- D. **Signage.** Any signage associated with a City Landmark must comply with Article 10 of the Planning Code for treatment of historic properties, as well as any other applicable sign controls of Article 6.

Currently, there is not a proposed sign program on file with the Planning Department. The proposed business will retain the historic Julius' Castle name as well as the existing painted sign on the east façade. Any new signs will comply with Article 10 of the Planning Code, as well as any other applicable sign controls.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The size of the proposed use is in-keeping with that of the historic restaurant. The proposed Restaurant will not adversely affect traffic or parking in the neighborhood. A restaurant operated in this location for approximately 85 years, and the new operations plan proposed by the applicant will help to calm traffic. This will return a service currently unavailable in the neighborhood and contribute to its economic vitality by revitalizing a vacant building.

- 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 will not alter the existing appearance or character of the building. The proposed work will not change the existing building envelope.

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

The Planning Code does not require parking or loading for a 4,892 square-foot Restaurant Use, but it does require additional Class 2 bicycle parking. The proposed use should not generate significant amounts of vehicular trips from the immediate neighborhood and traffic calming measures will be incorporated as part of the Sponsor's agreed-to operations plan, detailed more fully in Condition of Approval No. 11.

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

The proposed use is subject to the standard conditions of approval for Restaurants as outlined in Exhibit A. Conditions 10 and 18 specifically obligate the project sponsor to mitigate odor and noise generated by the Restaurant use.

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

The Department shall review all interior tenant improvements, lighting, and and new signs proposed for the business. All conditions of approval in Certificate of Appropriateness Case No. 2012.1197A (Motion No. 0213) will be satisfied before restaurant operation can begin in accordance with Condition 6.

- 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 – aside from the required rear yard, which is being reviewed by the Zoning Administrator through a Rear Yard Variance request – 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 Residential District.

The Project is not consistent with the stated purpose of RH-3 Districts, but pursuant to Planning Code Section 186.3, this use is permitted as it conforms to the applicable provisions of Section 303 and is essential to the feasibility of retaining and preserving City Landmark No. 121: Julius' Castle.

7. **Additional Findings for Eating and Drinking Uses.** Pursuant to Section 303(o), for Conditional Use Authorization applications for a Restaurant, Limited-Restaurant, and Bar uses, the Planning Commission shall consider the existing concentration of eating and drinking uses in the area. Such concentration should not exceed 25 percent of the total commercial frontage as measured in linear feet within the immediate area of the subject site. For the purposes of this Section of the Code, 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.

Within a 300-foot radius, there are no other eating and drinking uses, and no other commercial properties. Although this results in a concentration of over 25% of the total commercial frontage as measured in linear feet within 300' of the subject property and also with the RH-3 District (since the subject property is the only commercial property within 300'), the historic concentration of eating and drinking uses will not be affected in this neighborhood as a result of this project, since this property was built as a Restaurant in 1923.

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 proposed development will provide desirable goods and services to the neighborhood and will provide resident employment opportunities to those in the community. The return of a Restaurant use at this location will not result in undesirable consequences.

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 return a commercial activity that was present in this location from 1923-2007 and will enhance the diverse economic base of the City.

OBJECTIVE 6:

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

Policy 6.1:

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

No commercial tenant would be displaced and the Project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.

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 a neighborhood serving use. This is not a Formula Retail use.

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 returning a landmark restaurant in an area that is not over concentrated by restaurants. The business would be locally owned and would create 30-35 more employment opportunities for the community. The proposed alterations are within the existing building footprint.

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

The existing housing in the surrounding neighborhood would not be adversely affected. The Restaurant would operate from 5pm to 10pm, daily, and would have no service at the roof terrace after 9pm so as to minimize noise concerns.

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

No housing would be removed as part of this Project.

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

The site is on the north side of Greenwich Street where Montgomery Street ends and is served by transit. It is presumable that the employees would commute by transit or walking, thereby alleviating possible on-street street parking congestion. Additional traffic calming measures will be incorporated to further ensure street parking is not overburdened.

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

The Project will not displace any service or industry establishment. The Project will not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses will not be affected by this Project.

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

The Project is designed and will be constructed to conform to the structural and seismic safety requirements of the City's Building Code. This Project will not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

The Project will restore the historic restaurant use of the landmark building while also returning activity to the landmark, which has been vacant since 2007. All associated exterior alterations were approved by the Historic Preservation Commission in Certificate of Appropriateness Case No. 2012.1197A (Motion No. 0213) and Administrative Certificate of Appropriateness Case No. 2016-001273COA; the Department will review any future interior tenant improvements for conformity with the Secretary of the Interior's Standards.

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

The project will have no adverse effect on existing parks and open spaces as the expansion seeking legalization is two-stories tall and under 40' in height. Furthermore, the portion of the expansion (approximately 2') built without permit that extends into Pioneer Park will be required to be removed as part of this project.

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. 2016-001273CUA** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated May 16, 2017, 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. XXXXX. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

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

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

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on July 6, 2017.

Jonas P. Ionin
Commission Secretary

AYES: X

NAYS: X

ABSENT: X

ADOPTED: July 6, 2017

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow a Restaurant Use (d.b.a. "Julius' Castle") located at 302 Greenwich Street/1531 Montgomery Street, Block 0079, Lots 004-005 pursuant to Planning Code Section(s) 186.3, 303, and 710.44 within the RH-3 District and a 40-X Height and Bulk District and subject to conditions of approval reviewed and approved by the Commission on July 6, 2017 under Motion No. XXXXXX. 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 July 6, 2017 under Motion No. XXXXXX.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. XXXXXX 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

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

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

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

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

6. **Additional Project Authorization.** The Project Sponsor must obtain/maintain approvals for a Rear Yard Variance and Certificate of Appropriateness to allow legalization of an expansion at the rear of the structure and to allow for exterior restoration work, respectively, and satisfy all the

conditions thereof. The conditions set forth below are additional conditions required in connection with the Project. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

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

DESIGN – COMPLIANCE AT PLAN STAGE

7. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on any building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

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

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

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

9. **Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

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

10. **Odor Control Unit.** In order to ensure any significant noxious or offensive odors are prevented from escaping the premises once the project is operational, the building permit application to implement the project shall include air cleaning or odor control equipment details and manufacturer specifications on the plans. Odor control ducting shall not be applied to the primary façade of the building.

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

PARKING AND TRAFFIC

11. **Traffic and Parking.** The owner and owner's lessee shall be required to submit an operations plan to the Planning Department prior to the Department's approval of the first Site or Building Permit. Said plan shall include details on the following operational aspects of the Restaurant: 1)

valet parking; 2) employee parking; and 3) customer access to the Restaurant (vehicular, public transit, etc.).

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

12. **Bicycle Parking.** Pursuant to Planning Code Sections 155.1 and 155.4, the Project shall provide no fewer than 6 (six) Class 2 bicycle parking spaces. SFMTA has final authority on the type, placement and number of Class 2 bicycle racks within the public ROW. Prior to issuance of first architectural addenda, the project sponsor shall contact the SFMTA Bike Parking Program at bikeparking@sfmta.com to coordinate the installation of on-street bicycle racks and ensure that the proposed bicycle racks meet the SFMTA's bicycle parking guidelines. Depending on local site conditions and anticipated demand, SFMTA may request the project sponsor pay an in-lieu fee for Class II bike racks required by the Planning Code.

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

MONITORING

13. **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

14. **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

15. **Written Performance Update.** A written performance update shall be provided to the Planning Commission six (6) months after the property begins operation as a Restaurant. The update memo should include any recorded complaints with the San Francisco Police Department and any other general feedback from neighbors regarding operation of the Restaurant use and adherence to the Conditions of Approval. The Commission may request a full hearing at their discretion.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9017, www.sf-planning.org.

OPERATION

16. **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>

17. **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>

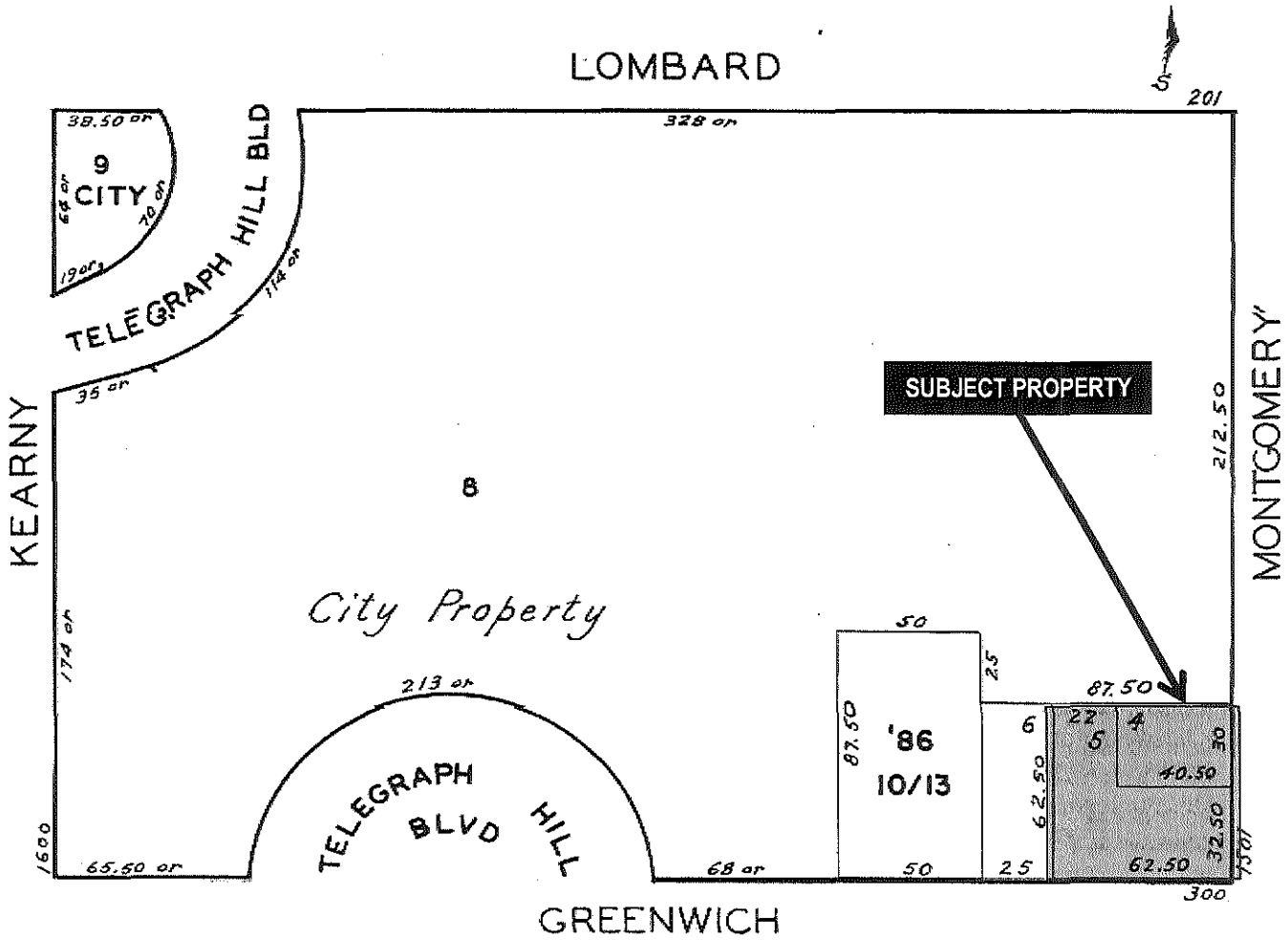
18. **Odor Control.** While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping 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 and Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

19. **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

20. **Hours of Operation.** The subject establishment is limited to principally-permitted hours of operation allowed in the NC-1 District, with the following additional limitations: the roof terrace shall be closed by 9:00 pm, daily.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

21. **Amplified, Live Entertainment.** The Restaurant shall not permit any amplified, live entertainment.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Block Book Map

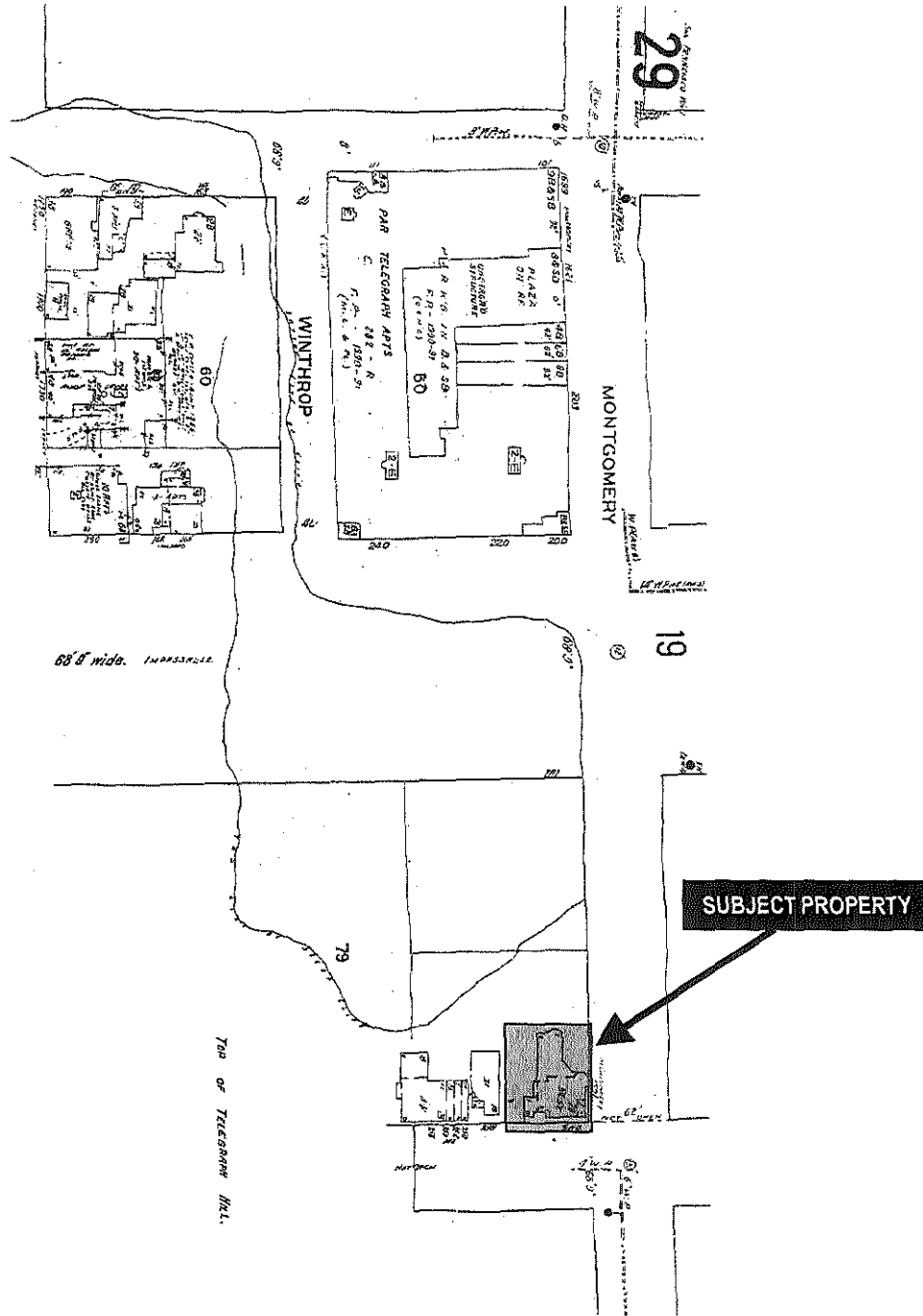


SAN FRANCISCO
PLANNING DEPARTMENT



Conditional Use Authorization/Variance
Case Number 2016-001273CUAVARCOA
Julius' Castle
302 Greenwich Street/1531 Montgomery Street

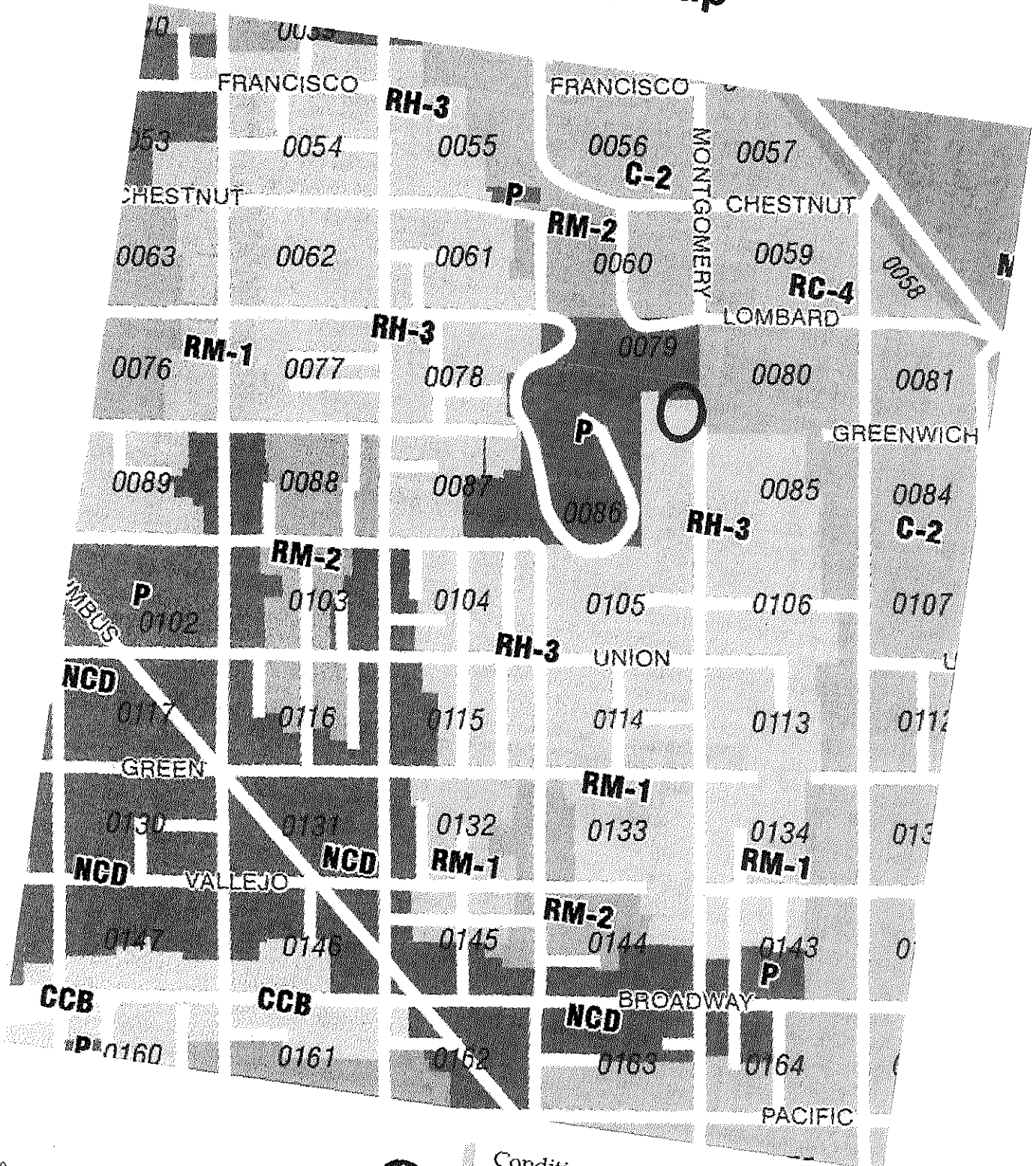
Sanborn Map*



*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.



Zoning Map



SAN FRANCISCO
PLANNING DEPARTMENT



Conditional Use Authorization/Variance
Case Number 2016-001273CUAVARCOA
Julius' Castle
302 Greenwich Street/1531 Montgomery Street

Aerial Photo

SUBJECT PROPERTY



Aerial Photo

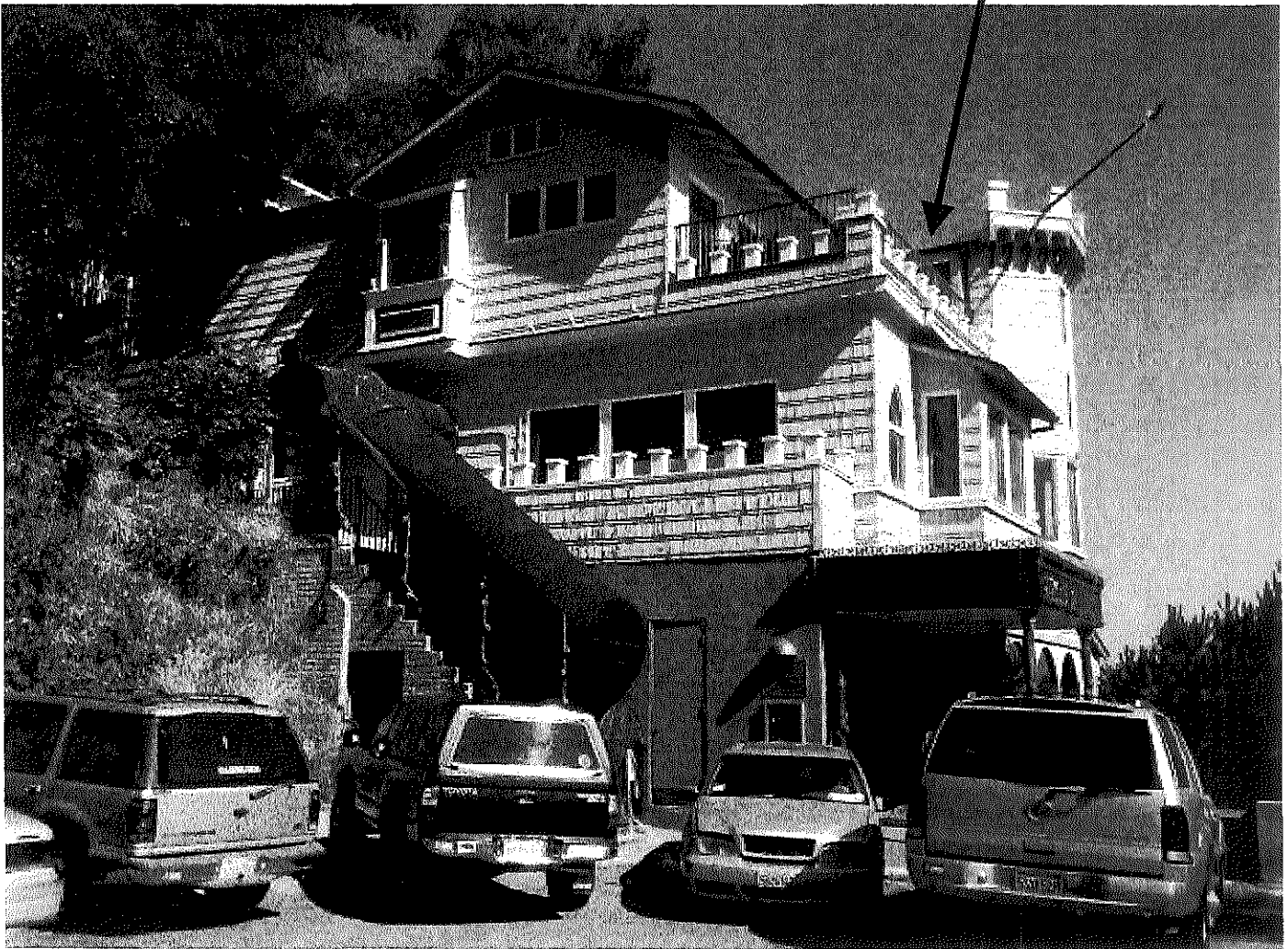
Approximate Expansion at Rear
Completed Without Permit



Site Photo

**SUBJECT PROPERTY FROM INTERSECTION OF
MONTGOMERY AND GREENWICH STREETS**

SUBJECT PROPERTY



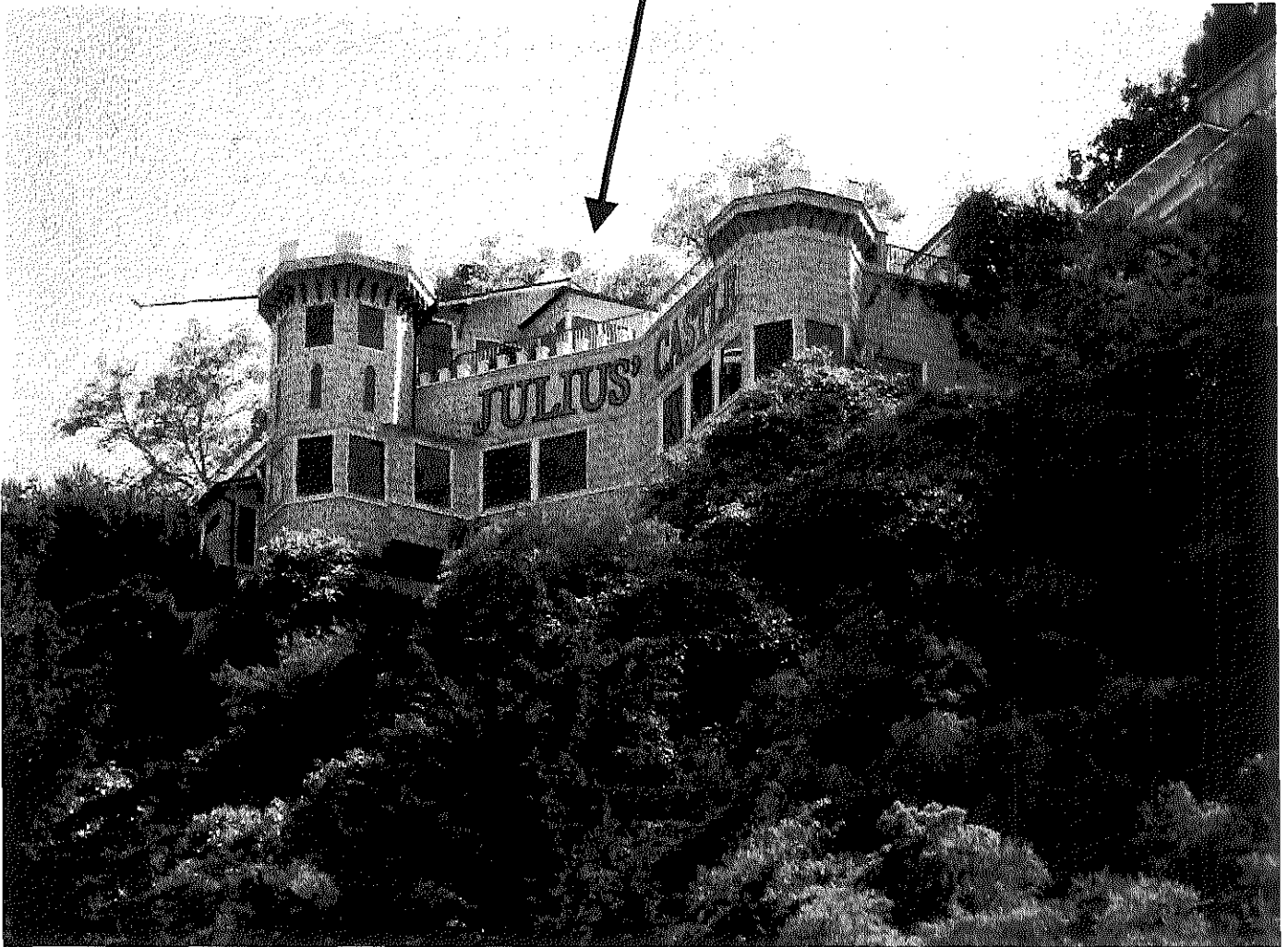
SAN FRANCISCO
PLANNING DEPARTMENT

Conditional Use Authorization/Variance
Case Number 2016-001273CUAVARCOA
Julius' Castle
302 Greenwich Street/1531 Montgomery Street

Site Photo

EAST FAÇADE OF SUBJECT PROPERTY

SUBJECT PROPERTY



SAN FRANCISCO
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Conditional Use Authorization/Variance
Case Number 2016-001273CUAVARCOA
Julius' Castle
302 Greenwich Street/1531 Montgomery Street

Site Photo

EAST AND NORTH ELEVATIONS OF SUBJECT PROPERTY

SUBJECT PROPERTY



Context Photo

LOOKING SOUTH DOWN MONTGOMERY STREET FROM
SUBJECT BUILDING



Historic Photo

*photo circa 1930-1940

SUBJECT PROPERTY

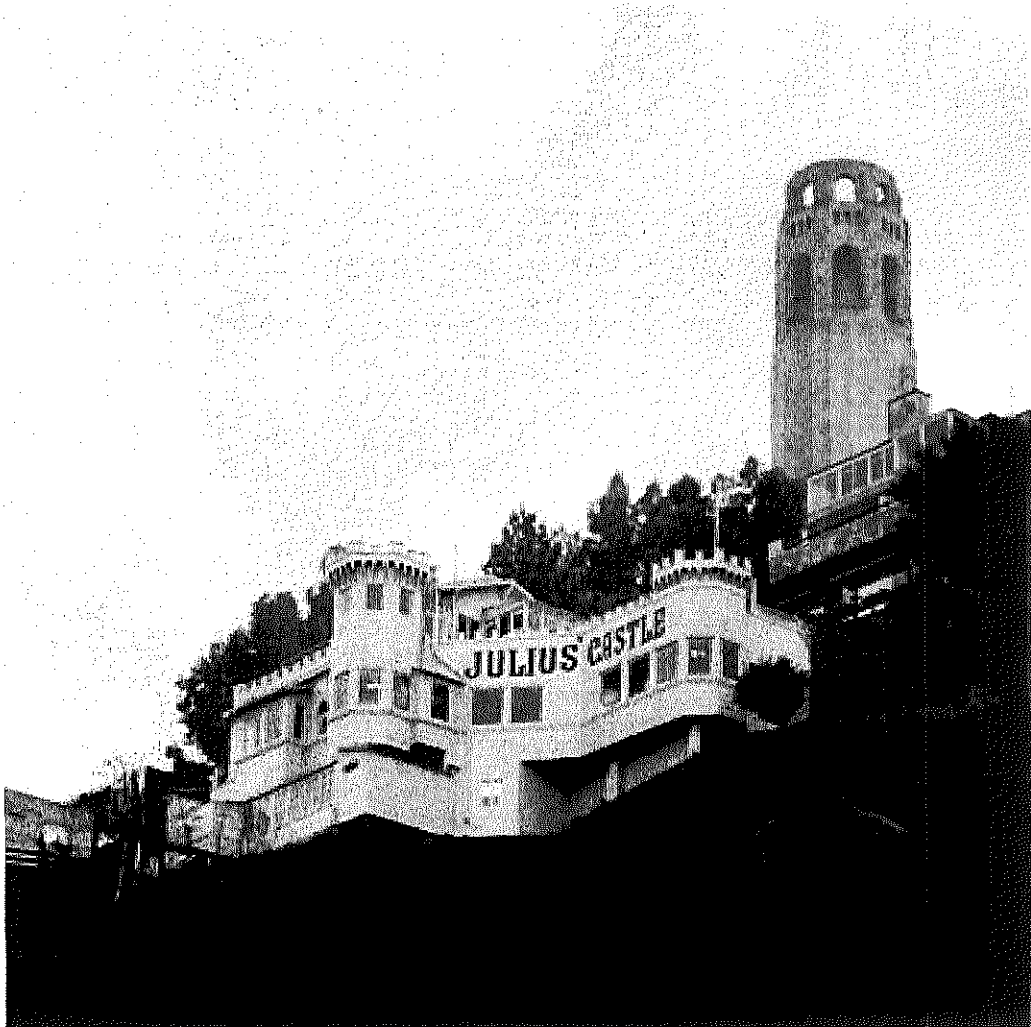


SAN FRANCISCO
PLANNING DEPARTMENT

Conditional Use Authorization/Variance
Case Number 2016-001273CUAVARCOA
Julius' Castle
302 Greenwich Street/1531 Montgomery Street

Historic Photo

*date unknown

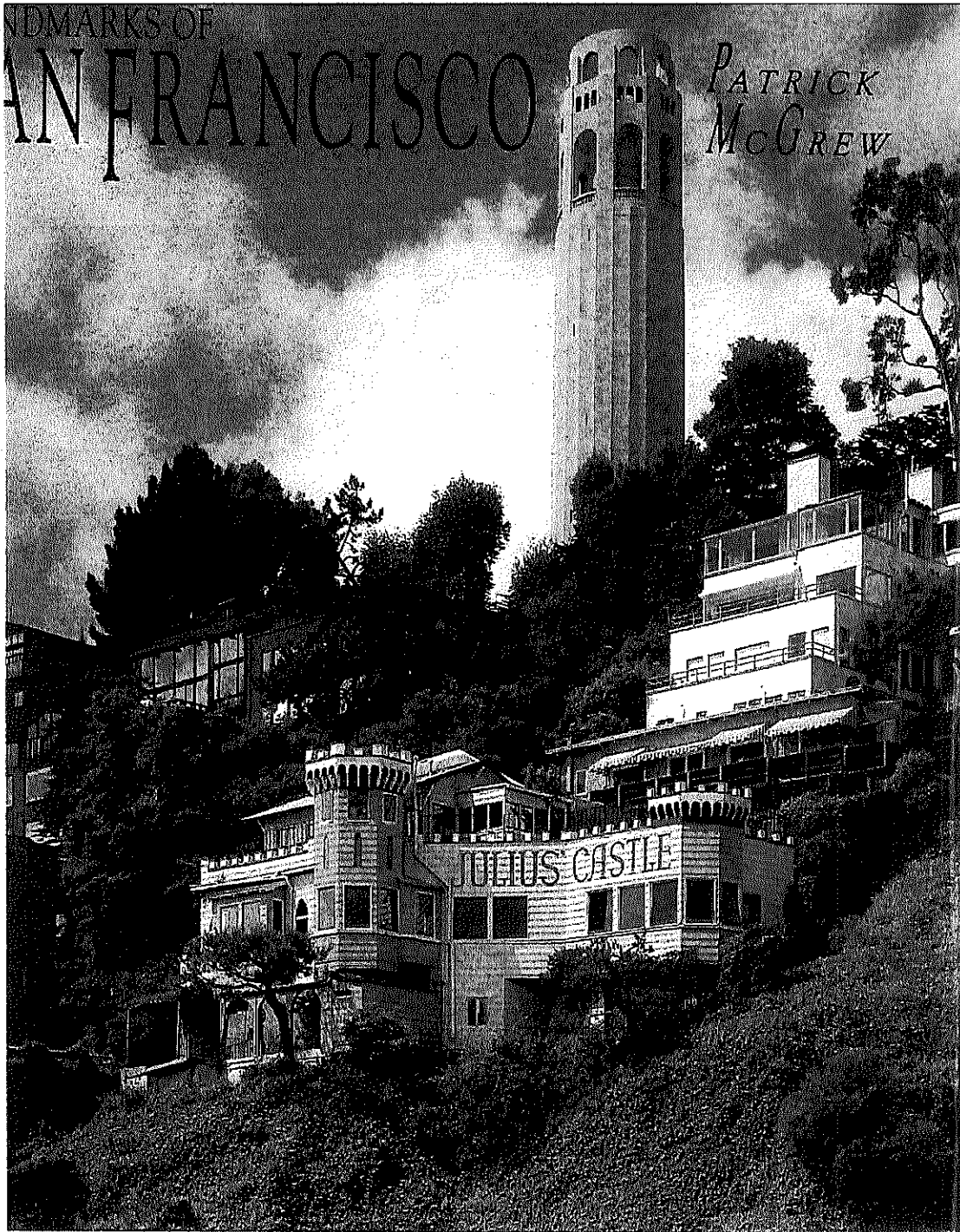


SAN FRANCISCO
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Conditional Use Authorization/Variance
Case Number 2016-001273CUAVARCOA
Julius' Castle
302 Greenwich Street/1531 Montgomery Street

Historic Photo

*photo circa 1991



Conditional Use Authorization/Variance
Case Number 2016-001273CUAVARCOA
Julius' Castle
302 Greenwich Street/1531 Montgomery Street

Stephan C. Volker
Alexis E. Krieg
Stephanie L. Clarke
Daniel P. Garrett-Steinman
Jamey M.B. Volker (Of Counsel)

Law Offices of
Stephan C. Volker
1633 University Avenue
Berkeley, California 94703
Tel: (510) 496-0600 ❖ Fax: (510) 845-1255
svolker@volkerlaw.com

11.216.01

July 5, 2017

VIA EMAIL

Planning Commission
1650 Mission Street
Suite 400
San Francisco, CA 94103-2414

commissions.secretary@sfgov.org
richhillissf@yahoo.com
dennis.richards@sfgov.org
planning@rodnevfong.com
christine.d.johnson@sfgov.org
joel.koppel@sfgov.org
myrna.melgar@sfgov.org
kathrin.moore@sfgov.org

Re: Comments of John Lee and Other Concerned Neighbors on the Proposal to Reopen the Julius' Castle Property as a Restaurant, Planning Department Case No. 2016-001273CUA/VAR/COA

Dear Commissioners:

Pursuant to the California Environmental Quality Act ("CEQA"), Public Resources Code ("PRC") section 21000 *et seq.*, and the San Francisco Planning Commission's ("Commission's") Notice of Hearing and Agenda ("Agenda") for its July 6, 2017 meeting, John Lee, a resident of 1406 Montgomery Street, submits the following comments on the proposal to reopen the Julius' Castle property as a restaurant ("Project").

I. INTRODUCTION AND PROJECT BACKGROUND

The proposed Project would reopen as a restaurant the nearly 5,000-square-foot Julius' Castle building, located on two lots at 302 Greenwich Street/1531 Montgomery Street. According to the Planning Department's Executive Summary ("Summary") for the July 6 hearing and the attached Draft Motion and application by the property owner, Paul Scott, the new restaurant use would have between 30-35 daily employees, and would accommodate about 115 patrons at a time. Draft Motion, p.3. It would have daily dinner seatings between 5pm and 10pm, and might also serve weekend brunch between 11am and 2pm. Draft Motion, p. 3. The noise and traffic from

the restaurant would, however, continue long after the final 10pm seating, as patrons eat, drink and exit, the restaurant staff cleans up for the night, and the waste disposal company collects the recycling, trash and compost.

While those figures may not seem surprising for a larger restaurant in a mixed-use or commercial zone in San Francisco, the proposed use and its noise and traffic impacts are disruptive and out-of-character for the *residential* area in which the Project would be sited. The property is zoned for residential use (RH-3), as is most of the surrounding area, as the Summary and attached documents confirm. And except for mobile food facilities, "restaurant uses are not permitted within the RH-3 Zoning District," as the Zoning Administrator confirmed in his August 14, 2014 Letter of Determination regarding the Project property (attached to the Summary). Planning Code § 209.1 (same). RH-3 zoning does allow conditional permitting of "Limited Commercial Uses" in "historic buildings subject to § 186.3." Planning Code § 209.1. But as discussed below, even though the Julius' Castle building is a city landmark (no. 121) and has previously been used as a restaurant (though not for the past 10-plus years), the Project does not meet the conditional permitting requirements.

Making the Project even more inappropriate for the area is the constrained vehicular access to and parking in the neighborhood. The property is located at the northern end of Montgomery Street in the North Beach neighborhood, where the street is grade-separated into two narrow one-way streets. As depicted in the Context Photo attached to the Summary, to turn back around and head south towards the Financial District, vehicles heading north on the lower-elevation side of Montgomery Street must make a 180-degree turn in limited space right in front of the Julius' Castle property.¹ Thus, *even without an operating restaurant* in the Julius' Castle building, multiple residents reported in their comments on the Project (attached to the Summary) that the streets are difficult to navigate and drivers are often forced to make three-point turns to go from north to south on Montgomery Street, causing backups, delays and hazards to the many

¹ While there is a slightly wider cul-de-sac just north of the Montgomery Street turnaround shown in the Context Photo, parked cars frequently occupy the extra space the cul-de-sac might otherwise provide, as the Google Street View photo of 1531 Montgomery Street illustrates. The image is attached as Exhibit 1, and is also available here:
https://www.google.com/maps/place/1531+Montgomery+St,+San+Francisco,+CA+94133/@37.8028515,-122.4048534,3a,75y,321.01h,77.2t/data=!3m7!1e1!3m5!1s5LynhFgNfblPnPGWU598Kw!2e0!6s%2F%2Fgeo1.ggpht.com%2Fcbk%3Fpanoid%3D5LynhFgNfblPnPGWU598Kw%26output%3Dthumbnail%26cb_client%3Dsearch.TACTILE.gps%26thumb%3D2%26w%3D392%26h%3D106%26yaw%3D329.55566%26pitch%3D0%26thumbfov%3D100!7i13312!8i6656!4m5!3m4!1s0x808580f71b475381:0xc6ba4114ed3a4f5f!8m2!3d37.8031!4d-122.405025

pedestrians walking the streets.² By adding hundreds of additional vehicle trips per day to the area,³ the Project would exacerbate the congestion and pedestrian hazards, and greatly increase the demand for the already over-subscribed on-street parking there.

The Summary asserts that “[m]otor vehicle traffic is not perceived as a recent problem in this area and Julius’ Castle operated as recently as 2007.” Summary, p. 5. But it provides *no evidence whatsoever* to support this assertion. To the contrary, many of the public comments attached to the Summary document substantial existing congestion, parking and pedestrian hazard problems. Furthermore, the most important question related to vehicular access and parking is what the conditions would be like *with* an operational Julius’ Castle restaurant, not in recent years *absent* one. Yet it appears that no traffic impact analysis has been done. Instead, the Draft Motion includes an approval condition requiring, *after Project approval*, that the “owner and owner’s lessee . . . submit an operations plan to the Planning Department” addressing parking and customer access. Draft Motion, pp. 13-14.

For those reasons, as discussed more fully below, the Project – as proposed, with no accompanying CEQA review – would violate both the San Francisco Planning Code and CEQA.

II. THE PROJECT WOULD VIOLATE SAN FRANCISCO’S PLANNING CODE

Use permits, including the proposed conditional use authorization at issue here, must comply with the relevant zoning law. *Neighborhood Action Group v. County of Calaveras* (“*Neighborhood*”) (1984) 156 Cal.App.3d 1176, 1183-1184. Here, as discussed, San Francisco’s Planning Code does not permit restaurants in the RH-3 zone, where the Julius’ Castle property is located. Planning Code § 209.1. However, the Summary and Draft Motion assert that the proposed restaurant use may nonetheless be conditionally permitted as a “limited commercial use” in a historic building subject to Planning Code section 186.3. Summary, pp. 3-4; Draft Motion, pp. 3-6. Not so.

Planning Code section 186.3 provides as follows:

² See, for example, the Rob Hammond’s May 16, 2017 comments, Oz Erickson’s May 15, 2017 comments, and Gordon Francis’ May 29, 2017 comments on behalf of “Members of La Colline Homeowner’s Association.”

³ According to the San Francisco Planning Department Transportation Impact Analysis Guidelines for Environmental Review (excerpt attached hereto as Exhibit 2), there will be an average of 200 vehicle trips per day per 1000 gross square feet. For this 4,892 square foot project, there will be over 978 additional vehicle trips per day.

Any use listed as a principal or conditional use permitted on the ground floor in an NC-1 District, when located in a structure on a landmark site designated pursuant to Article 10 of this Code, is permitted with Conditional Use authorization pursuant to Section 303 of this Code, provided that no conditional use shall be authorized under this provision unless (1) such authorization conforms to the applicable provisions of Section 303 of this Code, and (2) the specific use so authorized is essential to the feasibility of retaining and preserving the landmark.

Planning Code § 186.3. Here, while the Julius' Castle building is on a designated landmark site, the Project does not "conform[] to the applicable provisions of Section 303" for at least three independent reasons. *Id.*

A. THE PROJECT WOULD VIOLATE PLANNING CODE SECTION 303(C)(2)

Pursuant to section 303(c), the Commission may only "authorize a conditional use if the facts presented are such to establish that:

Such use . . . as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:

...

(B) The accessibility and traffic patterns of persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading and of proposed alternatives to off-street parking . . .

(C) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor.

Planning Code § 303(c)(2).

As discussed above, numerous nearby residents, as well as a realtor who works in the area, attested in their public comments on the Project to the many negative impacts on their and area visitors' health, safety, convenience and general welfare of operating a restaurant in the Julius' Castle building. These include substantial noise (from restaurant patrons, restaurant maintenance and increased traffic), congestion, parking convenience and pedestrian safety impacts, as well as associated property damage and reduced property values. Some examples follow, all of which are taken from comment letters attached to the Summary.

NOISE

- “The noise, mostly from placing liquor, wine, beer and water bottles out, usually after midnight and then collection of same, usually between 2:00 am and 4:00 am was very bothersome, interrupting sleep on a daily basis.” Louis Silcox, May 15, 2017, Email to Jonathan Vimr.
- “Julius Castle is located in a quiet residential neighborhood. My living room looks directly down on [the Julius' Castle] patio, which is approximately 100 feet away. It is so close that we would have conversations with diners on their upstairs patio. Having people drinking and conversing on the patio, as well as coming and going from the restaurant in the evening will be extremely disruptive.” Rob Hammond, May 16, 2017, Email to Jonathan Vimr
- “[W]e had to contend with loud, drunk people spilling out of the restaurant past 2AM.” Dan Lorimer, June 3, 2014, Letter to Scott Sanchez.
- “There are no fewer than four separate noise issues that, given the aggregating nature of sound, will produce an adverse impact: on-street/entry noise, noise incidental to restaurant operations, outdoor dining, and entertainment.” Garret Shean, 2017, Comments on Application for Conditional Use Authorization (original emphasis).
- “Noise is another serious concern. The proposed hours of operation are 5pm to after midnight (last seating at 10pm means diners, employees, valets until midnight and beyond).” Gordon Francis (on behalf of “Members of La Colline Homeowner’s Association”), May 29, 2017, Letter to Jonathan Vimr.

TRAFFIC

- “Montgomery Street between Union and Greenwich is not a normal residential street. It is an extremely narrow road, with many obstacles such as parked cars, a barrier around a tree at Alta Street, and a steep hill to navigate. The street dead-ends into Julius Castle and requires a three point turn in order to go back up the hill. Valet parkers or diners being dropped off will make u-turning at the end of the road much harder.” Rob Hammond, May 16, 2017, Email to Jonathan Vimr.
- “The key problems [with previous restaurant operation] were traffic, parking and noise. Since it has been closed, the difference is profound. Easily 90% of the traffic on Montgomery was generated by the restaurant.” Dan Lorimer, June 3, 2014, Letter to Scott Sanchez.

PARKING

- “There is very little parking available in the area. Montgomery Street is one of the few places where a resident can park. Adding diners (either parking or using valet) to the mix will make the situation much more unbearable. When Julius Castle was open before there was never parking spots available in the evening until after 11PM. After the restaurant closed spots would open up, which meant that the few available spots were used by diners.” Rob Hammond, May 16, 2017, Email to Jonathan Vimr.
- “The proof that significant, adverse restaurant parking impacts are un-mitigable is the fact that no *credible* and *effective* parking plan has been submitted in this process. It simply does not exist.” Garret Shean, 2017, Comments on Application for Conditional Use Authorization (original emphasis).
- “As it stands now, it is exceedingly difficult to find parking for residents by late afternoon when returning from work. Removing 7 parking spots at a minimum (assuming no diners, employees, valets take any spots) is an additional hardship to residents.” Gordon Francis (on behalf of “Members of La Colline Homeowner’s Association”), May 29, 2017, Letter to Jonathan Vimr.

SAFETY AND PEDESTRIAN HAZARDS

- “The increased fast moving traffic day and night was a nightmare for neighbors for many decades.” Louis Silcox, May 15, 2017, Email to Jonathan Vimr.
- “During the years when the restaurant was open, there was considerable dangerously fast traffic, usually from taxis, headed north to the restaurant. The valet parkers . . . also drove dangerously fast.” John Lee, May 12, 2017, Email to Jonathan Vimr.
- “Close to 100% of the speeding cars we had here were taxis or valets servicing the restaurant.” Dan Lorimer, June 3, 2014, Letter to Scott Sanchez.

As a result of these and other impacts, Louis Silcox, a realtor specializing in Telegraph Hill and a former resident of the neighborhood, concluded in his May 15, 2017 comments that “reopening the restaurant would interfere with nearby dwellers’ ‘[Quiet] Enjoyment of their Homes’ and also potentially have a negative impact upon property values.”

The aforementioned comments and others, as well as common sense, demonstrate that the Project would indeed be “detrimental to the health, safety, convenience [and] general welfare of persons residing or working in the vicinity” of the Julius’ Castle property, and also be “injurious to property.” Planning Code § 303(c)(2).

The Draft Motion, in proposed findings regarding section 303(c)(2)(B), asserts that the “proposed use should not generate significant amounts of vehicular trips from the immediate neighborhood and traffic calming measures will be incorporated as part of the Sponsor’s agreed-to operations plan, detailed more fully in Condition of Approval No. 11.” Draft Motion, p. 5. But it provides *no evidence whatsoever* to support its assertion that the Project would not cause traffic, parking and pedestrian safety problems. Not only does it appear that no traffic impact analysis has been done, the “operations plan” referenced in Condition of Approval No. 11 is not a plan at all, but rather a requirement the “owner and owner’s lessee . . . submit an operations plan to the Planning Department” addressing parking and customer access. Draft Motion, pp. 13-14. Without an operations plan, no complete traffic impact analysis *could* be done.

The Draft Motion’s proposed findings regarding section 303(c)(2)(C) are similarly lacking. The Draft Motion states that the “proposed use is subject to the standard conditions of approval for Restaurants as outlined in Exhibit A. Conditions 10 and 18 specifically obligated the project sponsor to mitigate odor and noise generated by the Restaurant use.” Draft Motion, p. 5. But it provides *no evidence whatsoever* that the conditions included in Exhibit A would be sufficient to eliminate the significant noise pollution from previous restaurant operation in the Julius’ Castle building, as discussed above. Furthermore, Conditions 10 and 18 only apply to odor control, not noise.

In sum, no “substantial evidence supports” the proposed “findings” under sections 303(c)(2)(C) and (D). *Topanga Association for a Scenic Community v. County of Los Angeles* (“*Topanga*”) (1974) 11 Cal.3d 506, 514-515. To the contrary, the available evidence demonstrates that the Project would violate section 303(c)(2), and must therefore be disapproved. *Neighborhood*, 156 Cal.App.3d at 1184 (any “permit action taken without compliance with the hierarchy of land use laws is *ultra vires*”).

B. THE PROJECT WOULD VIOLATE PLANNING CODE SECTION 303(C)(4)

The Project must also be disapproved because it would violate Planning Code section 303(c)(4). Pursuant to section 303(c)(4), the Commission may only “authorize a conditional use if the facts presented are such to establish that . . . (4) [s]uch use . . . as proposed will provide development that is in conformity with the stated purpose of the applicable Use District.” The stated purpose of the RH districts, including the RH-3 district encompassing the Project site, is to “recognize, protect, conserve and enhance areas characterized by dwellings in the form of houses.” Planning Code § 209.1. As evidenced by the public comments quoted above, and others, rather than protect the residential neighborhood surrounding the Julius’ Castle building, the Project would despoil it. Indeed, the proposed findings in the Draft Motion *confirm* that the “Project is not consistent with the stated purpose[] of RH-3 Districts.” Draft Motion, p. 6.

C. THE PROJECT WOULD VIOLATE PLANNING CODE SECTION 303(O)

The Project would also violate Planning Code section 303(o). That section provides:

With regard to a Conditional Use Authorization application for a Restaurant, Limited-Restaurant and Bar uses the Planning Commission shall consider, in addition to the criteria set forth in Subsection (c) . . . , the existing concentration of eating and drinking uses in the area. Such concentration *should not exceed 25 percent* of the total commercial frontage as measured in linear feet within the immediate area of the subject site, [defined as “within 300' of the subject property and also located within the same zoning district.”]

Planning Code § 303(o) (emphasis added).

As the Draft Motion’s proposed findings acknowledge, “there are no other eating and drinking uses, and no other commercial properties” within a 300-foot radius. Draft Motion, p. 6. Thus, the Project would result in *100 percent* of the commercial frontage within the Project area being dedicated to eating and drinking uses, violating the 25-percent maximum set forth in section 303(o).

In sum, the Commission must disapprove the Project because it would violate the San Francisco Planning Code. *Neighborhood*, 156 Cal.App.3d at 1184 (any “permit action taken without compliance with the hierarchy of land use laws is *ultra vires*”).

III. THE PROJECT IS NOT EXEMPT FROM CEQA

The Summary and Draft Motion both assert that the “project is exempt from [CEQA] as a Class 3 categorical exemption.” Summary, p. 2; Draft Motion, p. 2. Wrong for three reasons.

First, Class 3 categorical exemptions are restricted to projects in areas “zoned for such use.” CEQA Guidelines § 15303(c). As explained above in Section II, San Francisco’s Planning Code does not permit restaurants in the RH-3 zone, where the Julius’ Castle property is located. Planning Code § 209.1. Nor does the Project satisfy the necessary criteria to be approved as a conditional use.

Second, Class 3 categorical exemptions are restricted to projects in areas “where all necessary public services and facilities are available.” CEQA Guidelines § 15303(c). Here, as discussed above in Section II, the Project area lacks adequate vehicular access and parking facilities.

Third, even if the Project were exempt from CEQA, which it is not, the unusual circumstances exception applies, necessitating CEQA review. “A categorical exemption shall not

be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.” Guidelines § 15300.2(c). Here, the Project poses significant environmental impacts due to unusual circumstances because Julius' Castle is a commercial use located in quiet residential area. *Lewis v. Seventeenth District Agricultural Association* (1985) 165 Cal.App.3d 823, 829, 831 (“no question of the existence of unusual circumstances” because of “the adjacency of residential neighborhoods to the racetrack.”) It will bring all of the noise and traffic associated with that use to an area that typically does not see such excessive amounts of traffic. Indeed, the portion of Montgomery Street that is affected by this restaurant is not a through street in either direction. The road terminates at the Project site on the north end and continues a mere 1.5 blocks south, before it terminates between Union Street and Green Street. The majority of that 1.5 blocks is grade-divided by an impassable median, essentially leaving two one-way residential streets that will be detrimentally affected by the traffic and noise from the Project. The quiet residential nature of the area is an unusual circumstance for a Project of this type. Furthermore, there is a fair argument that “there is a reasonable possibility that the activity will have a significant effect on the environment due to [that] unusual circumstance[.]” Guidelines § 15300.2(c); *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1098.

Similarly, the constrained access for vehicles at the Project site is an unusual circumstance, prohibiting the application of any categorical exemption. As depicted in the Context Photo attached to the Summary, to turn back around and head south towards the Financial District, vehicles heading north on the lower-elevation side of Montgomery Street must make a 180-degree turn in limited space right in front of the Julius' Castle property. The cul-de-sac in front of the property is an active parking area and is invariably filled with cars, necessitating a three-point turn for any car attempting to turn around to head south. Even without the Project in place, this unusual circumstance causes a backup on the north-bound side of Montgomery Street while vehicles have to wait for those three-point turns to safely be completed before proceeding. With the addition of the Project to this already unusual circumstance, there is a fair argument that “there is a reasonable possibility that the [Project] will have a significant effect on the environment.” Guidelines § 15300.2(c); *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1098. Because the unusual circumstances exception applies, no categorical exemption can apply.

IV. SUBSTANTIAL EVIDENCE SUPPORTS A FAIR ARGUMENT THAT THE PROJECT WOULD HAVE SIGNIFICANT IMPACTS

Because the Project is not exempt from CEQA, as discussed above, the Planning Department must ensure full CEQA compliance through the preparation of an Initial Study and subsequently an Environmental Impact Report (“EIR”) to “identify the [significant] environmental effects of [the P]roject[.], and then to mitigate those adverse effects through the imposition of feasible mitigation measures or through the selection of feasible alternatives.” *Sierra Club v. State Board of Forestry* (1994) 7 Cal.4th 1215, 1233; Guidelines §§ 15063, 15064, 15121, 15126,

15126.2, 15126.4, 15126.6. Where “a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR *even though* it may also be presented with other substantial evidence that the project will not have a significant effect.” Guidelines § 15064(f)(1) (*citing No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68) (emphasis added).

“The EIR is the heart of CEQA,” for it serves as the “environmental ‘alarm bell’ whose purpose is to alert the public and responsible officials to environmental changes before they have reached ecological points of no return.” *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810. “[T]he high objectives of [CEQA] require[] the preparation of an EIR whenever it can be *fairly argued* on the basis of substantial evidence that the project *may* have [a] significant environmental impact.” *No Oil*, 13 Cal.3d at 75; *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 319-320. If the initial study and public comment indicate substantial evidence supporting a fair argument that significant environmental impacts may occur, then the lead agency must prepare an EIR to analyze those effects. PRC §§ 21002, 21002.1, 21061; Guidelines §§ 15080-15096, 15120-15132, 15160-15170. Through preparation of the required Initial Study for this Project, it will become clear that there is a “fair argument that [the P]roject may have a significant effect on the environment.” Guidelines § 15064(f)(1). Indeed, there is a fair argument that the Project’s traffic and safety impacts, its noise impacts, and its inconsistency with the San Francisco Planning Code are significant impacts necessitating preparation of an EIR. Guidelines §§ 15063(d)(5), 15125(d) (requiring examination of the Project’s inconsistencies with applicable general and specific plans).

The increase in vehicular traffic in the surrounding quiet residential neighborhood raises numerous safety and health concerns for the residents that live nearby. For example, neighbors who regularly walk on their street or take part in activities outside their residences will be subject to new safety concerns from vehicular accidents caused by restaurant patrons and valet drivers. While the Staff Report acknowledges that the Project “site is accessible via public transportation,” and claims that “patrons will be discouraged from parking in the neighborhood,” nothing prevents patrons from driving to the restaurant, causing increased traffic and safety concerns that must be evaluated in an initial study and subsequently, an EIR. Executive Summary, 5; Conditional Use Authorization conditions, 1. This increased traffic will also create new air quality concerns for residents from excessive vehicular traffic idling on Montgomery Street while patrons wait to find parking, wait to valet their vehicles, or wait to make the necessary three-point turn in front of Julius' Castle. Further, the proposed Project would “feature a street level bar” which could drastically increase drunk driving incidents. Executive Summary, 1. These traffic and safety concerns present substantial evidence of a fair argument of significant impacts caused by the Project necessitating eventual preparation of an EIR. Guidelines §§ 15063, 15064(f)(1), (g); *No Oil*, 13 Cal.3d at 75.

The Project’s potential noise impacts likewise present a fair argument of significant impacts that must be analyzed in a thorough and complete CEQA process. Guidelines §§ 15063,

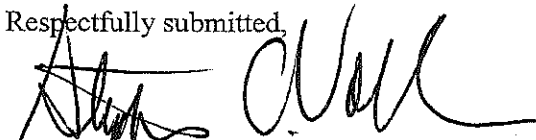
15064(f)(1), (g); *No Oil*, 13 Cal.3d at 75. The noise impacts of a nearly 5,000 square foot restaurant with a rooftop terrace, that will operate past 10pm daily, will be significant for the quiet residential neighborhood in which the Project is proposed. Additionally, there will be increased noise impacts from the vehicles driving to the restaurant – including the valets, patrons walking to the restaurant, and patrons waiting outside the restaurant. However, there is no discussion – other than a limitation on amplified, live entertainment – in the Executive Summary, the Draft Motion, the conditions for approval, or anywhere in the staff report of this potentially significant impact. Draft Motion, 15; Conditional Use Authorization conditions, 1. This potentially significant impact must be analyzed in an Initial Study, and subsequently, an EIR.

Similarly, an Initial Study and subsequent EIR must be prepared to address the Project's inconsistency with the San Francisco Planning Code. Guidelines §§ 15063(d)(5), 15064(f)(1), 15064(g), 15125(d); *No Oil*, 13 Cal.3d at 75. As shown above, the Project is not in compliance with the applicable zoning law and these inconsistencies must be addressed during the required CEQA process. An Initial Study and subsequent EIR are needed to evaluate these potentially significant impacts and how they may be mitigated. Without such analysis, the Project violates CEQA.

V. CONCLUSION

For the foregoing reasons, the Commission should deny the Conditional Use Authorization and Variance for the Julius' Castle Project.

Respectfully submitted,



Stephan C. Volker

Attorney for John Lee and Other Concerned Neighbors

LIST OF EXHIBITS

1. Google Street View photo of 1531 Montgomery Street
2. San Francisco Planning Department Transportation Impact Analysis Guidelines for Environmental Review Excerpt

EXHIBIT

1

Google Maps 1482 Montgomery St



San Francisco, California
Street View - Jun 2016

Image capture: Jun 2016 © 2017 Google

EXHIBIT
2

**TRANSPORTATION IMPACT ANALYSIS GUIDELINES
FOR ENVIRONMENTAL REVIEW**

October 2002

The Planning Department
City and County of San Francisco

TABLE C-1			
TRIP GENERATION RATES & EMPLOYEE DENSITIES FOR TYPICAL LAND USES			
LAND USE TYPE	TRIP RATES		EMPLOYEE DENSITY
	RATE PER LAND USE (1)	PM PEAK HOUR (% DAILY)	AVERAGE DENSITY PER EMPLOYEE (2)
Office			
General	18.1	8.5%	276
Government---			
Administrative	36.4	16.2%	276
Government---			
High Public Use	43.3	14.5%	276
General Retail	150.0	9.0%	350
Supermarket	297.0	7.3%	350
Eating/Drinking			
Quality Sit-Down	200.0	13.5%	350
Composite Rate	600.0	13.5%	350
Fast Food	1400.0	13.5%	240
Hotel/Motel	7/room	10.0%	0.9 employees/room (49% daytime work)
Manufacturing/Industrial	7.9	12.4%	567
Athletic Clubs	57.0	10.5%	---
Cineplex Theatres	1.13/seat	23.0%	0.023 employees/seat
Daycare Centers	67.0	18.0%	---
Residential (all types)			
2+ bedrooms	10.0/unit	17.3%	---
1 bedroom/studio	7.5/unit	17.3%	---
Senior Housing	5.0/unit	6.0%	---
Footnotes:	(1) Trips per 1,000 gross square feet of space unless otherwise noted.		
	(2) Average gross square feet of space per employee.		
Sources:	San Francisco Citywide Travel Behavior Survey; Mission Bay 1990 FEIR; 525 Golden Gate FEIR; 1000 Van Ness FEIR; ITE Trip Generation, 6 th Edition		

1315 Montgomery Street
San Francisco, CA 94133
June 3, 2014

Mr. Scott Sanchez
Zoning Administrator
Office of the Zoning Administrator
1650 Mission Street, Suite 400
San Francisco, CA 94103

RE: Paul Scott's request for exemption from Conditional Use Permit requirements for
Julius' Castle 1541 Montgomery Street/ 302 Greenwich Street

Dear Mr. Sanchez,

Much appreciated you calling me back from my VM of last week. Per your request, I am putting some of the points that I made on the phone yesterday in writing for your further consideration and for the benefit of your staff.

Request for Exemption

The first issue is the expiration of grandfathered rights. Julius' Castle (JC) has been largely closed since some time in 2006, with brief reopenings thereafter, but closed its doors for the last time on 1/19/2008. Paul Scott closed escrow for his purchase of the property on 4/20/2012. At that point, the 3-year window for restarting the nonconforming business had long since closed: when he took title, the restaurant had not been open for 4 years and 3 months. Mr. Scott is an attorney, so it would be unreasonable for him to claim ignorance of the applicable regulations. When he purchased the property, he should have been fully aware that the building came without rights to resume its former nonconforming use. When he applied to you for exemption from these regulations on 4/17/2014, 6 years and 3 months had passed since the restaurant closed, more than double the time allowed to resume operations. On this basis alone, if he wants to reopen the restaurant, he should be required to apply for a new conditional use permit.

Paul's attempt to blame the long period of time that has elapsed upon inefficiencies at Planning is both disingenuous and irrelevant. Disingenuous because he considerably delayed the planning process himself by attempting multiple times to be let off the hook from being required to restore the building to its condition prior to the illegal additions of the previous owner. But even if what he claims were true, the delays in getting his COA are irrelevant: the window for reopening the restaurant had already closed 15 months prior to his purchase of the property. As of today, that window has been closed for more than 3 years and 4 months.

A Neighborhood Nuisance

When it was in operation, Julius' Castle caused numerous problems for its immediate neighbors. The key problems were traffic, parking and noise. Since it has been closed, the difference is profound. Easily 90% of the traffic on Montgomery was generated by the restaurant. Close to 100% of the speeding cars we had here were taxis or valets servicing the restaurant. The valets also took up what little available parking there was, and the valet area knocked out a large block of parking spaces otherwise available to residents. The restaurant stayed open late, so we had to contend with loud, drunk people spilling out of the restaurant past 2AM. Large delivery trucks rumbled down the street during the daytime. Because there is little room to turn around, we were always hearing their backup beepers. And JC sometimes had loud music out on their terraces which echoed up and down Greenwich and Montgomery. For all of this, JC was of essentially no benefit to those of us who live here. If JC had not been here already, certainly no such use would be allowed in this location now. At the very least, there need to be restrictions upon how a restaurant would operate there in the future, thus a CU permit is necessary. It would be far better if the property were simply required to conform to the zoning regulations applicable to all other properties on its block.

Mr. Scott has met with the Telegraph Hill Dwellers' planning and zoning committee several times. Initially, he tried to enlist our support for exemption from Planning stipulations regarding restoration of the structure. Recently, he has tried to enlist our support for his application to operate without a conditional use permit. Our most recent meeting with him was on May 8th. At that meeting, he made it very clear that he would not voluntarily agree to restrictions of any kind on hours of operation, valets or anything else prior to receiving the blessing of some future operator (he does not intend to operate the restaurant himself). That operator, whose financial interests would necessarily be opposed to any such restrictions, would also, under Paul's plan, call the shots. This is obviously unacceptable to the neighborhood. Why Paul thought he would receive any support from neighbors with this kind of proposal remains a mystery. But his lack of cooperation with us underscores the need to have the restrictions in place that would be included in a CU permit. Without such restrictions, it is clear that Mr. Scott is content to let whoever operates the restaurant do whatever he wants.

Paul has tried to sell us on a number of pie-in-the-sky schemes that rely upon either changing customer behavior or city expenditures to mitigate the nuisances created by JC that he is unwilling to address through operational changes. Among these are installing speed bumps on Montgomery to deal with speeding cabs and valets. Having, as president of a neighborhood association planned an extensive traffic-calming implementation in Palo Alto, I can assure you that speed bumps, even were the city willing to spend the money to put them in, are a very poor solution. The City of Palo Alto's consultant for the project said that people who live next to speed bumps invariably complain about noise. In another neighborhood in Palo Alto, bumps were installed to reduce traffic speeds, and had to be ripped out because the noise from cars running over the bumps proved to be a greater annoyance to residents than the traffic problem they were meant to solve. The same thing would surely occur here.

He has also suggested that people who walked to JC might receive a discount from the operator. Leaving aside the issue of whether the operator would offer such discounts unless Paul subsidized them (something which he did not commit to doing), is it realistic to think that people are going to walk up 300 stairs to buy a \$200 dinner even if they did get a few dollars knocked off?

Another one of his extravagant (with other people's money) concepts is a funicular serving his restaurant and Coit Tower from the level of Lombard St. at the bottom of the cliff. He somehow expects us to take these ideas seriously, and based exclusively upon buying into his fantasies rather than upon simply agreeing to run JC within neighborhood-friendly guidelines, support him in getting a free pass to operate without restrictions. Would you fall for this nonsense if you lived in the neighborhood?

Necessary Restrictions

The noise and traffic nuisances imposed by the restaurant, if it is to be allowed to reopen at all, need to be limited. This is a quiet residential neighborhood. Certainly a 10PM closing time, as is typical for many of the restaurants in North Beach, is reasonable.

Valet parking is, in my view, the #1 problem. For each valet parked car, unless the valets park the cars in the neighborhood, which exacerbates the parking shortage we already have, the following trips occur on Montgomery St.:

- (1) trip in for owner of car
- (1) trip down to the remote parking lot by the valet
- (2) round trip by another valet to pick up the valet at the lot
- (2) another round trip to drop the valet at the car
- (1) trip back to the restaurant with the car
- (1) trip out for the owner of the car

That results in a total of 8 car trips up or down Montgomery (and every other street on the route to the parking lot) for every single car. The math is pretty clear: valet parking should not be allowed, regardless of where the valets park the cars.

Beyond this, the issues are delivery trucks, drunk customers and noise from entertainment. We would like to see a 3-ton limit on Montgomery, as currently exists on Green Street. The bar has attracted serious drinkers in the past who frequently rolled out of the restaurant plastered and noisy. If JC reopens, it should not be issued a hard-liquor license. If there is to be live music, it should be allowed inside the building only.

A Middle Ground

It would be possible for JC to reopen in a modified format that eliminated all of the problems listed above. This would be as a bed and breakfast with a café. Such an operation would, like

the restaurant, require a conditional use permit. It would, however, be welcomed by the neighborhood. Traffic volumes for the hotel would be minimal. Hours of operation, would again be a non-issue, since there would be no advantage to the operator in staying open late. The volume of deliveries would also be considerably lower. The problems with drunks and entertainment noise would go away. Overall, this is a neighborhood-friendly solution that allows the building to be used similarly to what it was originally built for. Times have changed. The neighborhood is nothing like it was when Julius' Castle was built in 1922, but JC could, with changes to its mode of operation, still be welcome here. Not if it operates as it has in the past, however. You are welcome to call me at 415-315-1258 to discuss any of the foregoing.

Best wishes,

A handwritten signature in black ink, appearing to read "Dan Lorimer", written in a cursive style.

Dan Lorimer

From: Oz Erickson
To: [Vimr, Jonathan \(CPC\)](#)
Cc: [Rina Alcalay \(alcalayrina@gmail.com\)](mailto:Rina.Alcalay@alcalayrina@gmail.com)
Subject: Re-opening of Julius Castle
Date: Monday, May 15, 2017 4:58:44 PM
Attachments: [image001.gif](#)
[2014 LOD_1531_Montgomery-302_Greenwich.pdf](#)

Dear John,

I am a professional real estate developer, and over the years I have been in the position of the developer of Julius' Castle, Mr. Paul Scott, many times. I empathize with him greatly. According to many of my neighbors he is a very decent person, and when we had our lunch together, he was most agreeable.

I thus hate to take a formal position opposing his project, but since I live at 1400 Montgomery, just up the hill from Julius Castle, I would not like to see it reopen as an operating restaurant. The problem is traffic.

Along Montgomery from Union Street to Julius' Castle and back up again, there are approximately 138 houses/apartments including all units on Alta, School and Coit. During the day it is hard to imagine that these houses generate more than 270 vehicle trips per day. Even with this limited traffic, I have been caught many times waiting at the foot of Montgomery in front of Julius' Castle while a vehicle in front of me negotiates the 180 degree turn.

The proposed restaurant will have approximately 5,000 square feet with a dining area and bar of probably something approaching 3,000 square feet. At 19 square feet per diner and two turns per night (a la Chez Panisse and many other restaurants), and one turn at lunch, we are talking about potentially seating 392 diners a day. To be generous, let's say that two people per car visit the restaurant (both being delivered and being picked up). That means 400 car trips per day. Throw in restocking trips (20 daily trips?) and 25 daily staff (30 trips?), and one is talking about somewhere on the order of 450 trips per day. WOW! That is a lot of vehicles going down a steep hill, turning around in the most difficult of radiuses, and then going uphill again. One property would thus provide more traffic than the entire group of 138 neighbors living on

the street. And what happens to the availability of neighborhood parking when restaurant goes search for a parking space? Oh, my, oh, my!

Mind you, I loved Julius' Castle and was probably there 50 or 60 times over the years. It was a wonderful place to eat but I always wondered how the neighbors felt as the traffic flow was constant. When I bought my own house in 2014, I thought that Julius' Castle was closed for good as I knew that its non-conforming use had expired. I thought this fact was confirmed by Mr. Sanchez's Letter of Determination of August 14, 2014 (attached to this email). It was thus a surprise to learn that its proposed restaurant use was still being pursued vigorously.

I hate putting Mr. Scott in this difficult position. If the re-establishment of the restaurant use is not approved, and he decides to convert the building to a single-family house, I would wholeheartedly support his efforts. As it stands now, however, I am very much against the re-opening of the facility.

Sincerely yours.

S. Osborn Erickson

S. Osborn Erickson
Emerald Fund, Inc.
The Russ Building
235 Montgomery Street, 27th Floor
San Francisco, CA 94104
T (415) 489-1316 F (415) 777-1317
<http://www.emeraldfund.com>



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Scott Sanchez
Zoning Administrator
Planning Department, City and County of San Francisco
1650 Mission Street, Suite 400, San Francisco, CA 94103

Jonathan Vimr
Preservation Planner
Planning Department, City and County of San Francisco
1650 Mission Street, Suite 400, San Francisco, CA 94103

May 24, 2017

Comments on Application for Conditional Use Authorization
Case # 2016-001273CUAVAR
302 Greenwich Street (Julius Castle

Gentlemen,

We are long-time property owners on Telegraph Hill in close proximity to Julius Castle who will be adversely impacted by the proposed non-conforming restaurant use. The most dominant feature of this CUA process is the lack of and vagueness of information describing (1) the nature of the operation of the proposed non-conforming restaurant business and (2) the nature and adversity of impacts which would arise from the implementing the CUA. No well-deliberated decision can be made from the lack of information. Context is critical in filling the void of reliable information.

Preliminarily, it requires restating that this conditional use (restaurant), legally abandoned at a designated landmark site, cannot be restored on a whim or with a rubber stamp with no regard to significant adverse neighborhood impacts which would result from such use. The San Francisco Planning Code requires an administrative proceeding (CUA) in order for this conditional use to be resumed at this landmark site. The granting of a Conditional Use Authorization at this landmark site is neither automatic nor cursory. Pursuant to the Planning Code, the Planning Commission is obligated to substantively review and to make findings regarding, among other things, the nature and severity of neighborhood impacts, including traffic and noise. For Julius Castle, its landmark designation is not a free pass around the procedural and substantive requirements of the City Planning Code regarding conditional uses.

A. Split Ownership from Operation

Based upon the property owner's prior writing to the City, he does not propose to operate a restaurant at Julius Castle himself. Instead, the running of a restaurant will be by a contractor. This CUA application has been presented as if the property owner's receipt of an authorization for a non-conforming use can be bifurcated from the non-conforming use itself, on the theory that any neighborhood impacts and their mitigation are the responsibility of the contractor/operator, not the property owner. Nonsense. California law does not allow bifurcating the permitting process to avoid analysis of foreseeable impacts.

The two major CEQA-like issues affecting the neighborhood are traffic and noise. How absurd to think that there can be a serious consideration of granting the non-conforming use authorization without reviewing the consequential traffic and noise impacts. Neither the City nor the property owner is excused from this CEQA-like analysis on the assertion that the existence and severity of traffic and noise impacts are the sole responsibility of the contractor/operator.

Addressing any traffic and noise impacts to the neighbors would require this process to analyze the severity of those impacts. The City would then impose upon the property owner through the CUA authorization mitigation to reduce such impacts to insignificance and, in turn, require the property owner to contractually impose those same conditions and limitations on the restaurant-operating contractor.

Contrast the foregoing process and outcome with imposed mitigation with an alternative process which disregards adverse neighborhood impacts, imposes no conditions to mitigate those impacts, and allows the restaurant to be operated unfettered by concerns for the neighborhood.

B. Nostalgia

There is an abundance of nostalgia evoked by the idea that Julius Castle be reopened, which in some way will bring back glory days from decades gone by. Really? The City and Telegraph Hill have changed dramatically from the nostalgic days of the 1930's, '40's, and '50's. The City and Telegraph Hill are now choked with cars, moving and parked. Demographics have changed, too. Yet, the recent history of Julius Castle is dominated by closure. Whatever the nostalgia of Julius Castle, it has not been a sufficient appeal to make Julius Castle a sustainable restaurant business.

The property owner's recitation of the history of Julius Castle acknowledges its decade-long closure since 2007. Unsuccessful attempts to reopen do not demonstrate that Julius Castle would thrive if only the City would make lots of permit concessions and the neighbors would just accept traffic inconvenience and disruptive noise. Quite the opposite. In these times, no

credible evidence supports a notion of a sustainable restaurant business being possible at Julius Castle.

C. Adverse Traffic Impacts

Analysis in the CUA process of potential adverse traffic impacts does not begin and end with the words, "Any congestion/parking impacts from the restaurant will be the responsibility of the restaurant operator." The failure to provide any information about restaurant operation does not prevent a credible back-of-the-envelope analysis using the factual information which is known to the neighbors, plus appropriate assumptions. Below is just such a back-of-the-envelope analysis, using reasonable assumptions which bracket the "worst case" and "probable case" scenarios.

The known fact is that there has been seating for 150 patrons, and usually a staff of about 30. Assumptions on hours of operation: dinner, Sun-Thur, 6:30-11:00 pm sufficient for 2 seatings and dinner Fri-Sat, 6:30-midnight, sufficient for 2 seatings. No information about lunch service is available.

For the purpose of this analysis, it is assumed that half of the 150 seats (75) are at tables for two, and the other half (75) are at tables for four. It would be unreasonable to assume that each patron would drive to the restaurant. But for analytical purposes, it is reasonable to assume that table-for-two patrons arrive together in the same car, totaling 38 (75/2) cars. Similarly, assume that table-for-four patrons arrive in the same car, totaling 19 (75/4) cars.

1. Congestion Impacts

Congestion impact can be measured by the concentration of vehicles versus time. For purposes of measuring congestion, it does not matter whether the arriving car is a private vehicle, taxi, or Uber.

Two seatings filling all tables equal 114 (38 + 38 + 19 + 19) cars arriving at the restaurant each evening. Assume further that 1st seating arrivals concentrate between 6:30-7:30, and 2nd seating arrivals concentrate between 7:30-8:30, which equals 120 minutes of "arrival time." Hypothetically, if all arrivals were distributed equally over 120 minutes, there would be an arriving car approximately every minute for two hours.

Common sense suggests that distributing arrivals equally over 2 hours is not reality, so that arriving cars will exceed one per minute, causing adverse congestion impacts above level-of-

service criteria on all feeder streets. Moreover, the complete inability of Julius Castle staff to process more than one car per minute multiplies the degree of adverse congestion exponentially.

2. Parking Impacts

The same number of cars used in the congestion analysis begin the parking analysis. Under the worst-worst case analysis, parking in proximity to Julius Castle must be available for 114 cars per evening, assuming that departing cars and arriving cars are not synchronized. Where are 114 parking spaces, public or private, available and capable of being dedicated to Julius Castle patrons?

The 1st seating car total is 57 (38 + 19). Same applies to the 2nd seating. What might not be the double-worst-case scenario? Hypothesize liberally that *half* of these arriving cars are taxis, Uber, or other transportation. Consequently, 29 cars must be parked for the 1st seating, and 29 cars must be parked for the 2nd seating. It is reasonable to believe that there would some overlap in 1st and 2nd seating parking. Parking for 57-58 cars per night is still a double-worst case scenario.

Moreover, the adverse parking impact arises not only from the number parking spaces taken by restaurant-related cars but also the duration of parking in each space, which has the effect of denying on-street parking to residents for many, many hours. Assuming 2 hours for each seating, there are 58 parking-hours for each seating (2 x 29), for a total of 116 parking-hours nightly during which the restaurant would cause parking to be unavailable to residents.

So, even if the non-conforming use receives an analytical gift of reducing needed restaurant parking by half, what's the plan to mitigate parking 57 cars in the neighborhood which already has virtually no available on-street parking during the hours of restaurant operation?

But here is an additional analytical gift. Hypothesize further that the restaurant never operates at greater than half full. Nostalgia is not what it used to be. At perpetual half capacity and still assuming taxis and Uber, what is the plan, other than going out of business, that parks 29 cars per evening? Parking for even 29 cars for the evening is still a significant adverse neighborhood impact, and it is *un-mitigable*.

Valet parking for peak arrivals is either a feint to mask parking on neighboring streets or prohibitively expensive for the restaurant to add sufficient staff to shuttle arriving cars away from neighborhood streets and later back to the restaurant.

Every patron parking scenario, except a fairy tale, produces significant, *un-mitigable* adverse impacts upon neighborhood residents. But what about parking for approximately 30

employees who begin parking in the morning and remain parked until closing? Without considering patron parking, employee parking itself creates a significant impact on neighborhood parking, based upon the numbers of cars and duration of parking. There is no CUA condition which would reduce adverse parking impacts to a tolerable, let alone acceptable, level. The proof that significant, adverse restaurant parking impacts are un-mitigable is the fact that no *credible* and *effective* parking plan has been submitted in this process. It simply does not exist.

D. Adverse Noise Impacts

Likewise, analysis in the CUA process of potential adverse noise impacts does not begin and end with the words, "Any noise impacts from the restaurant will be the responsibility of the restaurant operator." The failure to provide any information about restaurant operation does not avoid a noise impacts analysis. Using past experiences and information which is known to the neighbors, the potentiality and severity of noise impacts can be reliably identified.

There are no fewer than four separate noise issues that, given the aggregating nature of sound, will produce an adverse impact: on-street/entry noise, noise incidental to restaurant operations, outdoor dining, and entertainment.

Loud talking and shouting at the entry and the Montgomery Street turn-around, particularly during evening hours, have characterized Julius Castle during many years of operation. The topography of the Hill exacerbates that noise as it moves up the Hill. Closing car doors and accelerating cars add to the cacophony at a time of night when neighborhood quiet has been the norm.

The annoying noises accompanying food preparation and dishwashing have always been quite audible from the restaurant. The sound of clanging pots and pans and stacking dishes and glasses can be heard throughout the Hill, particularly when the kitchen is often open to the outside for employee comfort.

Reading through the lines of the CUA application, the Julius Castle structure may be modified to accommodate outside dining. Obviously, outdoor dining produces voice noise which compounds with more patrons. The movement of staff and gathering of dishes will add to speech noise.

The issue of entertainment at Julius Castle is a mystery, perhaps deliberately. Indoors, music at a sound level produced by the pianist at Nordstrom or a harpist at the mall would likely cause no significant noise impact. But louder music which is produced by certain instruments which inherently amplify sound (e.g., horns, drums, etc.) reaches the level of adverse impact. If a band and/or vocalist are electronically amplified, they produce a significant adverse noise level

completely incompatible with the residential neighborhood environment. Outdoors, there is no entertainment which is not a significant adverse impact.

Conclusion

This application for a Conditional Use Authorization must be denied. A restaurant business at Julius Castle will create significant un-mitigable adverse traffic and noise impacts. For nearly a decade, the non-conforming restaurant business has been legally and defacto abandoned, well in excess of the 3-year legal trigger for abandonment. Due to this decade of abandonment, Telegraph Hill owners and tenants have made economic decisions and lifestyle choices which have contributed to the neighborly ambience of the Hill. If this non-conforming restaurant use were to be foisted upon the neighborhood, the neighborhood would suffer economic damage as well as disrupted enjoyment of the homes and apartments on the east side of Telegraph Hill. No known concept of uncompromised planning or simple equity permits such results.

Very Truly Yours,

Garret P. Shean

1445 Montgomery Street, San Francisco, CA. 94133

PETITION to the SAN FRANCISCO PLANNING COMMISSION
 Julius' Castle Conditional Use Authorization Application

We, the undersigned, are residents and property owners either on Montgomery Street in the 1300 and 1400 blocks or on Alta Street using said section of Montgomery for ingress and egress. The staff report for Julius' Castle inaccurately indicates that the former restaurant will be accessible by public transit, thereby grossly underestimating the traffic volume and congestion that opening the restaurant would generate.

We strongly question whether a single customer has ever gone to dinner at Julius Castle using the #82X bus or the E and F streetcars in its entire history, since all of these serve the Embarcadero, 300 stairs below the restaurant. The #39 bus stops running at 7PM and is thus largely irrelevant. Further, the restaurant never was a "neighborhood-serving use" as indicated in the staff report, but rather a high-end "destination restaurant" as featured in promotional material when the property was for sale. Close to 100% of the customers of the restaurant will arrive, as in the past, by cars, limousines, taxis or tour buses.








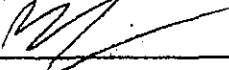
Valet parking was, and would be, the single largest traffic generator, since each customer car would generate 8 one-way car trips on Montgomery. The staff report states that "motor vehicle traffic is not perceived as a recent problem" without any factual basis. Traffic volume on Montgomery was considerably higher when Julius' Castle was open, and we had far more speeding cars. The voluntary Conditional Use Authorization conditions proposed by the Telegraph Hill Dwellers do not address this problem in any meaningful way nor are they enforceable. Baseline traffic counts need to be taken.

Unless there is a stipulation that valet parking will be disallowed if traffic levels skyrocket, the neighborhood will be left unprotected. At minimum, there needs to be a CUA condition eliminating valet parking at Julius' Castle if traffic levels rise to more than 300% of baseline level between the hours of 5PM and 10PM after the restaurant is opened. We believe that the project is not categorically exempt from CEQA under §15303(c) of the California Code of Regulations, and consequently, that any CUA granted by the Planning Commission that does not disallow valet parking beyond a defined traffic volume threshold can be declared invalid.

Signature

Address

E-mail address

	1315 MONTGOMERY	LORIMER@MCKER.NET
	90 ALTA STREET	zkarayani@gmail.com
	90 ALTA ST.	Jen.hoewsser1977@gmail.com
	11	Mark.hoewsser@gmail.com
	90 ALTA ST.	AntonyTselios@gmail.com
	1441 Montgomery St	jeffkim@gmail.com
	311 EIGHT (ALTA)	edward@edward.com
	50 ALTA #	BRIANRAB@MCKER.NET

LA COLLINE CONDOMINIUMS

1451 MONTGOMERY ST APT 10
SAN FRANCISCO, CA 94133-3229

11-3

DATE Aug 4/17

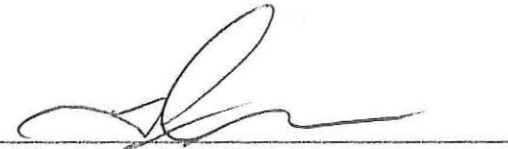
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FOR J.C. Appeal



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BY el

From: [BOS Legislation, \(BOS\)](#)
To: gordon.francis@gmail.com; nlaboe@emeryvillelaw.com; lorimer@meer.net; paul@juliuscastlesf.com
Cc: [Givner, Jon \(CAT\)](#); [Stacy, Kate \(CAT\)](#); [Byrne, Marlena \(CAT\)](#); [Rahaim, John \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lynch, Laura \(CPC\)](#); [Rodgers, AnMarie \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Vimr, Jonathan \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS Legislation, \(BOS\)](#)
Subject: APPEAL RESPONSE: Determination of Exemption Appeal - Proposed Project at 302 Greenwich Street/1531 Montgomery Street - Appeal Hearing on September 12, 2017
Date: Tuesday, September 05, 2017 12:01:36 PM
Attachments: [image001.png](#)

Greetings,

Please find linked below a letter received by the Office of the Clerk of the Board from the Planning Department regarding the CEQA Determination of Exemption from Environmental Review Appeal for the proposed project at 302 Greenwich Street/1531 Montgomery Street.

[Planning Appeal Response Letter - September 5, 2017](#)

The appeal hearing for this matter is scheduled for a 3:00 p.m. special order before the Board on September 12, 2017.

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 170907](#)

Lisa Lew
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
P 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

***Disclosures:** Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.*

From: BOS Legislation, (BOS)
Sent: Tuesday, August 29, 2017 4:15 PM
To: gordon.francis@gmail.com; nlaboe@emeryvillelaw.com; lorimer@meer.net;

paul@juliuscastlesf.com

Cc: Givner, Jon (CAT) <jon.givner@sfgov.org>; Stacy, Kate (CAT) <kate.stacy@sfgov.org>; Byrne, Marlena (CAT) <marlena.byrne@sfgov.org>; Rahaim, John (CPC) <john.rahaim@sfgov.org>; Sanchez, Scott (CPC) <scott.sanchez@sfgov.org>; Gibson, Lisa (CPC) <lisa.gibson@sfgov.org>; Navarrete, Joy (CPC) <joy.navarrete@sfgov.org>; Lynch, Laura (CPC) <laura.lynch@sfgov.org>; Rodgers, AnMarie (CPC) <anmarie.rodgers@sfgov.org>; Starr, Aaron (CPC) <aaron.starr@sfgov.org>; Vimr, Jonathan (CPC) <jonathan.vimr@sfgov.org>; Ionin, Jonas (CPC) <jonas.ionin@sfgov.org>; Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>; BOS-Supervisors <bos-supervisors@sfgov.org>; BOS-Legislative Aides <bos-legislative_aides@sfgov.org>; BOS Legislation, (BOS) <bos.legislation@sfgov.org>

Subject: HEARING NOTICE: Determination of Exemption Appeal - Proposed Project at 302 Greenwich Street/1531 Montgomery Street - Appeal Hearing on September 12, 2017

Greetings,

The Office of the Clerk of the Board has scheduled an appeal hearing for Special Order before the Board of Supervisors on **September 12, 2017, at 3:00 p.m.**, to hear an appeal regarding the determination of exemption from environmental review for the proposed project at 302 Greenwich Street/1531 Montgomery Street.

Please find attached the hearing notice for the matter:

[Notice of Public Hearing Notice - September 12, 2017](#)

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 170907](#)

Thank you,

Lisa Lew
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
P 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org



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information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

Categorical Exemption Appeal 302 Greenwich Street/ 1531 Montgomery Street

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

DATE: September 5, 2017
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Lisa Gibson, Environmental Review Officer – (415) 575-9032
Laura Lynch – (415) 575-9045
RE: Planning Case No. **2016-001273CUA**
Appeal of Categorical Exemption for 302 Greenwich St/ 1531 Montgomery St
HEARING DATE: 9/12/2017

PROJECT SPONSOR: Paul Scott, Julius’ Castle, 415-981-1212
APPELLANT: Francis Gordon, La Colline HOA; Norman Laboe; Dan Lorimer

INTRODUCTION

This memorandum and the attached documents are a response to the letter of appeal to the Board of Supervisors (the “Board”) regarding the Planning Department’s (the “Department”) issuance of a categorical exemption under the California Environmental Quality Act (“CEQA”) for the proposed 302 Greenwich Street/ 1531 Montgomery Street (the “project”).

The Department, pursuant to Title 14 of the CEQA Guidelines, issued a categorical exemption for the project on June 28, 2017 finding that the proposed project is exempt from CEQA, as a Class 3 categorical exemption.

The decision before the Board is whether to uphold the Department’s decision to issue a categorical exemption and deny the appeal, or to overturn the Department’s decision to issue a categorical exemption and return the project to Department staff for additional environmental review.

SITE DESCRIPTION & EXISTING USE

The project is located on the north side of Greenwich Street at the end of Montgomery Street, Block 0079, Lots 004 and 005 in the Telegraph Hill/North Beach neighborhood. The property, Julius' Castle, occupies two lots that combined are approximately 3,906 square feet in area. The project site is located within RH-3 (Residential, House – Three Family) District, Telegraph Hill – North Beach Residential SUD, and 40-X Height and Bulk District. The project site is a corner lot, with approximately 63 feet of frontage along Greenwich Street. Approximately 87% of the site is covered by the irregularly shaped on-site building, which is Julius’ Castle, City Landmark No. 121. Julius’ Castle was built in 1923 and per Ordinance 414-80, was designated as a landmark status building, and the significance of the building lies in its architectural

design and its role as a restaurant that serves as “a living slice from the history of the local Italian and restaurant communities.” The property operated as a restaurant from 1923 until 2007, and has been vacant since 2007.

PROJECT DESCRIPTION

The project would involve the change of use of the vacant, approximately 4,892 square foot building, into a restaurant use. This change of use would reinstate the last authorized and only previous use of the project site. The proposed restaurant would have a maximum occupancy of 152 people, 115 guests and approximately 30-35 employees. The proposed restaurant intends to primarily operate from 5:00pm to 10:00pm, daily, and may provide brunch service from 11:00a.m to 2:00p.m.

Pursuant to Planning Code Section 186.3, any use permitted as a principal or conditional use on the ground floor of the NC-1 Zoning District is allowed in a structure on a landmark site with a Conditional Use Authorization provided that the use 1) conforms to the provisions of Section 303 (Conditional Uses) and 2) is essential to the feasibility of retaining and preserving the landmark. Restaurant uses are permitted on the ground floor of the NC-1 Zoning District. Therefore, although the property is located within the RH-3 zoning district, the Landmark status of the building allows for a restaurant use to be conditionally permitted at the property. The project was approved, with Conditions of Approval, pursuant to Planning Commission Motion 19958, on July 06, 2017, allowing for a restaurant use to be established at the subject site.

The project sponsor would be required to apply for appropriate building permits to complete the interior tenant improvements and obtain appropriate approval from the Department of Building Inspection, San Francisco Fire Department and Department of Public Health, in order to change the occupancy of building and for a restaurant to operate.

There is no onsite parking and none is proposed; additionally, there are no changes to the public right of way proposed as part of the project. Pursuant to Condition of Approval 11, the property owner is required to submit an operations plan to the Planning Department, prior to the approval of the first site or building permit, which includes details of the restaurant operations including customer access to the restaurant and any proposed valet parking or employee parking.

ENVIRONMENTAL REVIEW PROCESS

On February 23, 2017, Paul Scott (hereinafter "Project Sponsor") filed an application with the Planning Department for Conditional Use Authorization under Planning Code Sections 186.3, 303, and 710.44 to allow a restaurant (d.b.a. Julius' Castle) use within the RH-3 (Residential, House - Three Family) Zoning District, Telegraph Hill - North Beach Residential Special Use District (SUD), and a 40-X Height and Bulk District.

On June 28, 2017, the Department determined that the project was categorically exempt under CEQA Class 3 - New Construction/ Conversion of Small Structures. This was issued in consultation with Environmental Planning staff. No further environmental review was required.

On July 06, 2017, the San Francisco Planning Commission conducted a duly noticed public hearing and authorized the Conditional Use Application No. 2016-001273CUA. The Planning Commission authorized the Conditional Use Authorization, with Conditions of Approval. This approval is considered the approval action for the project under Chapter 31 of the Administrative Code.

On August 04, 2017, an appeal of the categorical exemption determination was filed by Francis Gordon-La Colline HOA, Norman Laboe and Dan Lorimer.

On August 14, 2017, in a letter to the Clerk of the Board, the Environmental Review Officer determined that the appeal of the categorical exemption determination was timely.

CEQA GUIDELINES

Categorical Exemptions

Section 21084 of the California Public Resources Code requires that the CEQA Guidelines identify a list of classes of projects that have been determined not to have a significant effect on the environment and are exempt from further environmental review.

In response to that mandate, the State Secretary of Resources found that certain classes of projects, which are listed in CEQA Guidelines Sections 15301 through 15333, do not have a significant impact on the environment, and therefore are categorically exempt from the requirement of preparation of further environmental review.

CEQA State Guidelines Section 15303 (c), New Construction or Conversion of Small Structures, or Class 3, provides an exemption from further environmental review for projects that consist of the conversion of existing small structures from one use to another where only minor exterior changes are made. Specifically, Section 15303(c) exempts from further environmental review a change in use in an urbanized area involving up to four commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive. The project includes the change of use of an approximately 4,892 square foot building from a vacant building to a restaurant. The Planning Department determined that the proposed project satisfied the criteria of this class of exemption and found that there were no unusual circumstances located at the subject property, or with the proposed project, and the project was determined to be exempt from environmental review.

In determining the significance of environmental effects caused by a project, CEQA State Guidelines Section 15064(f) states that the decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency. CEQA State Guidelines 15604(f)(5) offers the following guidance: "Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial

evidence. Substantial evidence shall include facts, reasonable assumption predicated upon facts, and expert opinion supported by facts.”

APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES

The concerns raised in the August 4, 2017 Appeal Letter are cited below and are followed by the Department’s responses.

Concern 1: An Environmental Impact Report (EIR) should have been prepared for the project.

Response 1: The proposed project qualified for a categorical exemption under Class 3, New Construction and Conversion of Small Structures. An EIR is not required. The Appellant has not provided any substantial evidence to refute the conclusions of the Department.

The determination of whether a project is eligible for a categorical exemption is based on a two-step analysis:

- 1) Determining whether the project meets the requirements of the categorical exemption; and
- 2) Determining whether any of the exceptions listed under CEQA Guidelines section 15300.2, such as unusual circumstances, apply to the project.

As described in the proposed project’s exemption determination, the project meets the requirements of a categorical exemption under Class 3, new construction and conversion of small structures. The Appellant has not provided any substantial evidence supported by facts that the exemption determination does not qualify for a categorical exemption under Class 3. Class 3 categorical exemptions allow for changes of use of 10,000 square feet within urban areas. The proposed project in this case involves the change the use of an existing on-site 4,892 square-foot vacant building to a restaurant use, within the dense urban context of San Francisco.

Additionally CEQA Guidelines Section 15300.2(c) states that a “categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.” In CEQA, a two-part test is established to determine whether there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances, as follows:

- 1) The lead agency needs to determine whether unusual circumstances are present. If a lead agency determines that a project does not present unusual circumstances, that determination will be upheld if it is supported by substantial evidence. CEQA Guidelines define substantial evidence as “enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.”

- 2) If the lead agency determines that a project does present unusual circumstances, then the lead agency must determine whether a fair argument has been made supported by substantial evidence in the record that the project may result in significant effects. CEQA Guidelines states that whether “a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.”

Procedurally, the CEQA Guidelines do not require a written determination to be provided to confirm that a project is exempt from CEQA review. However, Chapter 31 of the San Francisco Administrative Code establishes local procedures and requirements necessary to implement CEQA analysis for its projects; this includes procedures and requirements for the preparation of categorical exemptions. Per Section 31.08(1)(a) of the Administrative Code, the categorical exemption determination document for a project that is found to be exempt from CEQA must include the following information:

- (1) Project description in sufficient detail to convey the location, size, nature and other pertinent aspects of the scope of the proposed project as necessary to explain the applicability of the exemption;
- (2) Type or class of exemption determination applicable to the project;
- (3) Other information, if any, supporting the exemption determination;
- (4) Approval Action for the project, as defined in Section 31.04(h); and
- (5) Date of the exemption.

In compliance with Section 31.08(1)(a) of the Administrative Code, the proposed project’s categorical exemption determination document provides the required information confirming that the project is exempt from CEQA review and eligible for a categorical exemption under Class 3, new construction and conversion of small structures. Specifically, the exemption determination document contains the:

- 1) Project description for determining that the project is exempt from CEQA;
- 2) Class of categorical exemption applicable (“Class 3: New Construction and Conversion of Small Structures”);
- 3) Applicable information to support the categorical exemption determination;
- 4) Approval action for the project (i.e., approval of a Conditional Use Authorization by the Planning Commission); and
- 5) Date of the categorical exemption (June 28, 2017).

Overall, The Department found that the proposed project is consistent with a Categorical Exemption under Class 3, new construction and conversion of small structures. Additionally, the proposed project and its location do not involve any unusual circumstances that would require further environmental review, as described further in other responses; thus, the project qualifies for a Class 3 categorical exemption. The Appellant has not provided any substantial evidence to refute the Department’s

determination and demonstrate that the project would result in a significant impact on the environment due to unusual circumstances necessitating the preparation of an EIR.

Concern 2: The Appellant is concerned that the project site is not accessible via public transportation.

Response 2: The project site does not present unusual circumstances as it relates to transit. In any case, the Appellant appears to be questioning information provided within the project's Conditional Use Application Case Report and not the categorical exemption determination document.

The Appellant appears to be questioning specific information provided within the project's Conditional Use Application Case Report and not the categorical exemption determination document. Although that specific information does not relate to CEQA, as documented below, it should also be noted that the project site does not present unusual circumstances as it relates to transit for the purposes of CEQA.

Transit accessibility and service in San Francisco, in general, exceeds that of the region. Almost the entire city is within a "transit priority area," including the project site. A transit priority area is an area within one-half mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations.

A major transit stop is defined in CEQA Section 21064.3 as a rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. The morning commute period (a.m. peak period) is from 7 a.m. to 9 a.m., and the afternoon peak period (p.m. peak period) is from 4 p.m. to 6 p.m. The project site is located within ½ mile walking distance of eight Muni lines with service that meets that definition: historic F Market & Wharves, 8/8AX/8BX Bayshore, 10 Townsend, 12 Folsom-Pacific, 30 Stockton, and 45 Union-Stockton, and 82X Levi Express. Except for the 82X, these transit lines all operate on weekends and after 10 PM, although with less frequent service than during the weekday peak hours. Additionally, the 39 Coit, which stops approximately 250 feet from the project site, operates at 20-minute frequencies between approximately 9 AM a.m. and 7 PM p.m. on weekdays and weekends.

The topography in the project area is noteworthy. To access the project site from transit stops within the project vicinity or vice versa, a person would have to walk up or down stairs or hills from any direction. However, this circumstance is not unusual in the context of San Francisco. San Francisco is a city with several hills. Furthermore, it is not unusual for persons to walk up and down hills to access retail/restaurants and transit stops in San Francisco (e.g., Bush Street restaurants in Nob Hill, restaurants in the Presidio). Overall, the project site is located within a transit priority area, it is accessible by transit, and there are no unusual circumstances related to transit accessibility.

Concern 3: The appellant is concerned about the vehicle trips that would be generated by the proposed restaurant use, particularly if a valet service is provided, and indicates this should have been studied in the project's environmental analysis.

Response 3: The project is appropriately categorically exempt and there would be no unusual circumstances related to the project's vehicle trips. Valet service is not proposed as part of the project.

As explained in Response 1, the project is appropriately categorically exempt under Class 3, new construction and conversion of small structures. According to California Supreme Court's March 2015 Berkeley Hillside Preservation v. City of Berkeley decision (and quoting the previous 1972 Friends of Mammoth v. Board of Supervisors court decision), "[C]ommon sense tells us that the majority of private projects [requiring government approval]... are minor in scope – e.g., relating only to the construction, improvement, or operation of an individual dwelling or small business – and hence, in the absence of unusual circumstances, have little or no effect on the public environment." Accordingly, projects of limited scale, such as the proposed project, that fit within a class of a categorical exemption have little or no environmental effects, including for the topic of transportation. As explained in Response No. 2, transit also adequately serves the project site. The following discussion substantiates that the project's vehicle trips does not result in unusual circumstances.

In response to Senate Bill 743, in January 2016, the California Office of Planning and Research (OPR) published for public review and comment a Revised Proposal on Updates to the CEQA Guidelines on Evaluating Transportation Impacts in CEQA recommending that transportation impacts for projects be measured using a vehicle miles traveled (VMT) metric. On March 3, 2016, in anticipation of the future certification of the revised CEQA Guidelines, the San Francisco Planning Commission adopted Resolution 19579. The resolution removed automobile delay as a threshold of significance in CEQA and implemented OPR's recommendation to use the VMT metric. As a result, impacts related to traffic congestion are outside the scope of CEQA, and are not evaluated for the proposed project.

The Planning Department has identified screening criteria to identify types, characteristics, or locations of projects and a list of transportation project types that would not result in significant transportation impacts under the VMT metric. These screening criteria are consistent with CEQA Section 21099 and the screening criteria recommended by OPR. If a project would generate VMT, but meets the screening criteria, then a detailed VMT analysis is not required for a project. Based on the Eligibility Checklist: CEQA 21099 – Modernization of Transportation Analysis prepared for 302 Greenwich Street/1531 Montgomery Street, the project qualifies as an infill development project under Senate Bill 743 (SB 743) and a detailed VMT analysis is not required for this project.

The Appellants have also expressed concern about the proposed restaurant use's valet operations, including vehicle trips resulting from the valet operations and cars entering and exiting the neighborhood. The project's proposed restaurant use does not include valet service; accordingly, any impact analysis of the project's future valet operations would be speculative.

The proposed project that was approved by the Planning Commission, which is the same as the project analyzed in the categorical exemption determination, is for a change of use from a vacant property to a restaurant use. If valet service for the project's restaurant use were proposed in the future, it would require review and approval by the San Francisco Municipal Transportation Agency (SFMTA) to acquire a white curb at the property and the San Francisco Police Department (SFPD) to operate a valet service.

Specifically, the project sponsor and future on-site restaurant operator would be required to adhere to the standards outlined by the SFMTA and SFPD, and obtain the appropriate permits and approval from them. The relevant SFMTA and SFPD staff were contacted recently regarding this project and they concur with this information.

Furthermore, the project sponsor and future on-site restaurant operator would also be required to adhere to the Conditions of Approval #11 - Traffic and Parking imposed by the Planning Commission through the Conditional Use Authorization. Conditions of Approval #11 state: "the owner and owner's lessee shall be required to submit an operations plan to the Planning Department prior to the Department's approval of the first Site Permit or Building Permit. Said plan shall include details on the following operational aspects of the Restaurant: 1) valet parking; 2) employee parking; and 3) customer access to the restaurant (vehicular, public transit, etc.)." This would include providing details regarding employee and customer access to the restaurant and any future proposed valet or employee parking. The operations plan would indicate things such as where project-related off-site parking would occur, and how employees and customers would access the site. If the Project Sponsor proposes to apply for valet parking in the future as part of an operations plan, valet parking would be subject to subsequent review and approval from both the SFMTA and SFPD. A potential approval process for zones associated with valet parking is described further below.

Passenger Loading Zone. If future approval of a white zone for passenger loading along the project site's frontage or elsewhere is sought, this approval would be subject to the SFMTA's Color Curb program. The process is initiated by submitting an application to the SFMTA. White zones are for passenger loading/unloading only, not exceeding 5 minutes. Effective times for white zones vary and are indicated by signs and/or stencils on the curb. In a white zone, the driver must remain with the vehicle at all times. Typical establishments that may qualify for a white zone include restaurants with 100 or more seats or valet parking.

Once the application is received, SFMTA staff review the description of the project's operations and conduct a field survey to determine the appropriate length of the colored curb. The length of the colored curb is calculated based on knowledge of the project's operations, in this case, the number of seats in the restaurant, and the hours of operation. A site survey is completed by SFMTA staff within 30 days of receipt of the application. Once the site survey has been completed, staff will issue a recommendation for approval of the request specifying the length of the colored curb, or will recommend denial. The application goes to a public hearing before the Color Curb Program Manager and a public hearing officer. Persons in support of and opposed to the recommendation should be present at the hearing. The purpose of the public hearing is to collect information, and make any adjustments to the recommendation, if necessary. Following the public hearing, the application and recommendation are forwarded to the City Traffic Engineer. The City Traffic Engineer may approve the application, deny the application, or request changes. If approved, the owner will be invoiced for the installation fee. White zones are required to be renewed every two years.

Concern 4: The Appellant asserts that the proposed project would result in inadequate emergency access to the project site and result in significant impacts related to this.

Response 4: The proposed project would not substantially increase demand for emergency services, result in a physical change to the public right-of-way, or result in unusual circumstances.

As explained in Response 1, the project is appropriately categorically exempt under Class 3, new construction and conversion of small structures. According to California Supreme Court's March 2015 Berkeley Hillside Preservation v. City of Berkeley decision (and quoting the previous 1972 Friends of Mammoth v. Board of Supervisors court decision), "[C]ommon sense tells us that the majority of private projects [requiring government approval]... are minor in scope – e.g., relating only to the construction, improvement, or operation of an individual dwelling or small business – and hence, in the absence of unusual circumstances, have little or no effect on the public environment." Accordingly, projects of limited scale, such as the proposed project, that fit within a class of a categorical exemption have little or no environmental effects, including for the topic of transportation.

As the Appellant accurately describes, Montgomery Street between Union and Greenwich, is divided into "upper" (southbound) Montgomery, and "lower" (northbound) Montgomery, due to a grade separation of several feet and the presence of a vegetated area in between. Each segment of Montgomery Street is one-way, with one mixed-flow travel lane, and one lane of on-street parallel parking interspersed with curb cuts for private driveways. The parking lane is the outside lane, furthest from the median. Each segment of Montgomery Street is about 18 feet wide from curb to curb. In San Francisco, on-street parking is prevalent, a parking lane (for parallel parking) is typically 8 feet wide, and a standard driving lane is around 10 to 12 feet wide, so these segments of Montgomery Street are not unusual in their configuration or widths.

The Appellant claims that the project site is unique because of the width and configurations of Montgomery and Greenwich streets, and the fact that each segment of upper and lower Montgomery Street is one-way, and that the two segments join in a "dead-end" at Greenwich Street. The Appellant asserts, that "there is already significant issues with ingress and egress in the neighborhood because Montgomery Street between Union and Greenwich is a one-lane street in each direction," and therefore the project could result in emergency vehicles being unable to access the project site. The Appellant further states that an EIR is necessary for the project, because the SFFD was not consulted and emergency vehicles would not have access to or from the site.

This is incorrect as explained below:

Restaurants without on-site parking along streets that have on-street parking are ubiquitous in San Francisco. One-way streets and streets that "dead-end," coupled with steep slopes, are also not unusual in San Francisco, which is a city with several hills. Accordingly, the necessity for emergency vehicles to travel on steep slopes with winding one travel-lane streets (such as in the project area) is not an unusual circumstance in the context of the project area (i.e., Telegraph Hill) or in San Francisco. This is an existing condition of the project area, and it is not a result of the proposed project. Therefore, no further analysis is necessary. However, the following discussion is provided for informational purposes.

The project involves the reopening of Julius' Castle restaurant, which has been in operation as a restaurant continuously since 1923, with the exception of the last 10 years (2007-2017). The proposed 4,892 square-foot restaurant use is of limited scale and would not substantially increase demand for emergency services. The project does not propose any changes to the adjacent public right-of-way that would affect emergency access. The street and on-site building configuration at the project site are baseline (i.e., existing) conditions for the purposes of environmental review. CEQA only requires analysis of the environmental impacts resulting from the project's *change* to baseline conditions. Prior to 2006, a restaurant operated for 84 years on the project site and adequate emergency access to this site under similar site conditions in those years was not an issue. Therefore, it is reasonable to conclude that the proposed restaurant use of a very similar size under future conditions would also receive adequate emergency services.

Regarding the Appellant's claim that the SFFD was not consulted regarding emergency access and thus an EIR is required. A determination of whether an EIR is required is based upon the exceptions for categorical exemptions listed above. Although consultation with City agencies can be a helpful step in making that determination, the lack of consultation does not automatically result in the need for an EIR.

For this appeal response, Planning contacted the SFFD staff regarding the proposed project and SFFD concurred that similar to existing conditions (and similar to conditions in the past in 2006 when there was a restaurant on the project site), SFFD expects to be able to adequately access the project site with its proposed restaurant use in the future, in the event of an emergency. For new development, in locations with access from only one right-of-way, the SFFD requires an unobstructed radius of (ideally) 96 feet, at minimum 80 feet, to turn the rig around. The area in front of Julius' Castle where Montgomery Street dead-ends into Greenwich Street currently measures slightly less than 80 feet, which means that it was likely designed at a time when the Fire Department's rigs were smaller. This is common in San Francisco, particularly in areas that were developed in the earlier part of the last century where streets tend to be narrower than streets that were developed more recently, even Telegraph Hill Boulevard, which provides access to Coit Tower. This does not mean that the SFFD could not access the site, it just means that a 3-, 4-, or 5-point-turn may be required to turn the rig around.⁵

Depending upon the circumstances of a project, the Planning Department or the project sponsor may require consultation with the SFFD during a project's approval process. The SFFD may be consulted at various stages of the planning and permitting process, including:

- Interdepartmental project review meetings,
- Transportation Advisory Staff Committee (TASC) meetings,
- Pre-occupancy building inspections, and
- Building permit review

SFFD approval, review and in some instances, building inspections would be required for the proposed project during the future building permit process for interior tenant improvements and to change the occupancy of the building. Additionally, the onsite building on the project site has previously operated as

⁵ Personal communication with San Francisco Fire Department staff, August 30, 2017.

a restaurant, and the SFFD has reviewed previous building permits and conducted inspections for this type of use on the project site in the past.

As stated above, the Department concludes that no unusual circumstances exist related to emergency access for the project site.

Concern 6: The Appellant states that the Condition of Approval from the Conditional Use Authorization should be clarified to stipulate that the restaurant is to close no later than 10 p.m.

Response 6: The Appellant is requesting a change to the Conditions of Approval that were issued as part of Conditional Use Authorization. This request and concern are outside the scope of CEQA.

The Appellant asserts that the Conditions of Approval from the Conditional Use Authorization (CUA) for the proposed project should be clarified to state that the restaurant is to close no later than 10 p.m. The Conditional Use Authorization for the project is not before the Board, and thus the conditions imposed on the project as part of that process cannot be altered through this environmental review appeal. The decision before the Board is whether to uphold or overturn the Department's decision to issue a Class 3 categorical exemption. The Appellant has provided no evidence that clarifying the hours of operation would make the Department's determination that the project qualifies for a categorical exemption invalid.

Environmental analysis under CEQA is required to focus on the direct and indirect physical changes to the environment that could reasonably result from a proposed project. Economic or social effects of a project, such as hours of operation of a restaurant, are not considered significant environmental impacts, unless they lead to physical changes in the environment (CEQA Guidelines 15131). Therefore, these comments do not raise any specific environmental issues. However, to the extent that these comments may be based on concerns about impacts related to an increase in ambient noise levels associated with operations of the restaurant, the Appellant has raised no concerns that would warrant preparation of further environmental review. The project site is located within a dense urban environment with a diverse number and type of uses within the area. An adverse effect to ambient noise levels would occur if a new use were placed next to an incompatible existing use, such that the basic function of either the existing use or the new use would be impaired. The operational noises associated with a restaurant use are typical of this dense urban environment. Therefore, the proposed project would not result in a substantial increase in ambient noise levels, and the project would not impair either another use such that their basic function could not continue.

The principally permitted hours of operation in the NC-1 District, which is the zoning district regulations that the project site is subject to, are 6 a.m. - 11 p.m. However, the Conditions of Approval for the project further limit the roof terrace to close at 9:00 p.m. Additionally, no amplified live entertainment would be permitted at the project site. Noise is regulated by the San Francisco Noise Ordinance (Noise Ordinance), which is codified in Article 29 of the San Francisco Police Code. Article 29 prohibits "any machine or device, music or entertainment or any combination of same" located on commercial (including restaurant) property from emitting noise eight dBA above the local ambient noise at any point outside the

property plane. Any violations to the San Francisco Noise Ordinance are subject to enforcement by the San Francisco Department of Public Health or the San Francisco Police Department. Any violations to the Conditions of Approval with regards to use of the roof terrace and amplified live entertainment would be subject to enforcement from the Department pursuant to Planning Code Section 174, potentially subjecting the property to daily fines and penalties.

CONCLUSION

Furthermore, there are no unusual circumstances for the proposed project and no substantial evidence supporting a fair argument that a significant environmental effect may occur as a result of the project has been presented that would warrant preparation of further environmental review. The Department has found that the proposed project is consistent with Class 3 Categorical Exemption. The Appellant has not provided any substantial evidence to refute the conclusions of the Department.

For the reasons stated above and in the June 28, 2017 CEQA Categorical Exemption Determination, the project's exemption determination complies with the requirements of CEQA and the project is appropriately exempt from environmental review pursuant to the cited exemption. The Department therefore recommends that the Board uphold the CEQA Categorical Exemption Determination and deny the appeal of the project's exemption determination.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227


NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

NOTICE IS HEREBY GIVEN THAT the Board of Supervisors of the City and County of San Francisco will hold a public hearing to consider the following appeal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

- Date:** Tuesday, September 12, 2017
- Time:** 3:00 p.m.
- Location:** Legislative Chamber, City Hall, Room 250
1 Dr. Carlton B. Goodlett, Place, San Francisco, CA
- Subject:** **File No. 170907.** Hearing of persons interested in or objecting to the determination of exemption from environmental review under the California Environmental Quality Act issued as a Categorical Exemption by the Planning Department on June 28, 2017, approved on July 6, 2017, for the proposed project at 302 Greenwich Street/1531 Montgomery Street, for a change of use to return the property to its historic use as a restaurant (dba "Julius' Castle"), to include a street level bar with dining at the second and third floors, and third floor terrace located at the rear of the property. (District 3) (Appellants: Gordon Francis, representing La Colline Home Owners Association, Norman Laboe, and Dan Lorimer) (Filed August 4, 2017)

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments prior to the time the hearing begins. These comments will be made as part of the official public record in this matter and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA, 94102. Information relating to this matter is available in the Office of the Clerk of the Board and agenda information relating to this matter will be available for public review on Friday, September 8, 2017.


Angela Calvillo
Clerk of the Board

2777

DATED/MAILED/POSTED: August 29, 2017

From: [BOS Legislation, \(BOS\)](#)
To: gordon.francis@gmail.com; nlaboe@emeryvillelaw.com; lorimer@meer.net; paul@juliuscastlesf.com
Cc: [Givner, Jon \(CAT\)](#); [Stacy, Kate \(CAT\)](#); [Byrne, Marlena \(CAT\)](#); [Rahaim, John \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lynch, Laura \(CPC\)](#); [Rodgers, AnMarie \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Vimr, Jonathan \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS Legislation, \(BOS\)](#)
Subject: HEARING NOTICE: Determination of Exemption Appeal - Proposed Project at 302 Greenwich Street/1531 Montgomery Street - Appeal Hearing on September 12, 2017
Date: Tuesday, August 29, 2017 4:15:08 PM
Attachments: [image001.png](#)
[170907 Hearing Notice 091217.pdf](#)

Greetings,

The Office of the Clerk of the Board has scheduled an appeal hearing for Special Order before the Board of Supervisors on **September 12, 2017, at 3:00 p.m.**, to hear an appeal regarding the determination of exemption from environmental review for the proposed project at 302 Greenwich Street/1531 Montgomery Street.

Please find attached the hearing notice for the matter:

[Notice of Public Hearing Notice - September 12, 2017](#)

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 170907](#)

Thank you,

Lisa Lew
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
P 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org



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Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

PROOF OF MAILING

Legislative File No. 170907

Description of Items: Public Hearing Notices - Hearing - Appeal of Determination of Exemption From Environmental Review - 302 Greenwich Street/1531 Montgomery Street - 614 Notices Mailed

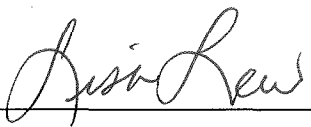
I, Lisa Lew, an employee of the City and County of San Francisco, mailed the above described document(s) by depositing the sealed items with the United States Postal Service (USPS) with the postage fully prepaid as follows:

Date: August 29, 2017

Time: 2:30 p.m.

USPS Location: Repro Pick-up Box in the Clerk of the Board's Office (Rm 244)

Mailbox/Mailslot Pick-Up Times (if applicable): N/A

Signature: 

Instructions: Upon completion, original must be filed in the above referenced file.

BOARD of SUPERVISORS



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Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

August 15, 2017

File Nos. 170907-170910

Planning Case No. 2016-001273CUA

Received from the Board of Supervisors Clerk's Office one check, in the amount of Five Hundred Seventy Eight Dollars (\$578) representing the filing fee paid by Gordon Francis, Norman Laboe, and Dan Lorimer for the appeal of the California Environmental Quality Act (CEQA) Determination of Exemption from Environmental Review for the proposed project at 302 Greenwich Street/1531 Montgomery Street.

Planning Department

By:

Tony
Print Name

[Signature] 8/16/17
Signature and Date

From: [BOS Legislation, \(BOS\)](#)
To: gordon.francis@gmail.com; nlboe@emeryvillelaw.com; lorimer@meer.net; paul@juliuscastlesf.com
Cc: [Givner, Jon \(CAT\)](#); [Stacy, Kate \(CAT\)](#); [Byrne, Marlena \(CAT\)](#); [Rahaim, John \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lynch, Laura \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Rodgers, AnMarie \(CPC\)](#); [Vimr, Jonathan \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS Legislation, \(BOS\)](#)
Subject: Appeal of CEQA Exemption Determination - Proposed Project at 302 Greenwich Street/1531 Montgomery Street - Appeal Hearing on September 12, 2017
Date: Tuesday, August 15, 2017 9:18:45 AM
Attachments: [image001.png](#)

Good morning,

The Office of the Clerk of the Board has scheduled an appeal hearing for Special Order before the Board of Supervisors on **September 12, 2017, at 3:00 p.m.** Please find linked below a letter of appeal filed for the proposed project at 302 Greenwich Street/1531 Montgomery Street, as well as direct links to the Planning Department's timely filing determination, and an informational letter from the Clerk of the Board.

[Exemption Determination Appeal Letter - August 4, 2017](#)

[Planning Department Memo - August 10, 2017](#)

[Clerk of the Board Letter - August 14, 2017](#)

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 170907](#)

Regards,

Lisa Lew
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
P 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org



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BOARD of SUPERVISORS



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Fax No. 415-554-5163
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August 14, 2017

Gordon Francis
La Colline Home Owners Association
1451 Montgomery Street
San Francisco, CA 94133

Norman Laboe
1310 Montgomery Street
San Francisco, CA 94133

Dan Lorimer
1315 Montgomery Street
San Francisco, CA 94133

Subject: File No. 170907 - Appeal of CEQA Exemption Determination - Proposed Project at 302 Greenwich Street/1531 Montgomery Street

Dear Mr. Francis, Laboe, and Lorimer:

The Office of the Clerk of the Board is in receipt of a memorandum dated August 10, 2017, from the Planning Department regarding their determination on the timely filing of appeal of the CEQA Exemption Determination for the proposed project at 302 Greenwich Street/1531 Montgomery Street.

The Planning Department has determined that the appeal was filed in a timely manner.

Pursuant to Administrative Code, Section 31.16, a hearing date has been scheduled for **Tuesday, September 12, 2017, at 3:00 p.m.**, at the Board of Supervisors meeting to be held in City Hall, 1 Dr. Carlton B. Goodlett Place, Legislative Chamber, Room 250, San Francisco, CA 94102.

Continues on next page

Please provide to the Clerk's Office by noon:

20 days prior to the hearing: names and addresses of interested parties to be notified of the hearing, in spreadsheet format; and

11 days prior to the hearing: any documentation which you may want available to the Board members prior to the hearing.

For the above, the Clerk's office requests one electronic file (sent to bos.legislation@sfgov.org) and two copies of the documentation for distribution.

NOTE: If electronic versions of the documentation are not available, please submit 18 hard copies of the materials to the Clerk's Office for distribution. If you are unable to make the deadlines prescribed above, it is your responsibility to ensure that all parties receive copies of the materials.

If you have any questions, please feel free to contact Legislative Clerks Brent Jalipa at (415) 554-7712, or Lisa Lew at (415) 554-7718.

Very truly yours,



for Angela Calvillo
Clerk of the Board

- c: Paul Scott, Project Sponsor
- Jon Givner, Deputy City Attorney
- Kate Stacy, Deputy City Attorney
- Marlena Byrne, Deputy City Attorney
- John Rahaim, Planning Director
- Scott Sanchez, Zoning Administrator, Planning Department
- Lisa Gibson, Environmental Review Officer, Planning Department
- Joy Navarrete, Environmental Planning, Planning Department
- Laura Lynch, Environmental Planning, Planning Department
- Aaron Starr, Manager of Legislative Affairs, Planning Department
- AnMarie Rodgers, Senior Policy Advisor, Planning Department
- Jonathan Vimr, Staff Contact, Planning Department
- Jonas Ionin, Planning Commission Secretary, Planning Department



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

DATE: August 10, 2017
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Lisa Gibson, Environmental Review Officer *LG*
RE: Appeal Timeliness Determination
 302 Greenwich Street/1531 Montgomery Street
 Planning Department Case No. 2016-001273CUA

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
 Information:
415.558.6377

An appeal of the categorical exemption determination for the proposed project at 302 Greenwich Street/1531 Montgomery Street (Planning Department Case No. 2016-001273CUA) was filed with the Office of the Clerk of the Board of Supervisors on August 4, 2017 by Gordon Francis, Norman Laboe, and Dan Lorimer. As described below, the appeal is timely.

Date of Approval Action	30 Days after Approval Action	Appeal Deadline (Must Be Day Clerk of Board's Office Is Open)	Date of Appeal Filing	Timely?
July 6, 2017	Saturday August 5, 2017	Monday, August 7, 2017	August 4, 2017	Yes

Approval Action: The Approval Action for the project was the Conditional Use hearing by the Planning Commission, as provided for in Planning Code Sections 186.3, 303, and 710.44, which occurred on July 6, 2017 (Date of the Approval Action).

Appeal Deadline: Section 31.16(a) and (e) of the San Francisco Administrative Code states that any person or entity may appeal an exemption determination to the Board of Supervisors during the time period beginning with the date of the exemption determination and ending 30 days after the Date of the Approval Action. The 30th day after the Date of the Approval Action was August 5, 2017. The next date when the Office of the Clerk of the Board of Supervisors was open was August 7, 2017 (Appeal Deadline).

Appeal Filing and Timeliness: The Appellant filed the appeal of the exemption determination on August 4, 2017, prior to the appeal deadline. Therefore, the appeal is considered timely.

From: [BOS Legislation, \(BOS\)](#)
To: [Rahaim, John \(CPC\)](#)
Cc: [Givner, Jon \(CAT\)](#); [Stacy, Kate \(CAT\)](#); [Byrne, Marlena \(CAT\)](#); [Jensen, Kristen \(CAT\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lynch, Laura \(CPC\)](#); [Rodgers, AnMarie \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Vimr, Jonathan \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS Legislation, \(BOS\)](#)
Subject: Appeal of CEQA Exemption Determination - 302 Greenwich Street/1531 Montgomery Street - Timeliness Determination Request
Date: Monday, August 07, 2017 4:27:25 PM
Attachments: [image001.png](#)
[Appeal Ltr 080417.pdf](#)
[COB Ltr 080417.pdf](#)

Good afternoon, Director Rahaim:

The Office of the Clerk of the Board is in receipt of an appeal of the CEQA Exemption Determination for the proposed project at 302 Greenwich Street/1531 Montgomery Street. The appeal was filed by Gordon Francis, on behalf of 9-unit La Colline HOA at 1451 Montgomery Street, Norman Laboe, and Dan Lorimer on August 4, 2017.

Please find the attached letter of appeal and timely filing determination request letter from the Clerk of the Board.

Kindly review for timely filing determination.

Regards,

Lisa Lew
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
P 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org



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BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

August 4, 2017

To: John Rahaim
Planning Director

From: *ACC* Angela Calvillo
Clerk of the Board of Supervisors

Subject: Appeal of California Environmental Quality Act (CEQA) Determination of Exemption from Environmental Review - 302 Greenwich Street/1531 Montgomery Street

An appeal of the CEQA Determination of Exemption from Environmental Review for the proposed project at 302 Greenwich Street/1531 Montgomery Street was filed with the Office of the Clerk of the Board on August 4, 2017, by Gordon Francis on behalf of 9-unit La Colline HOA at 1451 Montgomery Street, Norman Laboe, and Dan Lorimer.

Pursuant to Administrative Code, Chapter 31.16, I am forwarding this appeal, with attached documents, to the Planning Department to determine if the appeal has been filed in a timely manner. The Planning Department's determination should be made within three (3) working days of receipt of this request.

If you have any questions, please feel free to contact Legislative Clerks Brent Jalipa at (415) 554-7712, or Lisa Lew at (415) 554-7718.

c: Jon Givner, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Marlena Byrne, Deputy City Attorney
Scott Sanchez, Zoning Administrator, Planning Department
Lisa Gibson, Environmental Review Officer, Planning Department
Joy Navarrete, Environmental Planning, Planning Department
Laura Lynch, Environmental Planning, Planning Department
AnMarie Rodgers, Senior Policy Advisor, Planning Department
Aaron Starr, Manager of Legislative Affairs, Planning Department
Jonathan Vimr, Staff Contact, Planning Department
Jonas Ionin, Planning Commission Secretary, Planning Department

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Clerk of the Board

Subject:

Hearing - Appeal of Determination of Exemption From Environmental Review - 302 Greenwich Street/1531 Montgomery Street

The text is listed:

Hearing of persons interested in or objecting to the determination of exemption from environmental review under the California Environmental Quality Act issued as a Categorical Exemption by the Planning Department on June 28, 2017, approved on July 6, 2017, for the proposed project at 302 Greenwich Street/1531 Montgomery Street, for a change of use to return the property to its historic use as a restaurant (dba "Julius' Castle"), to include a street level bar with dining at the second and third floors, and third floor terrace located at the rear of the property. (District 3) (Appellants: Gordon Francis, representing La Colline Home Owners Association, Norman Laboe, and Dan Lorimer) (Filed August 4, 2017)

Signature of Sponsoring Supervisor:

For Clerk's Use Only