



SAN FRANCISCO PLANNING DEPARTMENT

February 15, 2013

Ms. Angela Calvillo, Clerk
Honorable Supervisor Chiu
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

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

Reception:
415.558.6378

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415.558.6409

Planning
Information:
415.558.6377

**Re: Transmittal of Planning Department Case Number 2013.0050TZ:
1731 Powell Street
T Case: Planning Code Text Amendment – Adoption of “Central Subway
Tunnel Boring Machine Extraction Site Special Use District”
Z Case: Rezoning (Height Reclassification)
Planning Commission Recommendation: *Approval with Modifications***

Dear Ms. Calvillo and Supervisor Chiu:

On February 14, 2013, the Planning Commission conducted a duly noticed public hearing to consider proposed amendments to the Zoning Map and the Planning Code, in association with a proposed development located at 1731 Powell Street to demolish the existing vacant movie theater (formerly known “Palace” or “Pagoda” Theater), and construct a new five-story over basement mixed-use building containing up to 18 dwelling units, a restaurant measuring approximately 4,700 square feet, and up to 27 off-street parking spaces. Following demolition of the existing building, and prior to the construction of the new mixed-use building, the site would be utilized for extraction of a tunnel boring machine associated with the Central Subway project.

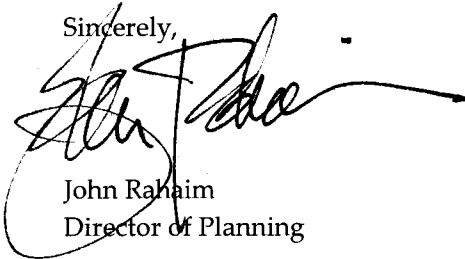
The proposed Ordinance would do the following:

1. Zoning Map Amendment: Proposal would amend Zoning Map HT01 to reclassify the subject property from the 40-X Height and Bulk District to the 55-X Height and Bulk District, and would amend Zoning Map SU01 to establish the “Central Subway Central Subway Tunnel Boring Machine Extraction Site Special Use District” on the subject property.
2. Planning Code Text Amendment: Proposal would add the “Central Subway Central Subway Tunnel Boring Machine Extraction Site Special Use District” to the Planning Code, which would modify specific Planning Code regulations including off-street parking, rear yard, ground-floor ceiling heights, dwelling unit exposure, signage, height, allowing a restaurant use at the property, and maximum non-residential use size.

At the February 14, 2013 Planning Commission hearing, the Commission voted to recommend approval of the proposed Ordinance.

Please find attached documents relating to the action of the Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "John Rahaim", with a long horizontal flourish extending to the right.

John Rahaim
Director of Planning

cc:

Supervisor David Chiu
Jon Givner, City Attorney
Audrey Pearson, City Attorney
Jason Elliot, Mayor's Director of Legislative & Government Affairs
Alicia Jean-Baptiste, SFMTA

Attachments (two hard copies of the following):

Planning Commission Resolution
Draft Ordinance
Planning Department Executive Summary



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

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Planning Commission Resolution 18805 Zoning Map Amendment Zoning Text Amendment HEARING DATE: FEBRUARY 14, 2013

Date: January 31, 2012
Case No.: **2013.0050CTZ**
Project Address: **1731 Powell Street**
Zoning: North Beach Neighborhood Commercial District
North Beach Special Use District
North Beach Financial Service, Limited Financial Service, and Business or
Professional Service Subdistrict
40-X Height and Bulk District
Block/Lot: 0101/004
Project Sponsor: Brett Gladstone
177 Post Street, Penthouse
San Francisco, CA 94108
Staff Contact: Kevin Guy – (415) 558-6163
kevin.guy@sfgov.org

RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING THAT THE BOARD OF SUPERVISORS AMEND ZONING MAP SHEET HT01 TO RECLASSIFY THE PROPERTY AT 1731 POWELL STREET, BLOCK 0101, LOT 004, FROM THE 40-X HEIGHT AND BULK DISTRICT TO THE 55-X HEIGHT AND BULK DISTRICT, AND RECOMMENDING THAT THE BOARD OF SUPERVISORS AMEND ZONING MAP SHEET SU01 AND THE TEXT OF THE PLANNING CODE TO ADOPT THE "CENTRAL SUBWAY TUNNEL BORING MACHINE EXTRACTION SITE SPECIAL USE DISTRICT", AND ADOPTING FINDINGS THAT THE PROPOSED AMENDMENT TO THE PLANNING CODE IS CONSISTENT WITH THE OBJECTIVES AND POLICIES OF THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF SECTION 101.1(b) OF THE PLANNING CODE.

RECITALS

1. **WHEREAS**, the San Francisco Municipal Transportation Agency ("SFMTA") is constructing a continuation of the T-Third Light Rail Vehicle line from the Caltrain Station at Fourth and King Street to an underground station in Chinatown to create a critical transportation improvement linking neighborhoods in the southeastern portion of San Francisco with the retail and employment centers in the City's Downtown and Chinatown neighborhoods.

2. **WHEREAS**, Construction of the subway portion of the extension, from underneath Interstate 80 to the Chinatown Station, requires the use of two tunnel boring machines. The Project originally included plans to remove the tunnel boring machines from a location in North Beach in the right-of-way of Columbus Avenue, between Powell Street and Union Street, approximately 2000 feet beyond the Chinatown Station. Retrieval of the machines from Columbus Avenue will require closing two lanes of Columbus Avenue for almost a year. After further consideration, and in order to avoid the traffic disruptions caused by the original retrieval location, the SFMTA proposes to change the location where the tunnel boring machines are retrieved to an off-street location at 1731 Powell Street.
3. **WHEREAS**, The proposed new location for the removal of the machines is currently occupied by the former Pagoda Palace, or Pagoda Theater. The Pagoda Palace is a former movie and live performance theater built around 1908. The building is approximately 55 feet tall. The building height is consistent with other building heights in the same block where it is located, including the height of the building directly adjacent to the Pagoda Palace to the south; however, it exceeds the current height limit in the area, which is 40 feet. The building has been officially closed since 1994, is currently vacant.
4. **WHEREAS**, On January 8, 2009, the San Francisco Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2007.1117C, which proposed to rehabilitate the existing vacant movie theater and convert the building to up to 18 dwelling units, a restaurant measuring approximately 4,000 square feet, an additional ground-floor commercial space measuring approximately 1,000 square feet, and 27 off-street parking spaces located at 1731 Powell Street (Motion No. 17797). On October 28, 2010, the Commission approved an amendment to Conditional Use Application No 2007.1117C, allowing the project to satisfy the Inclusionary Affordable Housing requirements of Planning Code Section ("Section") 415 through the payment of an in-lieu fee rather than through the construction of off-site affordable dwelling units (Motion No. 18204). The project was determined to be categorically exempt under the California Environmental Quality Act (CEQA) (collectively, "Rehabilitation Project").
5. **WHEREAS**, In order to accommodate the proposed modification to the Central Subway Project tunnel boring machine extraction site, Brett Gladstone ("Project Sponsor") acting on behalf of Joel Campos ("Property Owner") proposes a development project on a site at 1731 Powell Street (Lot 004 of Assessor's Block 0101) to demolish the existing Pagoda Palace, and construct a substantially similar project to the Rehabilitation Project – to wit a new five-story over basement mixed-use building containing up to 18 dwelling units, a restaurant measuring approximately 4,700 square feet, and up to 27 off-street parking spaces. Following demolition of the existing building, and prior to the construction of the new mixed-use building, the site would be utilized for extraction of the tunnel boring machines associated with the Central Subway project (Case No. 2013.0050C, collectively "Project").
6. **WHEREAS**, In order for the Project to proceed, a reclassification of the height district of the Project Site would be required, as shown on Sheet HT01 of the Zoning Map of the City and County of San Francisco ("Zoning Map"), from the existing 40-X Height and Bulk District to a height limit of 55 feet. In addition, a Special Use District ("SUD") would need to be adopted to enable the construction of

the proposed Project in a manner similar to the configuration and program of uses envisioned by the previously-approved Rehabilitation Project, after the existing building is demolished to allow the extraction of the boring machines utilized for the Central Subway project. Specifically, the previously-approved Rehabilitation Project would have consisted of a seismic/structural retrofit, and would not have constituted structural demolition. As an alteration of a non-complying structure, and not demolition, the approved project would comply with the applicable zoning regulations relative to building height, which allows altered non-conforming buildings to remain at their current height. However, use of the site by the Central Subway to remove the tunnel boring machines will require the demolition of the structure in order to provide the necessary construction access.

7. **WHEREAS**, Since the time that the Planning Commission approved the Rehabilitation Project, several Planning Code provisions have been added or amended which, if applicable to the project site, would trigger additional restrictions on the ability of the project sponsor to construct the Rehabilitation Project.. These restrictions would not apply to the previously approved Rehabilitation Project.
8. **WHEREAS**, On January 8, 2013, the San Francisco Board of Supervisors (“Board”) introduced legislation to amend Zoning Map HT01 to reclassify the subject property from the 40-X Height and Bulk District to the 50-X Height and Bulk District, and to amend Zoning Map SU01 and the text of the Planning Code to establish the “Central Subway Tunnel Boring Machine Extraction Site” SUD on the property. The proposed SUD would modify specific Planning Code regulations related to off-street parking, rear yard, ground-floor ceiling heights, dwelling unit exposure, signage, allowing a restaurant use at the property, and other provisions of the Planning Code. On January 29, 2013, the Board of Supervisors introduced substitute legislation which would reclassify the Height and Bulk District to the 55-X Height and Bulk District, and in addition to the Planning Code modifications found in the January 8 legislation, would also modify a Planning Code regulation regarding non-residential use size.
9. **WHEREAS**, Adoption of the SUD and approval of the Height Reclassification would enable the construction of the proposed Project in a manner similar to the configuration and program of uses envisioned by the previously-approved Rehabilitation Project, after the existing building is demolished to allow the extraction of the boring machines utilized for the Central Subway project.
10. **WHEREAS**, The proposed Project will promote the public necessity, convenience, and general welfare in that it will facilitate the Central Subway project by providing a boring machine extraction site located outside of the public right-of-way, avoiding substantial disruptions for pedestrian and vehicular movement. In addition, the Project would create housing opportunities within a walkable, urban context in an area well-served by transit, and would establish a restaurant that provides new dining options and activates the adjacent sidewalk.
11. **WHEREAS**, On August 7, 2008, in Motion 17668, the Planning Commission reviewed and considered the Central Subway/Third Street Light Rail Phase 2 Final Supplemental Environmental Impact Statement/Final Supplemental Environmental Impact Report (“Final SEIS/SEIR”) and found that the contents of said report and the procedures through which the SEIS/SEIR was prepared, publicized,

and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) (CEQA), 14 California Code of Regulations Sections 15000 et seq. (the "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The Commission found the SEIS/SEIR was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Commission, and approved the SEIS/SEIR for the Central Subway Project in compliance with CEQA, the CEQA Guidelines and Chapter 31. The Planning Department, Jonas Ionin, is the custodian of records, located in the File for Case No. 1996.281E, at 1650 Mission Street, Fourth Floor, San Francisco, California. Department staff prepared a Mitigation Monitoring and Reporting program, which material was made available to the public and the Commission for the Commission's review, consideration, and action.

12. **WHEREAS**, on August 19, 2008, in Resolution 08-150, the San Francisco Municipal Transportation Agency Board of Directors approved the Central Subway project, including the North Beach Construction Variant which included retrieval of the tunnel boring machines from the right of way on Columbus Avenue, and adopted CEQA findings, including a statement of overriding considerations and a mitigation monitoring and reporting program as required by CEQA.
13. **WHEREAS**, On January 31, 2013, the Department prepared and published an Addendum to the previously-certified Final EIR which determined that the revisions to incorporate the proposed Project, would not cause and new significant impacts not identified in the original Final SEIS/SEIR (Case No. 1996.281E).
14. **WHEREAS**, The Project would affirmatively promote, be consistent with, and would not adversely affect the General Plan, including the following objectives and policies, for the reasons set forth set forth in Item #10 of Motion No. 18807, Case #2013.0050C, which are incorporated herein as though fully set forth.
15. **WHEREAS**, The Project complies with the eight priority policies of Planning Code Section 101.1, for the reasons set forth set forth in Item #11 of Motion No. 18807, Case #2013.0050C, which are incorporated herein as though fully set forth.
16. **WHEREAS**, A proposed ordinance, attached hereto as Exhibit A, has been prepared in order to make the amendment to the Sheet HT01 of the Zoning Map by changing the height and bulk district for the Project Site, from the existing 40-X Height and Bulk District to a height limit of 55 feet. The proposed ordinance would also amend Zoning Map SU01 and the text of the Planning Code to establish the "Central Subway Tunnel Boring Machine Extraction Site" SUD on the property.
17. **WHEREAS**, the Office of the City Attorney has approved the proposed ordinance as to form.
18. **WHEREAS**, Section 4.105 of the San Francisco Charter and Section 302 of the Planning Code require that the Commission consider any proposed amendments to the City's Zoning Maps or Planning Code, and make a recommendation for approval or rejection to the Board of Supervisors before the Board of Supervisors acts on the proposed amendments.

19. **WHEREAS**, On February 14, 2013, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the Proposed Zoning Map Amendment and Zoning Text Amendment.

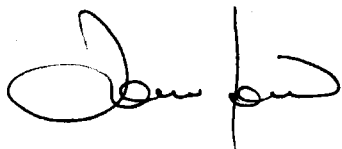
20. **WHEREAS**, The Commission has had available to it for its review and consideration studies, case reports, letters, plans, and other materials pertaining to the Project contained in the Department's case files, and has reviewed and heard testimony and received materials from interested parties during the public hearings on the Project.

NOW, THEREFORE BE IT RESOLVED THAT, in accordance with the actions contemplated herein, the Commission has reviewed the Final SEIS/SEIR and the Addendum, and adopts and incorporates by reference as though fully set forth herein the findings, including the mitigation monitoring and reporting program, adopted by the San Francisco Municipal Transportation Agency Board of Directors in Resolution 08-150 on August 19, 2008. The Board further finds that there is no need to prepare a subsequent environmental impact report under CEQA Guidelines Section 15162 for the actions contemplated herein; and;

BE IT FURTHER RESOLVED THAT, the Commission finds, based upon the entire Record, the submissions by the Applicant, the staff of the Department, and other interested parties, the oral testimony presented to the Commission at the public hearing, and all other written materials submitted by all parties, that the public necessity, convenience and general welfare require that Sheet HT01 of the Zoning Maps be amended to reclassify the height limit for the property from the existing 40-X Height and Bulk District to a height limit of 55 feet, and to amend Zoning Map SU01 and the text of the Planning Code to establish the "Central Subway Tunnel Boring Machine Extraction Site" SUD on the property, as proposed in Application No. 2013.0050TZ; and,

BE IT FURTHER RESOLVED THAT, the Planning Commission recommends the Board of Supervisors approve the proposed Zoning Map Amendment and Planning Code Text Amendment.

I hereby certify that the foregoing Resolution was ADOPTED by the Planning Commission at its regular meeting on February 14, 2013.



Jonas P. Ionin
Acting Commission Secretary

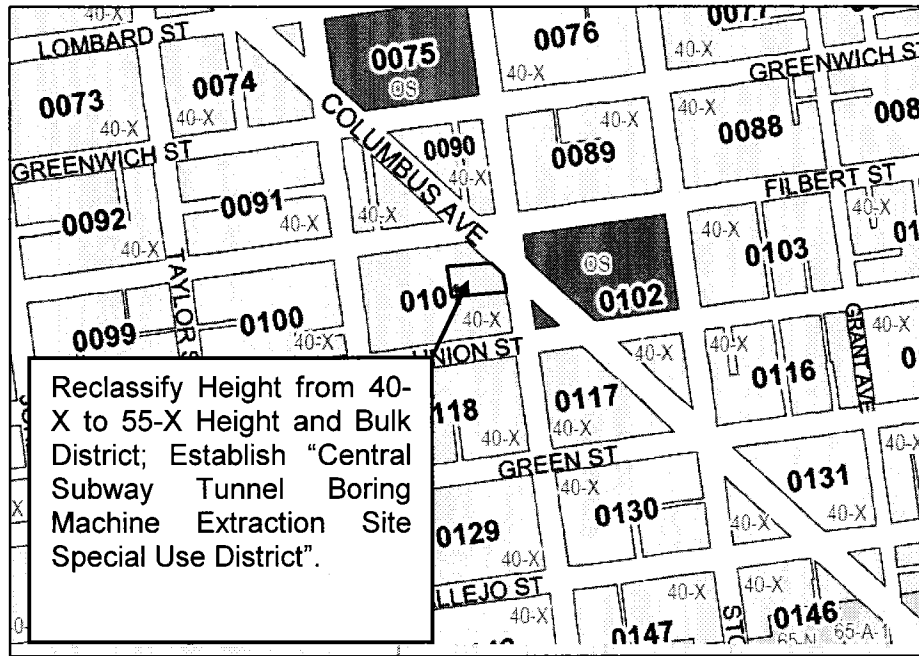
AYES: Fong, Antonini, Borden, Hillis

NOES: Moore, Sugaya

ABSENT: Wu

ADOPTED: February 14, 2013

Proposed Zoning Map Amendments



1 [Planning Code and Zoning Map – Central Subway Tunnel Boring Machine Extraction Site
2 Special Use District]

3 **Ordinance amending the San Francisco Planning Code by adding section 249.70 to**
4 **create the Central Subway Tunnel Boring Machine Extraction Site Special Use District**
5 **for the property located at Assessor’s Block No. 0101, Lot No. 004, known as 1731-1741**
6 **Powell Street, to facilitate the removal of the tunnel boring machines used in the**
7 **construction of the Central Subway Project and to allow the construction of an**
8 **previously approved mixed-use residential/retail building; amending Sectional Maps HT**
9 **01 and SU 01 of the San Francisco Zoning Maps to reflect the Central Subway Tunnel**
10 **Boring Machine Extraction Site Special Use District; adopting findings, including**
11 **environmental findings and findings of consistency with General Plan.**

12 NOTE: Additions are *single-underline italics Times New Roman*;
13 deletions are ~~*strike-through italics Times New Roman*~~.
14 Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

15 Be it ordained by the People of the City and County of San Francisco:

16
17 Section 1. General

18 (a) The San Francisco Municipal Transportation Agency (SFMTA) is constructing a
19 continuation of the T-Third Light Rail Vehicle line from the Caltrain Station at Fourth and King
20 Streets to an underground station in Chinatown (the "Project") to create a critical
21 transportation improvement linking neighborhoods in the southeastern portion of the City and
22 County of San Francisco (the "City") with the retail and employment centers in the City's
23 downtown and Chinatown neighborhoods.

24 (b) The Project will provide direct rail service to regional destinations, including the
25 City's Chinatown, Union Square, Moscone Convention Center, Yerba Buena, SoMa and

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1 AT&T Park neighborhoods; connect BART and Caltrain; serve a low-auto-ownership
2 population of transit customers; increase transit use and reduce travel time; reduce air and
3 noise pollution and provide congestion relief.

4 (c) Construction of the subway portion of the extension, from underneath Interstate
5 80 to the Chinatown Station, requires the use of two tunnel boring machines. The Project
6 originally included plans to remove the tunnel boring machines from a location in North Beach
7 in the right-of-way of Columbus Avenue, between Powell Street and Union Street,
8 approximately 2000 feet beyond the Chinatown Station. Retrieval of the machines from
9 Columbus Avenue will require closing two lanes of Columbus Avenue for almost a year. After
10 further consideration, and in order to avoid the traffic disruptions caused by the original
11 retrieval location, the SFMTA proposes to change the location where the tunnel boring
12 machines are retrieved to an off-street location at 1731-1741 Powell Street.

13 (d) The proposed new location for the removal of the machines is currently
14 occupied by the former Pagoda Palace, or Pagoda Theater. The Pagoda Palace is a former
15 movie and live performance theater built around 1908. The building is approximately 56 feet
16 tall. The building height is consistent with other building heights in the same block where it is
17 located, including the height of the building directly adjacent to the Pagoda Palace to the
18 south; however, it exceeds the current height limit in the area, which is 40 feet. The building
19 has been officially closed since 1994, is currently vacant.

20 (e) On January 8, 2009, in Motion number 17797, the San Francisco Planning
21 Commission approved a conditional use authorization to allow the building to be converted
22 from a movie theater use to a mixed-use residential, parking and ground floor retail project
23 with basement parking. The Planning Commission approved an amended conditional use
24 authorization on October 28, 2010, in Motion number 18204, which did not alter the project,
25

1 but allowed the project sponsor to change the method by which the project sponsor complied
2 with the City's affordable housing requirements.

3 (f) As approved by the Planning Commission in Motion numbers 17797 and 18204,
4 the reuse of 1731-1741 Powell as a mixed-use residential and retail project would have
5 consisted of a seismic/structural retrofit, and would not have constituted structural demolition.
6 As an alteration of a non-complying structure, and not demolition, the approved project would
7 comply with the applicable zoning regulations relative to building height, which allows altered
8 non-conforming buildings to remain at their current height. However, use of the site by the
9 Central Subway to remove the tunnel boring machines will require the demolition of the
10 structure in order to provide the necessary construction access. This Ordinance will allow the
11 Central Subway to demolish the non-complying structure while preserving the ability of the
12 project sponsor to construct the previously approved mixed-use residential/retail use, which
13 included a building consistent with the previously existing height. By adopting a special use
14 district exclusively for the site, the 40 foot height limit remains applicable for other parcels in
15 the area.

16 (g) In addition, since the time that the Planning Commission approved Motions
17 17797 and 18204, several Planning Code provisions have been added or amended which, if
18 applicable to the project site, would trigger additional restrictions on the ability of the project
19 sponsor to construct the previously approved project. These restrictions would not apply to the
20 previously approved project. This Ordinance would allow the construction of the previously
21 approved project without requiring compliance with these later enacted Planning Code
22 provisions.

23 Section 2. Findings.

24 (a) On August 7, 2008, the City's Planning Commission certified that the Final
25 Supplemental Environmental Impact Statement/Supplemental Environmental Impact Report

1 ("Final Supplemental EIS/EIR") for the Central Subway/Third Street Light Rail Phase 2
2 ("Central Subway") was in compliance with the California Environmental Quality Act,
3 (California Public Resources Code section 21000, *et seq*) ("CEQA"), the CEQA Guidelines,
4 and Administrative Code Chapter 31 in Planning Commission Motion No. 17668. The Final
5 Supplemental EIS/EIR and Motion No. 17668 are on file with the Clerk of the Board of
6 Supervisors in File No. _____ and are incorporated by reference.

7 (b) On August 19, 2008, the SFMTA's Board of Directors, by Resolution No. 08-
8 150, approved the Project, and adopted CEQA Findings, including a Statement of Overriding
9 Considerations and a Mitigation Monitoring and Reporting Program (MMRP) as required by
10 CEQA. Resolution No. 08-150 is on file with the Clerk of the Board of Supervisors in File
11 No. _____ and is incorporated by reference.

12 (c) On September 16, 2008, the City's Board of Supervisors (this "Board") adopted
13 Motion No. 08-145, in Board File No. 081138, affirming the City's Planning Department
14 decision to certify the Final Supplemental EIS/EIR. Motion No. 08-145 is on file with the Clerk
15 of the Board of Supervisors in File No. _____ and is incorporated by reference.

16 (d) On _____, the City's Planning Department found in an Addendum to
17 the Final Supplemental EIS/EIR, that the proposed changes to the Project are not substantial
18 and would not require major revisions to the Final Supplemental EIS/EIR or result in
19 significant environmental impacts that were not evaluated in the Final Supplemental EIS/EIR;
20 and no new information has become available that was not known and could not have been
21 known at the time the Final Supplemental EIS/EIR was certified as complete and that would
22 result in significant environmental impacts not evaluated in the Final Supplemental EIS/EIR.

23 (e) In accordance with the actions contemplated herein, this Board has reviewed
24 the Final Supplemental EIS/EIR and the Addendum, and adopts and incorporates by
25 reference as though fully set forth herein the findings, including the mitigation monitoring and

1 reporting program, adopted by the Planning Commission on _____ in Motion
2 _____. The Board further finds that there is no need to prepare a subsequent
3 environmental impact report under CEQA Guidelines Section 15162 for the actions
4 contemplated herein.

5 (f) On _____, the Planning Commission conducted a duly noticed public
6 hearing on the proposed Zoning Map amendments and, by Resolution No. _____
7 recommended them for approval. The Planning Commission found that the proposed Zoning
8 Map amendments were, on balance, consistent with the City's General Plan, and with
9 Planning Code Section 101.1(b). A copy of said Resolution is on file with the Clerk of the
10 Board of Supervisors in File No. _____ and is incorporated herein by reference.

11 (g) The Board finds that these Zoning Map amendments are on balance consistent
12 with the General Plan and with the Priority Policies of Planning Code Section 101.1 for the
13 reasons set forth in Planning Commission Resolution No. _____ and the Board
14 hereby incorporates such reasons herein by reference.

15 (h) Pursuant to Planning Code Section 302, the Board finds that the proposed
16 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in
17 Planning Commission Resolution No. _____, which reasons are incorporated by reference
18 as though fully set forth.

19

20 Section 3. The San Francisco Planning Code is hereby amended by adding Section
21 249.70 to read as follows:

22 Section 249.70 Central Subway Tunnel Boring Machine Extraction Site Special Use District

23 (a) Purposes. In order to facilitate the removal of the tunnel boring machines used to
24 construct the Central Subway Project from an off-street location at 1731-1741 Powell Street while
25 allowing the construction of a mixed-use residential and ground floor retail building in substantial

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1 conformity to a mixed-use residential/retail project conditionally authorized in 2009 and 2010, there
2 shall be a special use district known as the Central Subway Tunnel Boring Machine Extraction Site
3 Special Use District, as designated on Sectional Map No. 1SU of the Zoning Map of the City and
4 County of San Francisco.

5 (b) Controls: All otherwise applicable provisions of the Planning Code shall apply to this
6 Special Use District, except as specifically provided in this Section 249.70:

7 (1) Restaurant Use: Section 780.3, prohibiting new restaurants in specified locations, shall
8 not apply in this Special Use District.

9 (2) Use Size: In this District, the maximum use size in the North Beach Neighborhood
10 Commercial District found in Section 121.2(b) shall be 5,000 square feet.

11 (3) Parking: Notwithstanding any other provision of this Code, no more than one parking
12 space per dwelling unit, up to .5 accessory spaces per dwelling unit, and up to 3 accessory parking
13 spaces for non-residential uses, up to a total maximum of 27 spaces, shall be allowed.

14 (4) Rear Yard. The provisions of Section 134 shall not apply in this District.

15 (5) Ground Floor Ceiling Heights. Notwithstanding the provisions of section 145.1, ground
16 floor non-residential uses in this District shall have a minimum floor-to-floor height of 8.5 feet.

17 (6) Exposure. The requirements of Section 140 shall not apply. Any dwelling unit shall
18 either face onto a public street or a lightwell measuring at least 25 feet.

19 (7) Demolition. Notwithstanding any other provision in this Code, in this District, an
20 application authorizing demolition of a building may be granted prior to final approval of a building
21 permit for construction of a replacement building, as long as the replacement building has been
22 conditionally authorized.

23 (8) Height and Bulk. The height and bulk applicable to this Special Use District shall be
24 55-X, provided, however, that in no case shall the height of any new structure exceed the height of the
25 existing Pagoda Palace structure. For purposes of measurement of height in this District, the height of

1 a projecting business sign shall be exempt, provided that such sign is the reconstruction or
 2 rehabilitation of an existing projecting movie theater blade sign as provided in Section 9 herein. Prior
 3 to demolition of the existing structure, the owner or owners authorized agent shall prepare and submit
 4 to the Planning Department a detailed survey, including elevations and sections, which accurately
 5 dimension the height of the existing theater building, including the heights of all rooftop features.

6 (9) Signage. The existing Pagoda Palace’s projecting movie theater blade sign provided a
 7 prominent visual landmark within the North Beach Neighborhood Commercial District. In order to
 8 preserve this visual landmark, any new structure in the Special Use District shall include as an
 9 architectural element, a reconstructed projecting movie theater blade sign in general conformity with
 10 the overall design, scale and character of the existing movie theater sign.

11 (10) Streetscape and Pedestrian Improvements. The requirements of Section 138.1(c)(1)
 12 shall apply.

13 (c) Fees. The provisions of Section 352 shall apply to this District, provided however, that if
 14 the Planning Commission has approved a conditional use authorization for a substantially similar
 15 project within the previous 4 years of the effective date of this ordinance, such fees shall be waived.

16 (d) Sunset Provision. This Section 249.70 shall be repealed 5 years after its initial effective
 17 date unless the Board of Supervisors, on or before that date, extends or re-enacts it.

18
 19 Section 4. The San Francisco Planning Code is hereby amended by amending
 20 Sectional Map HT01 of the Zoning Map of the City and County of San Francisco, as follows:

<u>Description of Property</u>	<u>Height and Bulk</u> <u>Districts to be Superseded</u>	<u>Height and Bulk</u> <u>Districts Hereby Approved</u>
Assessor's Block/Lot 0101/04	40-X	55-X

1 Section 5. The San Francisco Planning Code is hereby amended by amending
2 Sectional Map SU01 of the Zoning Map of the City and County of San Francisco, as follows:

<u>Description of Property</u>	<u>Special Use District Hereby Approved</u>
Assessor's Block/Lot 0101/04	Central Subway Tunnel Boring Machine Extraction Site Special Use District

7
8 Section 6. This section is uncodified. Effective Date and Operative Date. This
9 ordinance shall become effective 30 days from the date of passage. This Ordinance shall
10 become operative only upon the later of 30 days from the date of passage or the date that a
11 lease authorized by SFMTA Resolution _____, regarding use of 1731 Powell for
12 extraction of the tunnel boring machines for the Central Subway project, becomes effective. A
13 copy of said Resolution is on file with the Board of Supervisors in Board File Number
14 _____.

15 Section 7. This section is uncodified. In enacting this Ordinance, the Board intends
16 to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
17 punctuation, charts, diagrams, or any other constituent part of the Planning Code that are
18 explicitly shown in this legislation as additions, deletions, Board amendment additions, and
19 Board amendment deletions in accordance with the "Note" that appears under the official title
20 of the legislation.

21
22 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

23
24 By: _____
Audrey Pearson
25 Deputy City Attorney

Supervisor Chiu
BOARD OF SUPERVISORS



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use Height Reclassification Zoning Text Amendment

HEARING DATE: FEBRUARY 7, 2013

Date: January 31, 2012
Case No.: **2013.0050CTZ**
Project Address: **1731 Powell Street**
Zoning: North Beach Neighborhood Commercial District
North Beach Special Use District
North Beach Financial Service, Limited Financial Service, and Business or
Professional Service Subdistrict
40-X Height and Bulk District
Block/Lot: 0101/004
Project Sponsor: Brett Gladstone
177 Post Street, Penthouse
San Francisco, CA 94108
Legislation Sponsor: David Chiu, District 3 Supervisor
Staff Contact: Kevin Guy – (415) 558-6163
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Recommendation: **Approval with Conditions**

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PROJECT DESCRIPTION

The applicant proposes to demolish the existing vacant movie theater (formerly known “Palace” or “Pagoda” Theater), and construct a new five-story over basement mixed-use building containing up to 18 dwelling units, a restaurant measuring approximately 4,700 square feet, and up to 27 off-street parking spaces. Following demolition of the existing building, and prior to the construction of the new mixed-use building, the site would be utilized for extraction of a tunnel boring machine associated with the Central Subway project.

A project was previously approved for the subject property (Case No. 2007.1117C; Motion No. 17797, adopted on January 8, 2009, and amended by Motion No. 18204, adopted on October 28, 2010), to rehabilitate the existing theater and convert the building to a similar program of uses as the mixed-use building proposed by this application.

SITE DESCRIPTION AND PRESENT USE

The project is located on the southwest corner of the intersection of Columbus Avenue and Powell Street, Assessor’s Block 0101, Lot 004. The property is located within the North Beach NCD Neighborhood Commercial District (NCD), the 40-X Height and Bulk District, the North Beach Special Use District, and the North Beach Financial Service, Limited Financial Service, and Business or Professional Service Subdistrict. The property is historically known as the Palace and the Pagoda Theaters. The subject

property is a corner lot, with approximately 40 feet of frontage on Columbus Avenue and 58 feet of frontage on Powell Street. The existing building that is proposed for demolition has full lot coverage.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The project site is located at the intersection of Powell Street and Columbus Avenue within the North Beach NCD and directly across the street from Washington Square Park. The North Beach NCD is a generally linear district situated along Columbus Avenue between Grant Avenue and Francisco Street. The District hosts a mixture of commercial establishments, but is heavily oriented toward restaurants, including a number of larger restaurants such as Original Joe’s (measuring approximately 7,800 square feet), Park Tavern (measuring approximately 7,200 square feet), and Fior D’ Italia (measuring approximately 6,000 square feet). The surrounding area is mixed-use in character. A variety of commercial establishments are located within ground floor storefronts in the vicinity, including restaurants, financial institutions, apparel stores, and other types of retailers. Upper floors of buildings are generally occupied by offices, residential units, or tourist-hotels. Other nearby uses include the Church of Saint Peter and Paul and the Saint Francis of Assisi Church.

ENVIRONMENTAL REVIEW

On August 7, 2008, the Planning Commission certified the Central Subway/Third Street Light Rail Phase 2 Final Supplemental Environmental Impact Statement/Final Supplemental Environmental Impact Report (“Final SEIS/SEIR”).

On January 31, 2013, the Department prepared and published an Addendum to the previously-certified Final EIR which determined that revisions to incorporate the proposed Project, would not cause and new significant impacts not identified in the original Final SEIS/SEIR (Case No. 1996.281E).

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	January 18, 2013	January 18, 2013	20 days
Posted Notice	20 days	January 18, 2013	January 18, 2013	20 days
Mailed Notice	20 days	January 18, 2013	January 16, 2013	22 days

The proposal requires a Section 312-neighborhood notification, which was conducted in conjunction with the conditional use authorization process.

PUBLIC COMMENT

- To date, the Department has received six communications in support of the project, and no letters in opposition.

ISSUES AND OTHER CONSIDERATIONS

- The project will facilitate the Central Subway project by providing a site for the extraction of the tunnel boring machines used to tunnel the subway alignment. Prior to the construction of the new building, the existing vacant theater would be demolished and the boring machine would be removed at the subject property. Extracting the boring machine at this site would avoid the

substantial disruption to pedestrian and vehicular traffic that would result by extracting the boring machine within the public right-of-way of Columbus Avenue.

- The Planning Commission previously approved a project to rehabilitate the existing vacant theater building on the site, and convert the building to a similar program of uses as the mixed-use building proposed by this application. The Zoning Administrator also granted variances from Planning Code regulations for rear yard and dwelling unit exposure in association with the rehabilitation project.

The project proposes to construct the new building at the same height and configuration as the previously-approved rehabilitation project. However, because the project involves new construction, it is subject to several aspects of the Planning Code that were not addressed by the previous approval for rehabilitation. The Board of Supervisors has introduced legislation that would enable the construction of the project in a manner similar to the previously-approved rehabilitation of the theater building.

Specifically, the property is proposed for a height reclassification from the 40-X to the 55-X Height and Bulk District, because the existing theater building exceeds the 40-foot height limit. The height and roofline profile of the new building would not exceed the height of the previously-approved rehabilitation project.

In addition, the proposed “Central Subway Tunnel Boring Machine Extraction Site Special Use District” (SUD) would modify specific Planning Code regulations related to off-street parking, rear yard, ground-floor ceiling heights, dwelling unit exposure, signage, allowing a restaurant use at the property, and maximum non-residential use size, as follows:

- Rear Yard – Section 134 would require a rear yard on the property equal to 25% of the depth of the lot. The Project proposes to construct within the same general footprint and configuration as the existing vacant theater, which covers the entire lot and does not provide a Code-complying rear yard. It should be noted that the subject block is generally occupied by buildings with full-lot coverage, and does not exhibit a strong pattern of mid-block open space that is intended by the rear yard requirements of the Code. The Project includes private terraces for each of the dwelling units, creating ample exterior open space for the use of residents that might ordinarily be satisfied by a Code-complying rear yard. The proposed SUD would exempt the project from strict compliance with the rear yard requirements of Section 134.
- Dwelling Unit Exposure - Section requires each unit to face directly onto a public street or an open area (whether an inner court or a space between separate buildings on the same lot) which is unobstructed and is no less than 25 feet in every horizontal dimension for the floor at which the dwelling unit is located and the floor immediately above it, with an increase of five feet in every horizontal dimension at each subsequent floor. Several of the units toward the interior of the property do not face onto an area that meets the exposure requirements of the Code. However, the interior units face onto inner courtyards to be inserted on the north and south sides of the building. These courtyards measure 25-feet in every direction. The proposed SUD would exempt the project from strict compliance with the dwelling unit exposure requirements of Section 140.

- Blade Sign - The height of the blade sign, which exceeds the roof height of the existing building, would not be permitted by the existing sign regulations of Article 6. The Project Sponsor has indicated, as shown in the proposed plans, that the new building will include a new blade sign that is comparable to the size and character of the existing blade sign. The proposed SUD would exempt the blade sign from the height limitation which applies to the property.
 - Ground-floor Ceiling Heights - Section 145.1(c)(4) requires that non-residential ground-floor uses within NC Districts provide a minimum floor-to-floor height of 14 feet. The floor-to-floor heights within portions of the ground-floor restaurant space measure approximately 10 feet, and do not strictly comply with the requirements of Section 145.1(c)(4). However, the ceiling heights must be limited in order for the overall structure to fit within the height and roof profile of the existing vacant theater building. Therefore, the proposed SUD would exempt the project from the ceiling height requirements of Section 145.1(c)(4).
 - Restaurant Use – Section 780.3 (the North Beach SUD) prohibits a restaurant from being located within a space that is currently or last occupied by a Basic Neighborhood Sale or Service. The proposed SUD would exempt the project from this prohibition, allowing the proposed restaurant to seek Conditional Use authorization.
 - Non-Residential Use Size - Section 121.2 limits nonresidential uses to a maximum of 4,000 square feet within the North Beach NCD. The Project Sponsor is requesting conditional use authorization for the proposed restaurant, which would measure approximately 4,700 square feet. The proposed SUD (as amended by substitute legislation introduced on January 29, 2013) would exempt the subject property from the maximum 4,000 square-foot nonresidential use size limit, in order to accommodate the proposed restaurant size.
- The SUD would apply only to the subject property, would only become effective once a lease for use of the site is authorized by the SFMTA, and would sunset five years from the initial effective date, unless extended by the Board of Supervisors.
 - The project has been designed to respect the overall character, massing, and scale of the district. It follows the Art Deco and Moderne motifs found on other buildings within the neighborhood and its massing and scale is identical to its previous use as a movie theater. The historic blade sign will be rehabilitated as part of the proposal and will continue as a prominent visual landmark within the North Beach NCD.
 - The Commerce and Industry Element of the General Plan contains Guidelines that discourage the overconcentration of eating and drinking establishments within NCD's. The North Beach NCD is characterized by a large number of restaurants, However, the proposed restaurant would be located within a newly constructed building which replaces a theater that has been vacant for over 20 years. Therefore, the restaurant will not displace an existing business, or occupy an

existing storefront which could otherwise be used for a neighborhood serving, non-restaurant use.

- The proposed restaurant is not a Formula Retail use and would serve the immediate neighborhood. The proposal requires a Section 312-neighborhood notification, which was conducted in conjunction with the conditional use authorization process.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant Conditional Use authorization to allow development of a lot greater than 5,000 square feet (Section 121.1), non-residential uses greater than 2,000 square feet (Section 121.2), demolition of a movie theater use (Section 221.1), and establishment of a restaurant use, including a Type 47 ABC License to provide beer, wine, and/or liquor in a Bona Fide Eating Place (Sections 722.44 and 790.142). In addition, the Commission would need to make a recommendation regarding the proposed height reclassification from the 40-X Height and Bulk District to the 55-X Height and Bulk District, as well as the adoption of the "Central Subway Tunnel Boring Machine Extraction Site Special Use District", as introduced at the Board of Supervisors on January 8, 2013, and in substitute legislation introduced on January 29, 2013.

BASIS FOR RECOMMENDATION

- The project would facilitate the Central Subway project by providing a tunnel boring machine extraction site located outside of the public right-of-way, avoiding substantial disruptions for pedestrian and vehicular movement.
- The project would create housing opportunities within a walkable, urban context in an area well-served by transit.
- The project would not displace an existing retail tenant providing convenience goods and services to the neighborhood.
- The project would meet all applicable requirements of the Planning Code, pending the adoption of the proposed height reclassification and SUD.
- The project is desirable for, and compatible with the surrounding neighborhood.
- The business is not a Formula Retail use and would serve the immediate neighborhood.

RECOMMENDATION: Approval with Conditions
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Attachments:

Draft Conditional Use Authorization Motion
Draft Height Reclassification/Zoning Text Amendment Resolution
Addendum to Supplemental Environmental Impact Report
Block Book Map
Sanborn Map
Aerial Photographs
Public Correspondence
Project Sponsor Submittal

Attachment 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 checked="" type="checkbox"/> Environmental Determination | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u> |
| <input checked="" type="checkbox"/> Height & Bulk Map | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Parcel Map | <input type="checkbox"/> Wireless Telecommunications Materials |
| <input checked="" type="checkbox"/> Sanborn Map | <input type="checkbox"/> Health Dept. review of RF levels |
| <input checked="" type="checkbox"/> Aerial Photo | <input type="checkbox"/> RF Report |
| <input checked="" type="checkbox"/> Context Photos | <input type="checkbox"/> Community Meeting Notice |
| <input checked="" type="checkbox"/> Site Photos | <input type="checkbox"/> Housing Documents |
| | <input type="checkbox"/> Inclusionary Affordable Housing Program: Affidavit for Compliance |
| | <input type="checkbox"/> Residential Pipeline |

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

Planner's Initials

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