



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|--|--|
| <input type="checkbox"/> Inclusionary Housing (Sec. 315) | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 313) | <input type="checkbox"/> Child Care Requirement (Sec. 314) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 139) | <input type="checkbox"/> 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 Motion No. 17991

HEARING DATE: DECEMBER 3, 2009

Date: November 23, 2009
Case No.: **2009.0650C**
Project Address: **3936-3938 24th STREET**
Zoning: 24th Street - Noe Valley (Neighborhood Commercial District)
40-X Height and Bulk District
Block/Lot: 3654/044 and 045
Project Sponsor: Ben Baumann
1221 Harrison Street, Suite 22
San Francisco, CA 94103
Staff Contact: Sharon Lai – (415) 575-9087
sharon.lai@sfgov.org

ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 728.49, 790.110 AND 303 OF THE PLANNING CODE TO ALLOW A FINANCIAL SERVICE (D.B.A. "CIRCLE BANK") WITHIN THE 24th STREET – NOE VALLEY NCD (NEIGHBORHOOD COMMERCIAL DISTRICT) AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On July 16, 2009, Bruce Baumann (Project Sponsor) filed an application with the Department for Conditional Use Authorization under Planning Code Section 728.49, and 303 of the Planning Code to allow a financial service (d.b.a. "Circle Bank") within the 24th Street – Noe Valley NCD (Neighborhood Commercial District) and a 40-X Height and Bulk District.

On December 3, 2009, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2009.0650C.

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

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

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2009.0650C, 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 at 3936-3938 24th, the north side of 24th Street, between Sanchez and Noe Streets in the 24th Street – Noe Valley Neighborhood Commercial District and a 40-X Height and Bulk District. The proposed commercial space is located within a four-story mixed-use building that was constructed in 1998, with four-ground floor commercial spaces that all have frontage on 24th Street. The subject commercial storefronts were previously occupied by a salon and a video rental establishment, which have been vacant since late 2008. The other commercial spaces in the building are occupied by retail uses, "GNC" and "Lisa Violetto". The proposed commercial space occupies lots 044 and 045, and the subject building occupies lots 042-064.
3. **Surrounding Properties and Neighborhood.**

The Subject Property is located in the 24th Street – Noe Valley NCD, which is defined in Section 728.1 of the Planning Code, and situated along 24th Street between Chattanooga and Diamond Streets in the Noe Valley neighborhood of central San Francisco. This daytime-oriented, multi-purpose commercial district provides a mixture of convenience and comparison-shopping goods and services to a predominantly local market area. It contains a mix of retail sales, restaurants, bars, financial services, and personal services at the street level; some office uses at the second story level; and subsequent levels of occupancy are almost exclusively dedicated to residential use. The 24th Street – Noe Valley NCD controls are designed to allow for development that is compatible with the existing small-scale, mixed-use neighborhood commercial character and surrounding residential area.

The immediate neighborhood, located along 24th Street between Chattanooga and Diamond Streets, is predominantly formed by one-, two-, three-, and four-story mixed-use buildings. Uses in this District include but are not limited to financial services, business and professional services, personal services, restaurants, bars, retail stores, and specialty food stores. Dwelling-units are typically found above the commercial tenants, and the neighboring properties located off of 24th Street are primarily zoned RH-2, RH-3, and RM-1.

The span of 24th Street between Chattanooga and Diamond Streets contains approximately seven vacant commercial spaces, including the subject site. There are 10 businesses that would be classified as formula retail uses under Planning Code Section 703.3.

There are four other banks located within the District most of which have ATMs located at the pedestrian level. Sterling Bank and Trust (3800 24th Street), Chase (3998 24th Street), Wells Fargo (4045 24th Street) and Bank of America (4098 24th Street) are all financial services within the 24th – Noe Valley NCD.

The subject block is occupied by neighborhood serving uses such as Whole Foods Market and Chase Bank. The frontage across 24th Street is mainly occupied by restaurant and retail uses.

4. **Project Description.** The Project seeks to establish a new financial service (dba Circle Bank) on the adjacent commercial spaces of 3936-3938 24th Street (Assessor's Block No. 3654, Lots 044 and 045), pursuant to Sections 728.49, 790.110 and 303 of the Planning Code. The establishment will include one ATM along 24th Street that will be recessed 3-feet from the property-line. The subject commercial space is currently vacant.

The proposed financial service, Circle Bank, currently has 4 locations within the United States, which are all located within Marin County. According to the Circle Bank mission statement, the primary goal "is to champion the entrepreneurial goals and personal visions of our customers by delivering uncommonly friendly, responsive and respectful service and tailored financial solutions that empower them to reach their full economic potential, while providing a sustainable return to our shareholders, continuing opportunities for our employees and enriching the communities we serve."¹ In accordance with their mission statement, Circle Bank has expressed a commitment to becoming a part of the 24th Street - Noe Valley community and to "provide its unique services and support to the residents and businesses of San Francisco."²

5. **Public Comment.** The Department has 30 letters in support and is not aware of any opposition to this project.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Walk-up Facilities.** Planning Code Section 728.26 states that a walk-up facility is permitted if recessed 3-feet and a Conditional Use Authorization is required if the walk-up facility is not recessed, as defined by Planning Code Section 790.140.

The financial service establishment's ATM location is recessed a minimum of 3-feet from the property-line, and therefore is not subject to walk-up facility conditional use review under Code Section 728.26.

¹ Circle Bank, <https://www.circlebank.com/default.aspx>, November 16, 2009.

² Circle Bank Narrative, Exhibit B, dated August 5, 2009.

- B. **Hours of Operation.** Planning Code Section 728.27 of the Code allows hours of operation 6:00 AM to 2:00 AM as of right and required Conditional Use Authorization to operate between the hours of 2:00 AM and 6:00AM.

The project proposes to operate daily: Monday through Thursday from 8:30 a.m. to 5:30 p.m.; Friday from 8:30 a.m. to 6:00 p.m.; Saturday from 9:00 a.m. to 3:00 p.m.; and Sunday from 9:00 a.m. to 1:00 p.m.. The proposed hours of operation are within the time period permitted as of right.

- C. **Financial Service.** Planning Code Section 728.49 permits a financial service as a retail use at the first story with a Conditional Use Authorization.

The proposed financial service, Circle Bank, is to be located at the ground floor only.

- D. **24th Street – Noe Valley Neighborhood Commercial District.** Section 728.1 of the Planning Code defines the 24th Street - Noe Valley Neighborhood Commercial District as situated along 24th Street between Chattanooga and Diamond in the Noe Valley neighborhood of central San Francisco. This daytime-oriented, multi-purpose commercial district provides a mixture of convenience and comparison shopping goods and services to a predominantly local market area. It contains primarily retail sales and personal services at the street level, some office uses on the second story, and residential use almost exclusively on the third and upper stories.

The 24th Street - Noe Valley District controls are designed to allow for development that is compatible with the existing small-scale, mixed-use neighborhood commercial character and surrounding residential area. The small scale of new buildings and neighborhood-serving uses is encouraged and rear yard open space corridors at all levels are protected. Most commercial uses are directed to the ground story and limited at the second story of new buildings. In order to maintain the variety and mix of retail sales and services along the commercial strip and to control the problems of traffic, congestion, noise and late-night activity, certain potentially troublesome commercial uses are regulated. Additional eating and drinking establishments are prohibited, and ground-story entertainment and financial service uses are restricted to and at the ground story. Prohibitions on drive-up and most automobile uses help prevent additional traffic and parking congestion.

Housing development in new buildings is encouraged above the ground story. Existing housing units are protected by prohibitions on upper-story conversions and limitations on demolitions.

- E. **Off-Street 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 2,588 square-feet of occupied floor area and thus does not require any off-street parking.

F. **Signage.** Currently, there is not a proposed sign program on file with the Planning Department. Any proposed signage will be subject to the review and approval of the Planning Department.

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

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

The size of the proposed use is in keeping with other storefronts on the block face. The proposed financial service establishment will provide a new financial banking facility specializing in lending services for the 24th Street – Noe Valley neighborhood residents and businesses which is not currently available within the Districts.

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 project vicinity. The proposed work will not affect the building envelope, yet the inclusion of outside seating will alter the use of the property.

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 2,588 square-foot financial service establishment. The proposed financial service use is designed to capture the needs of the immediate 24th Street – Noe Valley neighborhood residents and business. The Subject Property is well served by public transit including two local bus lines #24 and 48, and MUNI rail lines F and J.

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

Establishment of a financial service will not significantly change the existing conditions at the Subject Property, and will not create noxious or offensive emissions. Nonetheless, the operator will be responsible for keeping the sidewalk in front of the property along 24th Street free of litter on a daily basis.

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

All signage will be reviewed under a separate permit.

- v. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.

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

The proposed project is consistent with the stated purposes of the 24th Street – Noe Valley NCD in that the intended use is located at the ground floor, will provide a compatible convenience service for the immediately surrounding residents and business daily.

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

Policy 6.1:

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

The Project would provide opportunities for patrons of the 24th Street – Noe Valley NCD to conduct basic financial transactions; obtain money for shopping and dining at local commercial establishments; and provide financial services including lending services for residents, merchants and patrons. The proposed financial establishment, Circle Bank, is proposed to be the only community bank within the existing neighborhood commercial district.

This policy includes guidelines for specific uses. The guidelines state that in some districts, the balance of commercial activities has been upset by the proliferation of financial services, which reduces the opportunities for other needed uses.

The guidelines provide that financial services should not be located near other financial service uses or add to an over-concentration within a single district. In most districts, it is preferable if

financial services are at least 500 feet apart. Proximity to financial services should be considered in evaluating the need for and impacts of a new financial service.

Because the project site is located in the heart of the 24th Street – Noe Valley Neighborhood Commercial District and three of the four existing banks within the District are located within 500-feet of the proposed use. Although the existing financial uses within the District are clustered, the District is not over concentrated in that the proposed financial service will be the first on the subject block. It is also appropriate to cluster the uses because the District is a pedestrian friendly linear commercial strip.

The guidelines provide that new financial service establishments should provide a detailed analysis of the potential impacts on existing transportation systems that serve the location and the proposed use should be designed to mitigate any traffic impacts. The location of limited financial services should be carefully evaluated as to the potential for double parking or illegal parking. If the proposed use includes ATMs, this evaluation is especially critical in determining the appropriateness of the use and its location.

The project is located at the heavily trafficked 24th Street. There is no space for a vehicle to pull over and double parking would tremendously impact vehicular movement through the intersection. The proposed bank is not intended to be a destination use but instead service the local community of the 24th Street- Noe Valley NCD, which is a very walk-able neighborhood. Off-street parking and loading are not required by the Code.

The guidelines state that financial services should provide retail-banking services to serve the business community as well as the residential community.

The Project will provide services to both the residential and business community.

The guidelines state that new financial services should avoid, if feasible, the demolition of sound buildings that are compatible in scale and character with other buildings in the district.

The Project will not result in the demolition of any buildings.

The guidelines state that in neighborhood commercial districts where drive-up facilities are not permitted, financial offices should be pedestrian oriented.

Drive-up facilities are not permitted in the District. The proposed project is pedestrian oriented.

Policy 6.9:

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

The proposed financial institution is not designed to generate more pedestrian traffic than other retail uses along the commercial corridor, and therefore should not significantly impact the traffic or parking patterns.

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 proposal bank facility is designed to enhance the neighborhood serving retail by providing a financial service location for Circle Bank customers where one does not currently exist.

- 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 supply and neighborhood character will not be adversely affected by the Project since it is associated within an existing commercial structure.

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

No work will be done to the existing units at the upper level for the Subject Property.

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

It is expected that mostly local residents and patrons of the 24th Street – Noe Valley neighborhood will use the service the most. The Subject Property is also well served by public transit and the Project is intended to mostly service walk-by pedestrian traffic by not providing additional parking. 24th Street is well served by the MUNI rail lines F and J and MUNI bus lines # 24 and 48.

- 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.

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

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

The alterations proposed to the façade are minor and will be reviewed by the Department of Building Inspection in accordance with all current seismic and life-safety codes.

- G. That landmarks and historic buildings be preserved.

The subject building was constructed less than 50 years ago and therefore is not a landmark or historic building.

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

The project will have no negative impact on existing parks and open spaces. The Project does not have an impact on open spaces.

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

DECISION

That based upon the Record, the submissions by the 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. 2009.0650C** subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 17991. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on December 3, 2009.

Linda Avery
Commission Secretary

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

NAYES: None

ABSENT: None

ADOPTED: December 3, 2009

Exhibit A

Conditions of Approval

1. This authorization is for a Conditional Use Authorization under Planning Code Section 728.49, 790.110 and 303 of the Planning Code to establish a financial service (d.b.a. Circle Bank) within the 24th Street – Noe Valley NCD (Neighborhood Commercial) District and a 40-X Height and Bulk District, in general conformance with plans filed with the Application as received on July 16, 2009 and stamped “EXHIBIT B” included in the docket for **Case No. 2009.0650C**, reviewed and approved by the Commission on December 3, 2009.
2. Prior to the issuance of the Building Permit for the Project the Zoning Administrator shall approve and order the recordation of a notice in the Official Records of the Recorder of the City and County of San Francisco for the premises (Assessor’s 3654, Lots 044 and 045), which notice shall state that construction has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied.
3. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$250 a day in accordance with Planning Code Section 176.
4. Should monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(e)(1).
5. The property owner shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.
6. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed.
7. The Project shall appoint a Community Liaison Officer to address issues of concern to neighbors related to the operation of this Project. The Project Sponsor shall report the name and telephone number of this Officer to the Zoning Administrator and the neighborhood for reference. The Applicant will keep the above parties apprised should a different staff liaison be designated.
8. The hours of operation shall be limited to 6 a.m. to 2 a.m.
9. The Project Sponsor shall assure the execution and recordation of the specified conditions as a Notice of Special Restrictions at the Office of the County Recorder / County Clerk.

10. The authorization and right vested by virtue of this action shall be deemed void and canceled, if within 3 years of this Motion a site permit or building permit for the Project has not been secured by Project Sponsor. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a city, state, or federal agency or by appeal of the issuance of such permit.