



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

February 21, 2017

Samuel Kwong
Arcus Architecture + Planning
61 Walter U. Lum Pl., 3rd Fl.
San Francisco, CA 94108

Record Number: 2017-001936ZAD
Site Address: 1409 Polk Street
Assessor's Block/Lot: 0646/004
Zoning District: Polk Street NCD (Neighborhood Commercial District), 80-A
Lower Polk Street Alcohol Restricted Use District
Staff Contact: Andrew Perry, (415) 575-9017 or andrew.perry@sfgov.org

Dear Mr. Kwong:

This letter is in response to your request for a Letter of Determination regarding the property at 1409 Polk Street. This parcel is located within the Polk Street NCD (Neighborhood Commercial District), 80-A Height and Bulk District, and the Lower Polk Street Alcohol Restricted Use District. The request is seeking confirmation whether a Restaurant with Type 41, 47, or 78 license would be permitted at the subject property and storefront, whether sidewalk dining is a permitted use and if there is a limit on the quantity of seating, and whether there are other provisions in the Code, such as those under Section 788 for the Lower Polk Street Alcohol Restricted Use District, that would either not permit the proposed use, place additional constraints on the use and/or require additional Conditional Use Authorizations.

Currently, a Limited Restaurant (d.b.a. Shalimar) operates at 1409 Polk Street, without any ABC License. Prior to Shalimar's operation, there was authorization, as part of Case No. 2000.297C and Planning Commission Motion No. 15073, for a Full-Service Restaurant (d.b.a. Dos Amigos Taqueria). This authorization permitted the subject business to obtain a Type 41 (On-Sale Beer and Wine for Bona Fide Eating Place) License; however, this Type 41 License expired on 2/28/2003. The subsequent establishment, Shalimar, received approval of its Health Permit Referral from the Planning Department on 12/11/2002, and without an ABC License on file, has operated as a Limited Restaurant since its inception.

Limited Restaurants are a principally permitted use within the Polk Street NCD, and pursuant to Planning Code Section 178(e)(4), "once a permitted conditional use has been changed to a principal use permitted in the district in which the property is located... the use of the property may not thereafter be returned to its former permitted conditional use status, except upon approval of a new conditional use."

Therefore, a newly proposed Restaurant that will obtain a Type 41, 47, 78, or other similar ABC License will be required to obtain Conditional Use Authorization from the Planning Commission pursuant to

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Samuel Kwong
61 Walter U. Lum Pl., 3rd Fl.
San Francisco, CA 94108

February 21, 2017
Letter of Determination
1409 Polk Street

Planning Code Section 723.44 within the Polk Street NCD. This change of use to a Restaurant would also be subject to neighborhood notification under Planning Code Section 312.

In response to your other questions, sidewalk seating/dining is generally permitted under the Planning Code within the Polk Street NCD. Sidewalk seating/dining is regulated by the Department of Public Works (DPW) Bureau of Street Use and Mapping (BSM), which issues a revocable Street Use Permit for Tables and Chairs. For more information, including Café Tables and Chairs Guidelines, please contact DPW-BSM at 415-554-5810 or <http://sfpublicworks.org/services/permits/cafe-tables-and-chairs>.

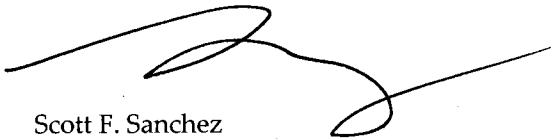
The controls for the Lower Polk Street Alcohol Restricted Use District found in Planning Code Section 788 would not expressly prohibit the establishment of a new Restaurant in this location; however, pursuant to Section 788(d)(3), new Restaurants with Types 47 and 49 liquor licenses may only operate past 12:00 midnight if they continue to serve meals until the time it closes, as described in the subsequent subsections (A) – (C) of that same section, 788(d)(3).

Lastly, please be aware that a proposed use with 2,500 square feet or more of floor area, or a use proposing to operate between the hours of 2 a.m. and 6 a.m., would also require Conditional Use Authorization from the Planning Commission pursuant to Planning Code Sections 723.21 and 723.27, respectively.

Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.

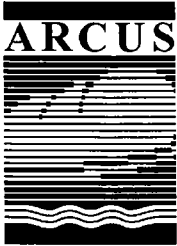
APPEAL: If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,



Scott F. Sanchez
Zoning Administrator

cc: Andrew Perry, Planner
Property Owner
Neighborhood Groups
BBN Holder



February 8, 2017

Mr. Scott Sanchez, Zoning Administrator
San Francisco City Planning Department
1650 Mission Street, Suite 400
San Francisco CA 94103-2479

R# 2017-001936 ZAD
CK # 34072 \$664,-
M. LUELLEN (NE)

Subject: Request for Letter of Determination

Address: 1409 Polk Street San Francisco CA 94109
Reference: Block: 0646 Lot: 004
Zoning District: Polk Street Neighborhood Commercial #723
Lower Polk St Alcohol Restricted Use #788

ARCHITECTURE
+ PLANNING

61 Walter U. Lum
Place, Third Floor
San Francisco, CA
94108-1801 USA
(415) 391 - 3313
(Fax) 391 - 3649

Mr. Sanchez:

This request for clarification of the items described below will enable the applicant to establish if a bone fide restaurant is permitted at the site address.

Project Background

There is an existing limited restaurant(Shalamr Restaurant) located at 1409 Polk St. A new tenant propose to operate a bona fide eating establishment serving cafeteria style dining(Hofbrau) with full bar service with ABC license 47 or 78.

Permitted Use

We want to confirm that ABC License 41 sale of beer and wine is principally permitted in a bona fide public eating place, without the need of a Condition Use Permit, reference enclosed 2011 LOD for 1401 Polk Street.

We also want to confirm that sidewalk dining is also a permitted use, is there a limit on the number of tables and chairs that may be placed along the sidewalk?

Conditional Use Application

Based on the current zoning Polk Street Neighborhood Commercial District together with a Lower Polk Steet Alcohol Restriction adopted at this location until the restrictions sunsets in 2018. Please clarify if the Planning Code allows the new tenant to change from the existing Indian/Pakistan food limited restaurant to a cafeteria style "hofbrau" bona fide restaurant with complement of a full liquor service. The proposed hours of operation will be 7 day a week, between 7am to 2am.

The project area consists of a single level dining and food preparation area of approximately 1,785 sf. Tenant improvements work will involve replacement of fixtures and furnishing and required improvements for accessibility compliance.

Section 788(d)(1) of the San Francisco Planning code specifically Controls states that Conditional Use Approvals are required for the following uses:

- a) 2,500 sf
- b) Outdoor activity area
- c) Hours of operation between 2am to 6am
- d) Bar and Bona fide restaurant

Furthermore, under the Lower Polk Street Liquor Licenses Restrictions in the District, only restaurants may add ABC License 47 with Conditional Use approvals on the ground level of a Bona fide Eating Place.

Please also confirm if there are any other restrictions under the Polk Street Neighborhood Commercial District and restrictions in Lower Polk Street Alcohol Restrictions that may pertain to the type of business operation that was not mentioned in the above statements.

If you need additional information or if you have questions, please contact me by calling 415-391-3313 or by email to samkwong-arcus@pacbell.net.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'Samuel Kwong', with a large, stylized flourish at the end.

Samuel Kwong
Principal

Encl: LOD 1401 Polk Street (2011)



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

March 9, 2011

Nick Bovis
535 Green Street
San Francisco, CA 94133

RE: **1401 Polk Street; Block: 0646, Lot: 004**

Dear Mr. Bovis:

This letter is in response to your request for a letter of determination regarding the property at 1401 Polk Street. This parcel is located in the Polk Street Neighborhood Commercial Zoning District ("NCD") and an 80-A Height and Bulk District. You have requested information whether a Small, Self-Service Restaurant, as defined in Planning Code ("Code") Section 790.91, serving on-sale beer and wine is a principally permitted use in the subject commercial tenant space. Furthermore, you have requested if any restrictions would exist at the subject site in regards to the establishment of a Small, Self-Service Restaurant.

Although I am not able to verify whether your proposed business is a Small, Self-Service Restaurant based on your project description, please be aware that a Small, Self-Service Restaurant requires a Conditional Use Authorization (at the first floor in the Polk Street NCD) per Code Section 723.44. Also, if you will be offering on-sale beer and wine sales with an ABC License Type 42, 47, 48, 49, or 61, please be aware that your proposed business would be considered a Bar, as defined in Code Section 790.22, and would also require a Conditional Use Authorization in the Polk Street NCD. A restaurant maintaining a Type 41 License for on-sale beer and wine would not be considered a Bar in the Polk Street NCD and would not require a Conditional Use Authorization.

Planning Code Section 703.3 places restrictions on Formula Retail Uses, as defined in Code Section 703.3(b), in the Polk Street NCD. Formula Retail Uses require Conditional Use Authorization in the Polk Street NCD. Your project description did not include details listed in Code Section 703.3(b) that would have allowed me to determine whether your proposed business in a Formula Retail Use.

If you have questions regarding the letter, please contact Aaron Hollister of the San Francisco Planning Department at (415) 575-9078 or via e-mail at aaron.hollister@sfgov.org.

APPEAL: If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,

Scott F. Sanchez
Zoning Administrator

cc: Marsha Garland

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

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415.558.6378

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Planning
Information:
415.558.6377

ID # 9370 NE M LUELLEN
CK # 18053 \$ 578, -

February 1, 2011

Scott Sanchez, Acting Zoning Administrator
San Francisco Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Re: 1401 Polk Street, San Francisco

(0646/004)

Dear Mr. Sanchez:

The commercial space at 1401 Polk Street has been operated as Barcelona Liquors for many years. Barcelona Liquors had a Type 21 General Off Sale license from the California ABC.

I would like to operate a small, self-service, hof brau style restaurant with seating and I would like to serve beer and wine at the above location.

Enclosed is a check for \$578 for a Letter of Determination. Please let me know the kind of zoning district and whether or not I can do what I would like to do at the above listed commercial space. Also, please let me know if there are restrictions of any kind.

When responding to me, please send a copy of your response to Marsha Garland at Garland Public & Community Relations, 535 Green Street, San Francisco, CA 94133.

Thank you.

Sincerely,



Nick Bovis

RECEIVED

FEB 07 2011

CITY & COUNTY OF S.F.
PLANNING DEPARTMENT