SAN FRANCISCO
PLANNING DEPARTMENT

Letter of Determination

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September 23, 2008

Roy Lam
General Manager
Tuttimelon
2240 Chestnut Street
San Francisco CA 94123

RE: 1998 Union Street
Block: 0531 Lot: 014

Dear Mr. Lam:

This letter is in response to your request for a zoning letter of determination for the property at 1998 Union Street. This parcel is located in the Union Street Neighborhood Commercial District (NCD). The request is for a determination on which Planning Code use category a Tuttimelon store would fall within.

According to the Tuttimelon website, the business offers frozen yogurts with various toppings as well as gelatos and sorbets for customers to eat in or take away from the premises. An operation of this type is very close to that of an ice cream store, which Planning Code Sections 790.90 and 790.91 consider to be large fast-food or small self-service restaurants, depending on the size of the use.

The Jamba Juice business at 1998 Union Street was approved as a retail sales use under Planning Code Section 790.102(n), which although the section is called "retail coffee stores," allows the "...retail drinking use which provides...non-alcoholic <u>beverages</u> for consumption on or off the premises..." (emphasis added).

Tuttimelon is not a retail drinking use under Section 790.102(n), but is, rather, a restaurant use – either a large fast-food or small self-service restaurant, depending upon its proposed size. If the standards referenced in Section 790.92 can be met, Tuttimelon could even be considered a full-service restaurant, similar to the Tuttimelon that was recently approved by the Planning Commission in the West Portal NCD. In the Union Street NCD, new large fast-food and small self-service restaurants are not permitted. However, there is pending legislation which will allow, with conditional use authorization, up to five new full-service restaurants in this NCD.

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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 Permit Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Permit Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,

Lawrence B. Badiner
Zoning Administrator

cc: Lois Scott, Planning Department
David Lindsay, Planning Department

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