



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Conditional Use

HEARING DATE: MARCH 17, 2011

*Date:* March 10, 2011  
*Case No.:* **2010.1095 C**  
*Project Address:* **2323 MARKET STREET**  
*Zoning:* Upper Market NCD (Neighborhood Commercial District)  
50-X Height and Bulk District  
*Block/Lot:* 3563/030  
*Project Sponsor:* Daunell & Higgins, LLC  
2323 Market Street  
San Francisco, CA 94114  
*Staff Contact:* Elizabeth Watty – (415) 558-6620  
[Elizabeth.Watty@sfgov.org](mailto:Elizabeth.Watty@sfgov.org)  
*Recommendation:* **Approval with Conditions**

1650 Mission St.  
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### PROJECT DESCRIPTION

The Project Sponsor proposes to add a 36 square-foot wine bar area within their existing 660 square-foot high-end retail jewelry store (d.b.a D&H Sustainable Jewelers), in order to provide a space for private client consultations and for special wine tasting events. Their existing retail jewelry store focuses on using all recycled precious metals and conflict free gemstones. The addition of the wine tasting bar is to compliment their retail jewelry business, creating a unique experience for their customers. There is no intention of turning this commercial space into a traditional full bar; the Conditions of Approval in Exhibit A preclude a full bar from occupying this space. The proposed use is a locally owned and operated, neighborhood-serving independent use. There are no exterior alterations proposed as part of this Application.

The proposal is considered a change of use requiring Section 312-neighborhood notification. This notification was conducted in conjunction with the Conditional Use Authorization notification process.

### SITE DESCRIPTION AND PRESENT USE

The Project is located on the south side of Market Street, between Noe and Castro Streets, Block 3563, Lot 030. The Property is located within the Upper Market Street Neighborhood Commercial District (NCD) District and 50-X Height and Bulk District. The Property contains approximately 131.5 feet of frontage on Market Street 13,934 square feet of lot area. It is developed with a two-story mixed-use building – built circa 1910 – containing five commercial uses on the ground floor and five dwelling-units on the second floor. The ground floor businesses include Kenneth Wingard (retail), D&H Sustainable Jewelers (Project – retail), Sunglass Hut (retail), Ixia Floral Shop, and Crystal Way (retail). The subject tenant space contains 18 feet of frontage and contains 660 square-feet of floor area.

## **SURROUNDING PROPERTIES AND NEIGHBORHOOD**

Land uses located within the subject block of Market Street include one-, two-, and three-story buildings containing primarily commercial uses on the ground floor with dwelling-units located above. The properties on the subject block are all located within the Upper Market NCD.

The Subject Property is located within the Upper Market Street NCD. The Upper Market NCD controls are designed to encourage a diversified commercial environment with a wide variety of uses, with special emphasis on neighborhood-serving businesses, and limits on the number of eating, drinking and entertainment uses at the ground story.

## **ENVIRONMENTAL REVIEW**

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption.

## **HEARING NOTIFICATION**

<b>TYPE</b>	<b>REQUIRED PERIOD</b>	<b>REQUIRED NOTICE DATE</b>	<b>ACTUAL NOTICE DATE</b>	<b>ACTUAL PERIOD</b>
Classified News Ad	20 days	February 25, 2011	February 23, 2011	22 days
Posted Notice	20 days	February 25, 2011	February 25, 2011	20 days
Mailed Notice	20 days	February 25, 2011	February 25, 2011	20 days

## **PUBLIC COMMENT**

The Department is not aware of any opposition to this project.

## **ISSUES AND OTHER CONSIDERATIONS**

The Department's recommended Conditions of Approval outlined in Exhibit A – specifically the limitations on the hours of operation, square footage of the tenant space permitting the bar use, and the type of liquor license (wine and beer only) – will allow the existing retail store to better market themselves to their high-end jewelry clients by providing a more personal shopping experience, while limiting the degree to which any future owner could utilize the bar entitlement.

## **REQUIRED COMMISSION ACTION**

In order for the Project to proceed, the Commission must authorize a Conditional Use, pursuant to Planning Code Sections 303, 721.41, and 790.22, to allow a bar use within an existing retail jewelry store in the Upper Market Street NCD.

## **BASIS FOR RECOMMENDATION**

The Department believes this Project is necessary and/or desirable under Section 303 of the Planning Code for the following reasons:

- The Conditions of Approval in Exhibit A limit this Conditional Use authorization to a very specific business model that does not easily lend itself to becoming a more traditional bar.
- The addition of a bar within the existing retail space will not result in the eviction of any tenant.
- The façade of the tenant space will remain dedicated to the retail use, not a bar.
- The business is a locally owned and operated business.
- D&H Sustainable Jewelers is a neighborhood-serving, positive business for this district, and will not involve a high-volume of customers who generate traffic, parking, or litter problems.
- The Project meets all applicable requirements of the Planning Code and is consistent with the General Plan.

<b>RECOMMENDATION:</b> <b>Approval with Conditions</b>
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**Attachments:**

- Parcel Map
- Sanborn Map
- Zoning Map
- MUNI Map
- Aerial Photographs
- Site Photos
- Project Sponsor Submittal (letter, context photos, and reduced plans)

Attachment Checklist

- Executive Summary
- Draft Motion
- Parcel Map
- Sanborn Map
- Zoning Map
- MUNI Map
- Aerial Photo

- Site Photos
- Project sponsor submittal
- Drawings: Proposed Project
- Check for legibility
- Letter
- Context Photos

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

EW  
Planner's Initials

*EW: G:\Documents\CU\2323 Market Street\Executive Summary.doc*



# 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 Draft Motion

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*Case No.:* **2010.1095 C**  
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*Zoning:* Upper Market NCD (Neighborhood Commercial District)  
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 2323 Market Street  
 San Francisco, CA 94114  
*Staff Contact:* Elizabeth Watty – (415) 558-6620  
[Elizabeth.Watty@sfgov.org](mailto:Elizabeth.Watty@sfgov.org)

**ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION, PURSUANT TO PLANNING CODE SECTIONS 303, 721.41, AND 790.22, TO ALLOW A BAR USE WITHIN THE EXISTING RETAIL JEWELRY STORE (DBA D&H SUSTAINABLE JEWELERS), LOCATED WITHIN THE UPPER MARKET NEIGHBORHOOD COMMERCIAL DISTRICT AND 50-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On December 9, 2010, Shawn Higgins of Daunell & Higgins LLC (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Sections 303, 721.41, 790.22 to allow a bar to be located within the existing retail jewelry store (d.b.a. D&H Sustainable Jewelers) within the Upper Market Neighborhood Commercial District (NCD) and a 50-X Height and Bulk District.

On March 17, 2011, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2010.1095C.

The Project is exempt from the California Environmental Quality Act (“CEQA”) as a Class 1 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. 2010.1095C, 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 south side of Market Street, between Noe and Castro Streets, Block 3563, Lot 030. The property is located within the Upper Market Street NCD District and 50-X Height and Bulk District. The property contains approximately 131.5 feet of frontage on Market Street and 13,934 square-feet of lot area. It is developed with a two-story mixed-use building – built circa 1910 – containing five commercial uses on the ground floor and five dwelling-units on the second floor. The ground floor businesses include Kenneth Wingard (retail), D&H Sustainable Jewelers (Project – retail), Sunglass Hut (retail), Ixia Floral Shop, and Crystal Way (retail). The subject tenant space contains 18 feet of frontage and contains 660 square-feet of floor area.
3. **Surrounding Properties and Neighborhood.** Land uses located within the subject block of Market Street include one-, two-, and three-story buildings containing primarily commercial uses on the ground floor with dwelling-units located above. The properties on the subject block are all located within the Upper Market Neighborhood Commercial District.

The Subject Property is located within the Upper Market Street NCD. The Upper Market NCD controls are designed to encourage a diversified commercial environment with a wide variety of uses, with special emphasis on neighborhood-serving businesses, and limits on the number of eating, drinking and entertainment uses at the ground story.

4. **Project Description.** The Project Sponsor proposes to add a 36 square-foot wine bar area within their existing 660 square-foot high-end retail jewelry store (d.b.a D&H Sustainable Jewelers), in order to provide a space for private client consultations and for special wine tasting events. Their existing retail jewelry store focuses on using all recycled precious metals and conflict free gemstones. The addition of the wine tasting bar is to compliment their retail jewelry business, creating a unique experience for their customers. There is no intention of turning this commercial space into a traditional full bar; the Conditions of Approval in Exhibit A preclude a full bar from occupying this space. The proposed use is a locally owned and operated, neighborhood-serving independent use. There are no exterior alterations proposed as part of this Application.

The proposal is considered a change of use requiring Section 312-neighborhood notification; this notification was conducted in conjunction with the Conditional Use Authorization notification process.

5. **Public Comment.** The Department has received no correspondence regarding this Application.
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. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code requires that commercial frontages in NC Districts must have at least 60% the total width of the commercial street frontage devoted to transparent windows and doorways at the pedestrian eye-level. Such windows shall use clear, un-tinted glass, except for decorative or architectural accent. Any decorative railings or decorated grille work, other than wire mesh, which is placed in front or behind such windows, shall be at least 75 percent open to perpendicular view and no more than six feet in height above grade.

*The subject commercial space has approximately 18-feet of frontage on Market Street with approximately 17 feet devoted to the retail entrance and storefront windows. The windows are clear and unobstructed. There are no changes proposed to the existing commercial frontage, which exceeds the requirements of this Section.*

- B. **Bar Use:** Planning Code Section 721.41 permits bars in the Upper Market Street NCD with Conditional Use authorization.

*The Project seeks Conditional Use authorization, under Planning Code Sections 721.41 and 790.22, to permit the addition of a bar within the existing retail jewelry tenant space.*

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 Project will provide a use that is necessary and desirable for the neighborhood in that it will allow for a unique business model for a locally-owned independent jewelry business, and will provide an amenity to people shopping for fine jewelry. The Project Sponsors have indicated that there is a desire for this service within the high-end jewelry market.*

*The proposed commercial use is compatible with the existing uses in the general vicinity of the Subject Property. There are no other jewelry stores that serve wine within the neighborhood. The envelope of the existing building will not be enlarged, and the façade of the building will not be altered.*

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;

*There are no modifications proposed to the exterior of the tenant space.*

- 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;

*Traffic conditions will remain substantially unaltered by this Project, because the proposed use is a neighborhood-serving business, frequented via foot, cab, or public transportation by many residents of the surrounding neighborhoods. The existing retail jewelry store is 660 square feet; the new wine bar area would occupy approximately 36 square feet of the 660 square foot tenant space.*

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

*The Project will not create any noxious or offensive emissions, such as glare, dust; the Application requests authorization to allow a bar use within the existing retail jewelry store.*

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

*There are no setbacks to allow for landscaping in front of the Subject Property, and there are no alterations proposed to the exterior of the existing structure. There is no parking or dedicated loading space required for the existing or proposed use, and any new signage will be reviewed and approved by the Planning Department prior to installation.*

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 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 Neighborhood Commercial District.



*The proposed Project is consistent with the stated purposed of Upper Market Street NCD in that the intended use is neighborhood-serving and adds to the diversity of businesses available within the Upper Market and Castro Neighborhoods.*

8. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

## COMMERCE AND INDUSTRY ELEMENT

### 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 Project will provide desirable services to the neighborhood and provides employment opportunities to people in the community. The existing business, D&H Sustainable Jewelers, is owned and operated by independent San Francisco residents. The proposed addition of a limited bar use will not create the appearance or impact that traditional full bars can produce. The Conditions of Approval in Exhibit A ensure that future owners will operate the bar use in a limited fashion.*

*The intensity of uses proposed at the Site are compatible with the other businesses along Market Street, and the Conditions of Approval shown in Exhibit A are imposed to ensure that the principle business at this site does not become a full bar.*

#### **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 retain the existing commercial activity of a retail jewelry store and will enhance the diverse economic base of the City by allowing a bar use within this tenant space in the Upper Market NCD. No neighborhood-serving businesses will be displaced by adding a bar use within D&H Sustainable Jewelers.*

**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 by the authorization of this Conditional Use authorization, and the Project would not prevent the Upper Market NCD from achieving optimal diversity in the types of goods and services available in the neighborhood. There are no other jewelry stores with wine service in the Upper Market NCD.*

**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.

*The business owners are independent San Francisco entrepreneurs who are looking for a way to make their jewelry business stand-out, and to create an enjoyable experience for their clients while shopping.*

## EATING AND DRINKING ESTABLISHMENTS

The following guidelines, in addition to others in this objective for neighborhood commercial districts, should be employed in the development of overall district zoning controls as well as in the review of individual permit applications, which require case-by-case review and Planning Commission approval. Pertinent guidelines may be applied as conditions of approval for individual permit applications. In general, uses should be encouraged which meet the guidelines; conversely, uses should be discouraged which do not.

Eating and drinking establishments include bars, sit-down restaurants, fast-food restaurants, self-service restaurants, and take-out food. Associated uses – which can serve similar functions and create similar land use impacts – include ice cream stores, bakeries and cookie stores. Guidelines for eating and drinking establishments are needed to achieve the following purposes:

- Regulate the distribution and proliferation of eating and drinking establishments, especially in districts experiencing increased commercial activity;
- Control nuisances associated with their proliferation;
- Preserve storefronts for other types of local-serving businesses; and

- Maintain a balanced mix of commercial goods and services.

The regulation of eating and drinking establishments should consider the following:

- Balance of retail sales and services;
- Current inventory and composition of eating and drinking establishments;
- Total occupied commercial linear frontage, relative to the total district frontage;
- Uses on surrounding properties;
- Available parking facilities, both existing and proposed;
- Existing traffic and parking congestion; and
- Potential impacts on the surrounding community.

In districts where the proliferation of eating and drinking establishments could generate problems, the following guidelines should be employed in the consideration of new establishments, relocations, changes from one kind of eating and drinking establishment to another (e.g. from self-service restaurant to full-service restaurant), expansion or intensification of existing establishments:

- The establishment should not add to an over-concentration of eating and drinking establishments in a single district. The balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage. Proposals for eating and drinking establishments which would increase the proportion of total occupied commercial frontage above 20% should be reviewed to ensure that they would not reduce the variety of neighborhood-serving uses; nor create substantial noise, traffic, parking problems, or other nuisances in the district or surrounding neighborhood. Those establishments that would do the above should not be permitted. Except in districts with an established pattern of service to a broad market, such as North Beach, such establishments should not occupy more than 25% of the total commercially occupied frontage in a district. To minimize the problems they can create, eating and drinking uses should generally be at least 100 feet apart from each other, unless there are factors making clustering of uses appropriate. For example, a configuration of clustered eating and drinking uses where off-street parking is shared might be more appropriate than an even distribution of such establishments.
- New, expanding or relocating eating and drinking uses should not impose significant adverse impacts on traffic and transit volumes and circulation and parking congestion. If such impacts are anticipated, especially on transit-preferential streets, the proposed use, expansion or relocation should be redesigned to mitigate such impacts, or it should be prohibited.
- Eating and drinking uses should be adequately soundproofed or insulated for noise and operated so as to reasonably protect adjoining and surrounding upper-story residences from disturbances. Fixed source equipment noise should not exceed the decibel levels specified in the Noise Control Ordinance.

*The General Plan states that there is a concern with the potential over-concentration of drinking establishments. The Commerce and Industry Element of the General Plan contains Guidelines for Specific Uses. For eating and drinking establishments, the Guidelines state, "the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage." Because the proposal does not affect the use of the frontage of the building, which is currently and will continue to be a neighborhood-serving retail jewelry store, the inclusion of a limited bar use within the jewelry store will not affect the balance of commercial uses in the Upper Market NCD, nor will it affect the total occupied commercial frontage in the District.*

*Parking is not required in this District for uses that occupy less than 5,000 square-feet. Traffic impacts are not anticipated because the business is primarily neighborhood-serving and does not intend to operate as a traditional bar. The business owners do not anticipate a substantial increase in the number of customers; rather, they see this as an additional marketing tool for their jewelry business and as an amenity to their clients during jewelry consultations. The owners do not intend to operate as a traditional bar or wine bar. They are seeking this authorization so they can create an ambiance for their customers who are purchasing expensive jewelry and to host private wine and jewelry events on-site.*

## AIR QUALITY ELEMENT

### Objectives and Policies

#### **OBJECTIVE 3:**

DECREASE THE AIR QUALITY IMPACTS OF DEVELOPMENT BY COORDINATION OF LAND USE AND TRANSPORTATION DECISIONS.

#### **Policy 3.2:**

Encourage mixed land use development near transit lines and provide retail and other types of service oriented uses within walking distance to minimize automobile dependent development.

*The Project furthers this Policy due to its location on Market Street, less than one block from the Castro MUNI Station. This station is served by five light-rail lines (light rail lines F, K, L, M, and T) and four bus lines (24, 33, 35, and 37). The Project Site is also surrounded by residential neighborhoods, making it within walking distance to a large number of its customers.*

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 granting of this Conditional Use authorization will not adversely affect the existing neighborhood-serving retail uses in the area because there are no other similar businesses within the Upper Market NCD. Although there are both jewelry stores and bars within the Upper Market NCD, the proposed business model is unique and does not currently exist elsewhere within the neighborhood. D&H Sustainable Jewelers does not intend to operate as a typical bar; they are seeking this bar use entitlement so that they can pour their jewelry customers a glass of wine while they shop. Their business plan is that of a jewelry store, not a bar. The Conditions of Approval in Exhibit A are meant to reaffirm that this business is a jewelry store and will not operate as a full bar.*

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

*The immediate vicinity is characterized by mixed-use buildings (1 to 3-stories over commercial) along with some entirely commercial buildings (such as the Gold's Gym at 2301 Market Street). No changes are proposed to the existing building envelope or façade, and no existing housing will be removed. The addition of a limited bar (see Conditions of Approval in Exhibit A for specific limitations) within the existing retail jewelry store preserves the cultural and economic diversity of the neighborhood as it provides variety and additional options for patrons of the Upper Market NCD without displacing any existing use.*

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

*This Project does not include any residential dwelling-units. The addition of a bar use within the existing retail jewelry store will not impact the City's supply of affordable housing as the Project does not contain or remove housing.*

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

*The commercial space measures approximately 660 square feet and will have a low demand on neighborhood parking. The area is well-served by public transit, with a MUNI underground station at the corner of Market and Castro – less than one block away – with access to light rail lines F, K, L, M, and T as well as bus lines 24, 33, 35, and 37. The Project will not impede MUNI transit nor will it overburden the City's streets or neighborhood parking.*

- 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 existing building does not contain industrial uses, thus no industrial uses will be displaced as part of this Project. Service sector employment opportunities may increase as a result of the addition of a bar use.*

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

*The building will comply with all required seismic and life-safety codes in order to achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.*

- G. That landmarks and historic buildings be preserved.

*There Project will not adversely affect any landmarks or historic buildings because there are no exterior alterations proposed as part of this Application. Furthermore, the existing structure is not a designated landmark.*

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

*This Project will not affect any parks or open space because it does not include any expansion to the existing building envelope.*

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 will contribute to the character and stability of the neighborhood and constitutes a beneficial development.
11. The Commission hereby finds that approval of the Conditional Use authorization will 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. 2010.1095C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated December 9, 2010, 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.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on March 17, 2011

Linda D. Avery  
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: March 17, 2011

## EXHIBIT A

### AUTHORIZATION

This authorization is for a conditional use to allow a bar to be located within the existing retail jewelry store (d.b.a D&H Sustainable Jewelers) at 2323 Market Street, Block 3563, Lot 030 pursuant to Planning Code Section(s) **721.41, 790.22, and 303** within the **Upper Market NCD** and a **50-X** Height and Bulk District; in general conformance with plans, dated **December 9, 2010**, and stamped "EXHIBIT B" included in the docket for Case No. **2010.1095C** and subject to conditions of approval reviewed and approved by the Commission on **March 17, 2011** 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 **March 17, 2011** 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 and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of Building Inspection to construct the Project and/or commence the approved use must be issued as this Conditional Use authorization is only an approval of the proposed Project and conveys no independent right to construct the Project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. 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. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved. *For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org).*
2. **Extension.** This authorization may be extended at the discretion of the Zoning Administrator only where failure to issue a permit by the Department of Building Inspection to perform said tenant improvements is caused by a delay by a local, State or Federal agency or by any appeal of the issuance of such permit(s). *For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org).*

### DESIGN

3. **Signage.** The Project Sponsor shall develop a signage program for the Project which shall be subject to review and approval by Planning Department staff before submitting any building permits for construction of the Project. All subsequent sign permits shall conform to the approved signage program. Once approved by the Department, the signage program/site plan information shall be submitted and approved as part of the site permit for the Project. All exterior signage shall be designed to compliment, not compete with, the existing architectural character and architectural features of the building. *For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

### MONITORING

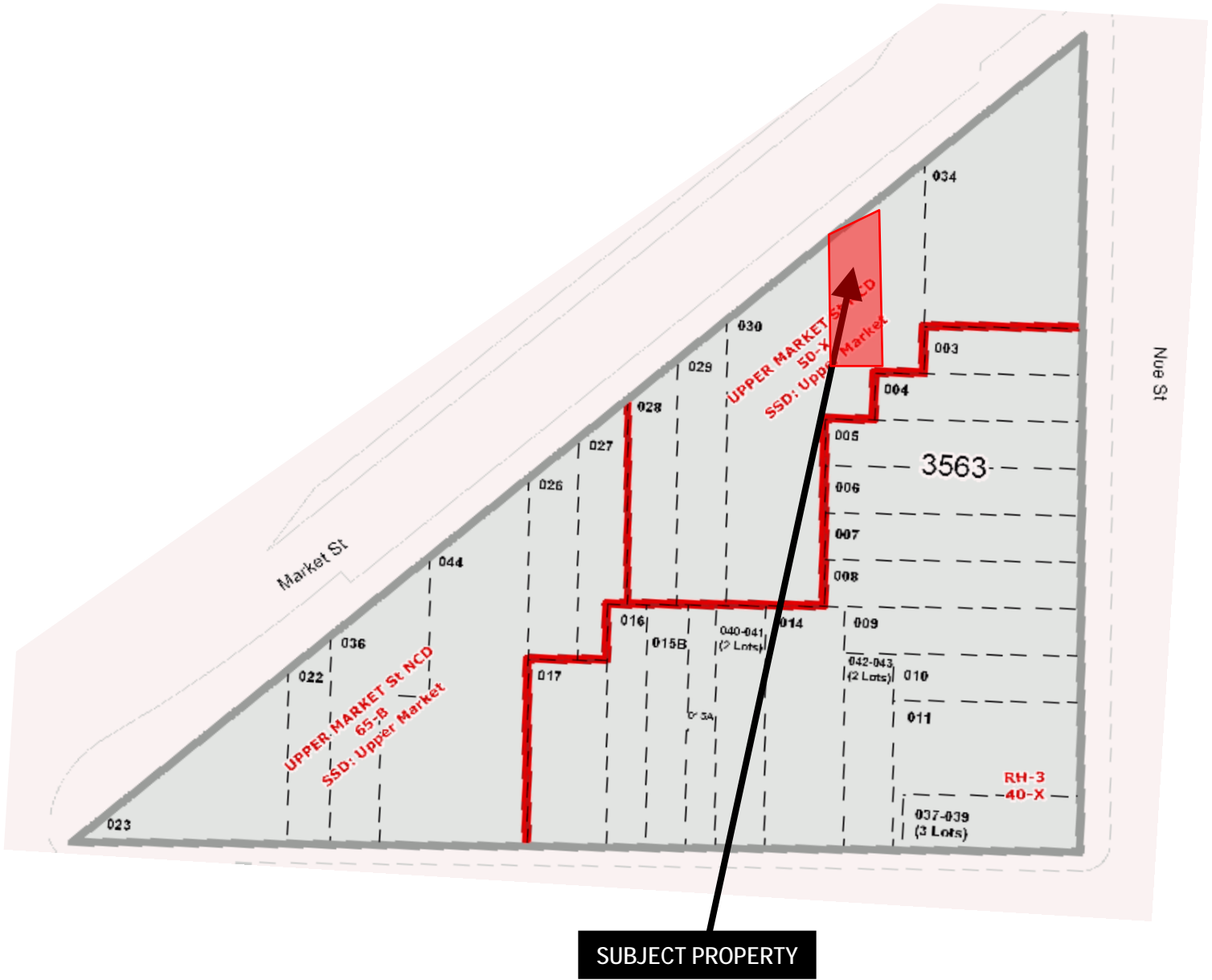
4. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 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](http://www.sf-planning.org)*

5. **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](http://www.sf-planning.org).*

## OPERATION

6. **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/>*
7. Patrons are not permitted to consume wine outside of the enclosed building. Sidewalk tables and chairs are not permitted. *For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org).*
8. This Authorization limits the Alcoholic Beverage Control licenses to Type 42. *For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org).*
9. No more than 1/3 of the occupied floor area of the commercial tenant space may be dedicated to the sale and service of alcohol for on-site consumption, as designated on the plans marked Exhibit B included in the docket for Case No. **2010.1095C**. Private events that are closed to the public may exceed this provision if there is signage posted that the business is closed for a private event. *For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org).*
10. The hours of operation for the sale and/or service of wine for on-site consumption shall be limited from 9:00a.m. to 10:00p.m., daily, and may only occur while the existing retail use (or any future permitted-by-right use) is open for business. Private events that are closed to the public may exceed this provision if there is signage posted that the business is closed for a private event. *For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org).*

# Parcel Map

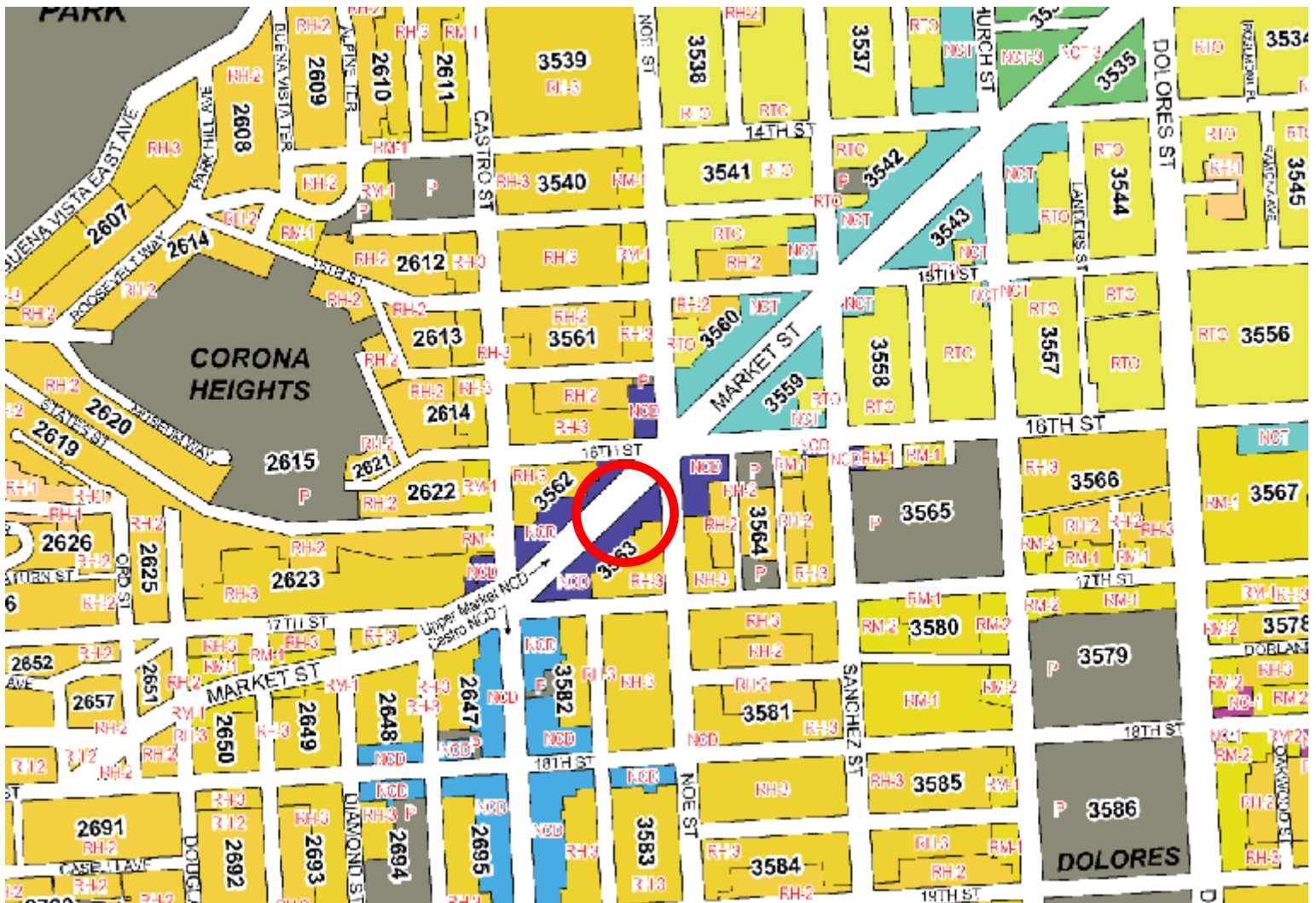


Conditional Use Authorization Hearing  
Case Number 2010.1095C  
D&H Sustainable Jewelers  
2323 Market Street





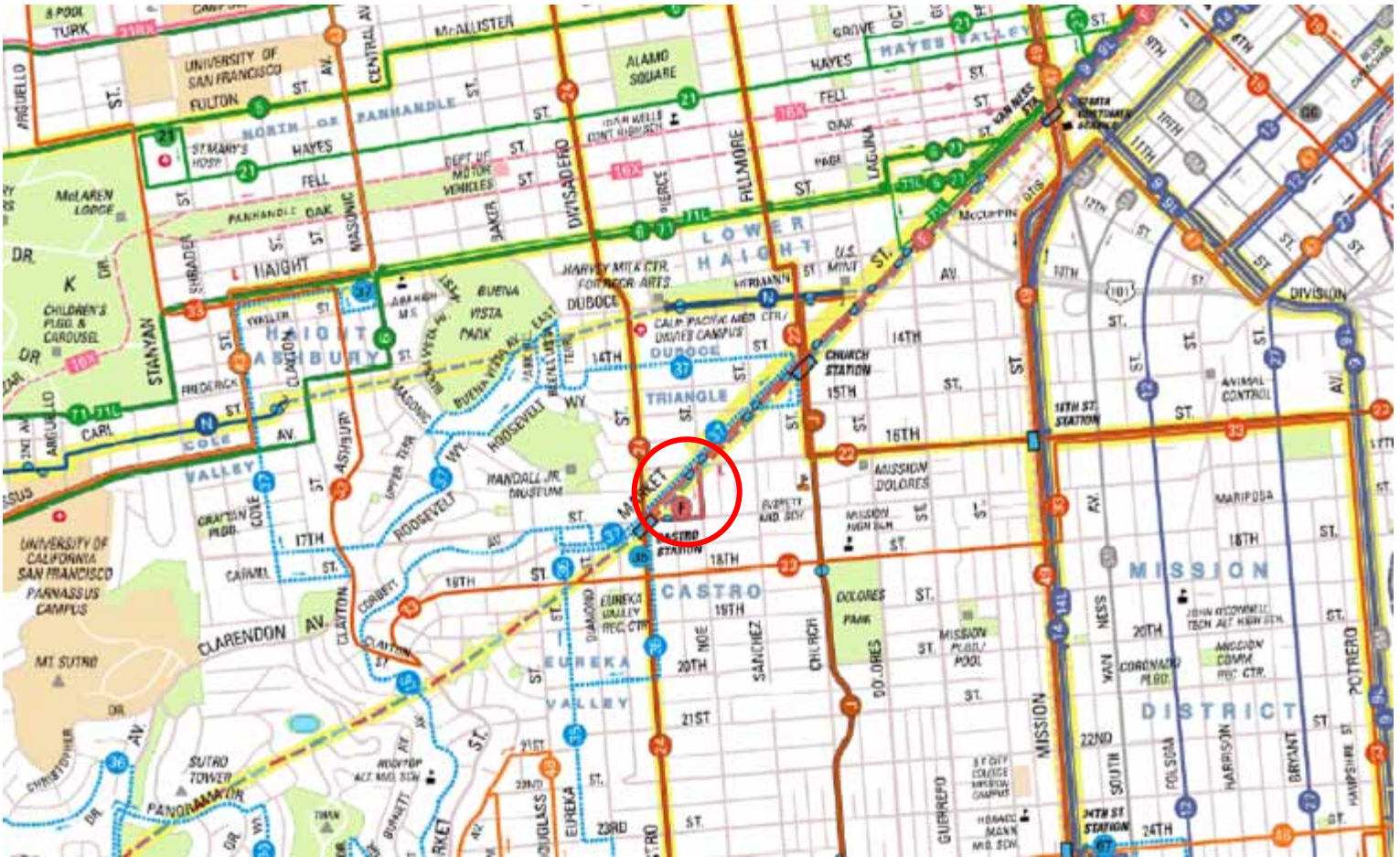
# Zoning Map



Conditional Use Authorization Hearing  
Case Number 2010.1095C  
D&H Sustainable Jewelers  
2323 Market Street



# MUNI Map



Conditional Use Authorization Hearing  
Case Number 2010.1095C  
D&H Sustainable Jewelers  
2323 Market Street



# Aerial Photo



SUBJECT PROPERTY



Conditional Use Authorization Hearing  
Case Number 2010.1095C  
D&H Sustainable Jewelers  
2323 Market Street



# Aerial Photo



**SUBJECT PROPERTY**



Conditional Use Authorization Hearing  
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# Aerial Photo



SUBJECT PROPERTY



Conditional Use Authorization Hearing  
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D&H Sustainable Jewelers  
2323 Market Street

# Site Photo



**SUBJECT PROPERTY**

Market St. San Francisco, CA 94114, USA (approx.)



**ACROSS THE STREET**

Conditional Use Authorization Hearing  
Case Number 2010.1095C  
D&H Sustainable Jewelers  
2323 Market Street



D&H Sustainable Jewelers  
2323 Market Street  
San Francisco, CA 94114

February 22, 2011

San Francisco Planning Department  
1650 Mission Street  
Suite 400  
San Francisco, CA 94103

To Whom It May Concern:


This letter is indented to provide additional information to the SF Planning Commission in support of the pending Conditional Use Application for a Change of Use at 2323 Market Street, San Francisco.

D&H Sustainable Jewelers is a high-end jewelry store that carries a selection of local artists as well as facilitates in-house custom design jewelry using all recycled precious metals and conflict free gemstones. One unique aspect of the store is the inclusion of a wine bar to use as a space for private client consultations and for special wine tasting events. The business is applying for an on-site beer/wine consumption license (Type-42).

As the business owners, we would like to make it clear that it is not our intention to create a "bar scene." The business will not be making excess noise, playing loud music, posting neon signs, nor any other activity that would disturb residents in the area. The store will maintain normal retail hours. We are essentially creating a tasting room to do co-marketing events with local wineries, similar to the tasting rooms that are located in Whole Foods "A" stores.

The wine bar area which is in contention under this application represents a small percentage of the store's square footage, less than 20%. By sharing client lists with vineyards in Napa, Sonoma, Russian River, etc., we hope to introduce a new luxury clientele to the Castro. An increase in foot traffic also has the potential to benefit other merchants in the area.

Regards,

  
Shawn Higgins, GG  
D & H sustainable jewelers

  
Lindsay Daunell  
D & H sustainable jewelers

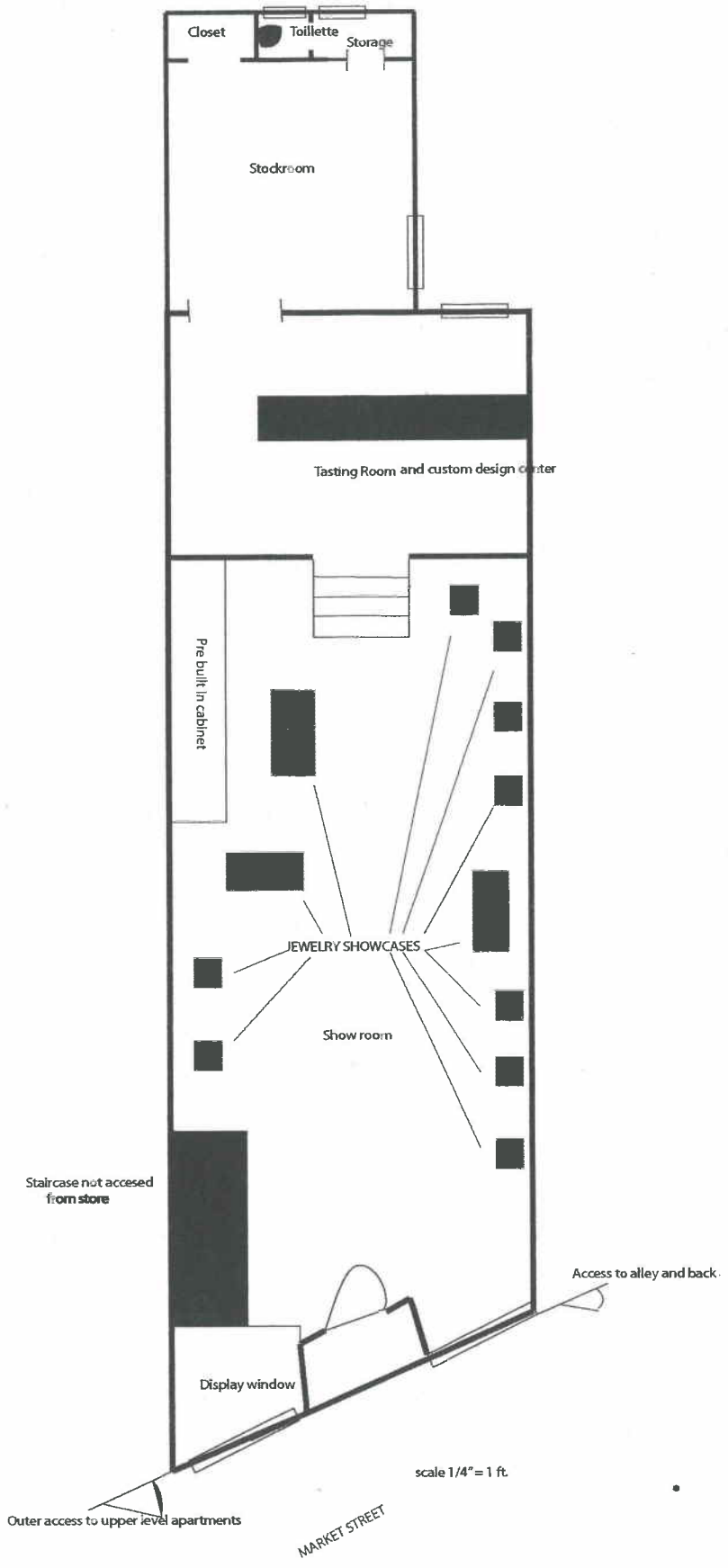


Merged image across the street from the store, block 3562, lots 1-6.



Overlapped image facing store block 3563 lots 30 - 34

Store location







Interior of showroom from front door. The tasting room is located as a separate divided space in the back.

Below: from back of store to door.



Tasting room

