



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use

HEARING DATE: JULY 7, 2011

Date: June 30, 2011
Case No.: **2011.0443C**
Project Address: **3111 FILLMORE STREET**
Zoning: Union Street Neighborhood Commercial District
40-X Height and Bulk District
Block/Lot: 0515/009
Project Sponsor: Regan Capone
3111 Fillmore Street
San Francisco, CA 94118
Represented by: Jeremy Paul
Staff Contact: Sara Vellve – (415) 558-6263
sara.vellve@sfgov.org
Recommendation: **Approval with Conditions**

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PROJECT DESCRIPTION

The request is for Conditional Use Authorization, pursuant to Planning Code Sections 303, 725.48, and 790.38, to modify Condition No. 20 of Motion No. 18180 to extend the hours of an existing other entertainment/electronic amplification use in a bar (d.b.a. Comet Club) until 2 a.m. on Thursday nights. The Subject Property is within the Union Street Neighborhood Commercial District and 40-X Height and Bulk District. On September 16, 2010 the Planning Commission heard Case 2010.0255C to authorize the other entertainment use. Due to public input at the hearing, the Commission chose to limit the hours of entertainment/electronic amplification to:

- 6 p.m. to midnight. Sun., Mon., Tues., Weds, Thurs.
- 2 p.m. until 2 a.m. Fri., Sat.

The Comet Club is currently permitted to be a full bar with an ABC license 47 or 48 operating between the hours of 6:00 a.m. and 2:00 a.m., seven days a week.

SITE DESCRIPTION AND PRESENT USE

The Subject Property is located at 3111 Fillmore Street, west side between Pixley and Filbert Streets. The lot currently contains a three-story mixed-use structure – built in approximately 1913 – with the Comet Club occupying the ground floor. The building was originally constructed with two upper floor dwelling units, which have been converted to commercial uses. The adjacent buildings to the south and east contain residential uses. The Department has obtained permits for the bar dating back to 1988 and it is likely that the bar use has been operating on the premises longer. The overall lot area is approximately 2,400 square feet with the Comet Club occupying

approximately 2,000 square feet of gross floor area and approximately 14 linear feet of frontage at the sidewalk. Based on the plans submitted for review with case 2010.0255C there is no outside space to be used by patrons and the only windows are located on the street façade. The property owner has provided evidence that soundproofing has been installed through the application of sheetrock on the walls and ceiling of the bar.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

Land uses located within the subject block of Fillmore Street include one-, two- three- story buildings containing primarily commercial uses on the ground floor with residential units located above. Commercial uses include restaurants, retail stores and offices. Land uses located along Pixley, Filbert and Greenwich Streets are generally residential in character with two-, three- and four-story buildings that are zoned RH-2 (Residential, House, Two Units).

The Subject Property is located within the Union Street NCD. The Union Street 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

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	June 17, 2011	June 15, 2011	22 days
Posted Notice	20 days	June 17, 2011	June 17, 2011	20 days
Mailed Notice	20 days	June 17, 2011	June 17, 2011	20 days

While the proposal does not constitute a change of use, notice of the hearing was mailed to occupants within a 150-foot radius of the subject property.

PUBLIC COMMENT

- The Department has received one phone call and one email in opposition to the proposal. Both parties indicated they were concerned about noise emitted from the premises on a week night.

ISSUES AND OTHER CONSIDERATIONS

- The Department has not received any complaints about the other entertainment/electronic amplification since the September, 2010 hearing. At that hearing the Planning Commission indicated they would be willing to reconsider the

entertainment/electronic amplification hours on Thursday nights after a 6-month trial period, which has now expired.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant Conditional Use authorization to modify the Conditions of Approval in Motion 18180, Case No. 2010.0255C to allow the Comet Club to provide other entertainment/electric amplification until 2 a.m. on Thursday nights.

BASIS FOR RECOMMENDATION

- The project promotes the continued operation of an established, locally-owned business and contributes to the viability of the overall Union Street NCD.
- The project meets all applicable requirements of the Planning Code.
- The project is desirable for, and compatible with the surrounding neighborhood.
- The business is not a Formula Retail use and serves the immediate neighborhood.

RECOMMENDATION: Approval with Conditions
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Attachments:

- Zoning Map
- Parcel Map
- Sanborn Map
- Aerial Photograph
- Context Photo
- Site Photo
- Motion 18180
- 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 type="checkbox"/> Environmental Determination | <input type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u> |
| <input type="checkbox"/> Height & Bulk Map | <input type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Parcel Map | <input type="checkbox"/> Health Dept. review of RF levels |
| <input checked="" type="checkbox"/> Sanborn Map | <input type="checkbox"/> RF Report |
| <input checked="" type="checkbox"/> Aerial Photo | <input type="checkbox"/> Community Meeting Notice |
| <input checked="" type="checkbox"/> Context Photos | <input type="checkbox"/> Inclusionary Affordable Housing Program:
Affidavit for Compliance |
| <input checked="" type="checkbox"/> Site Photos | |

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

Planner's Initials

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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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ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION, UNDER PLANNING CODE SECTIONS 303, 725.48 AND 790.38 TO MODIFY MOTION 18180, CONDITION NO. 20 TO EXTEND THE HOURS OF OTHER ENTERTAINMENT/ELECTRONIC AMPLIFICATION ON THURSDAY NIGHTS UNTIL 2 AM IN AN EXISTING BAR (d.b.a. COMET CLUB) WITHIN THE UNION STREET NEIGHBORHOOD COMMERCIAL DISTRICT (NCD) AND 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On May 3, 2011 Jeremy Paul (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Sections 303, 725.48 and 790.38 to modify Motion 18180, Condition No. 20, to allow other entertainment/electronic amplification until 2 a.m. at an existing bar (d.b.a. the Comet Club) on Thursday nights within the Union Street Neighborhood Commercial District (NCD) and a 40-X Height and Bulk District.

On July 7, 2011, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2011.0443C.

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. 2011.0443C, 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 Subject Property is located at 3111 Fillmore Street, west side between Pixley and Filbert Streets. The lot currently contains a three-story mixed-use structure – built in approximately 1913 – with the Comet Club occupying the ground floor. The building was originally constructed with two upper floor dwelling units, which have been converted to commercial uses. The Department has obtained permits for the bar dating back to 1988 and it is likely that the bar use has been operating on the premises longer. The overall lot area is approximately 2,400 square feet with the Comet Club occupying approximately 2,000 square feet of gross floor area and approximately 14 linear feet of frontage at the sidewalk. Based on the plans submitted for review, there is no outside space to be used by patrons and the only windows are located on the street façade. The property owner has provided evidence that sound proofing has been installed through the application of sheetrock on the walls and ceiling of the bar.
3. **Surrounding Properties and Neighborhood.** Land uses located within the subject block of Fillmore Street include one-, two-, three- story buildings containing primarily commercial uses on the ground floor with residential units located above. Commercial uses include restaurants, retail stores, and offices. Land uses located along Pixley, Filbert and Greenwich Streets are generally residential in character with two-, three-, and four-story buildings that are zoned RH-2 (Residential, House, Two Units).

The Subject Property is located within the Union Street NCD. The Union Street 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.

Project Description. The applicant proposes to extend the hours of other entertainment/electronic amplification until 2 a.m. on Thursday nights. This request is in direct

response to a hearing on September 16, 2010 where the Planning Commission limited the hours of other entertainment on Thursday nights until midnight (12 a.m.). The other entertainment use/electronic amplification will generally involve live spoken word and/or comedy performances, vocalists, bands, dancing and recorded amplified music with a DJ.

4. **Public Comment.** The Department has received one phone call and one email in opposition to the proposal. Both parties indicated they were concerned about noise emitted from the premises on a week night.

5. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

A. **Use Size.** Planning Code Section 725.21 requires Conditional Use Authorization for uses of 2,500 gross square feet or above in the Union Street NCD.

The Comet Club presently occupies approximately 2,000 square feet of area on the ground floor of the subject building.

B. **Other Entertainment Use:** Planning Code Section 725.48 permits other entertainment in the Union Street NCD with Conditional Use Authorization. Planning Code Section 790.38 defines "other entertainment" as: "A retail use which provides live entertainment, including dramatic and musical performances, and/or operates as a dance hall which provides amplified taped music for dancing on the premises, including but not limited to those defined in Section 1060 of the Police Code, and which is adequately soundproofed or insulated so as to confine incidental noise to the premises."

The Project seeks Conditional Use Authorization, under Planning Code Sections 725.48 and 790.38, to extend the hours of the other entertainment/electronic amplification use on the ground floor of the subject building from midnight until 2 a.m. on Thursday nights.

C. **Parking:** Section 151 of the Planning Code states that off-street parking is required for every 200 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square-feet.

The Comet Club occupies approximately 2,000 of floor area. A bar and entertainment use of this size does not require any off-street parking.

D. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code requires that NC Districts containing specific uses, including bars, have at least ½ the total width of the new or altered structure at the commercial street frontage devoted to entrances to commercially used space, windows or display space 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 Project has approximately 15 feet of frontage on Fillmore Street. Approximately 9 feet of the frontage is devoted to either the business entrance or window space.

- E. **Signage.** Currently, there is not a proposed sign program on file with the Planning Department. Any new signage will be subject to Article 6 of the Planning Code and will be reviewed by the Planning Department prior to the issuance of any sign permit.
6. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project complies 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 both necessary and desirable for the neighborhood in that it will augment a well-used existing neighborhood-serving use. The Union Street NCD controls are designed to protect the existing building scale and promote new mixed-use development which is consistent with the exiting neighborhood character. Most commercial uses are permitted at the first two stories of buildings. Commercial businesses are active during both day and evening and include a number of bars, restaurants, grocery stores, and retail outlets which conduct a sizable portion of their daily business in the late evening and nighttime hours. The proposed hours of other entertainment will contribute to this activity and character, providing additional entertainment in a unique and appropriate atmosphere during evening and nighttime hours. The District is among the most popular destinations in San Francisco for tourists and residents alike. Entertainment and drinking establishments contribute to the area's mixed-use character and livelihood. The proposal does not require any physical changes to the existing building. In September of 2010, the Planning Commission granted Conditional Use authorization for other entertainment/amplified music on the premises, but limited it to midnight on weekdays and 2:00 a.m. on weekends. To date, the Department has not received any complaints about the current entertainment operations. Based on Planning Department records, there is one other authorized other entertainment use, the Eastside West within 1,000 feet of the subject property at Greenwich and Fillmore.

- 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 footprint or exterior of the structure on the subject 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;

Traffic conditions will remain substantially unaltered by the addition of two hours of entertainment use to this bar on Thursday nights, because the proposed use is an existing neighborhood-serving business, frequented via foot, cab, or public transportation by many residents of the surrounding neighborhoods. This property is well-served by public transit with the 22, 28, 41, 43, 45 and 76 bus lines running within close proximity to the property.

- 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, or odor, since the Project is an expansion of existing bar use on the Property that does not currently create such offensive emissions. The amplified entertainment will continue to be regulated by the Entertainment Commission and Police Department so that it will meet the San Francisco Noise Control Ordinance, and not be heard outside of the enclosed structure. Furthermore, the Conditions of Approval restrict noise and vibration associated with the entertainment use to within the enclosed structure. The property owner has performed sound abatement measures by applying sheetrock to the interior walls and ceiling of the bar with consultation of an acoustical engineer.

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

No changes are proposed to such aspects as landscaping and screening of open spaces, parking and loading areas as the building footprint covers the lot. Lighting and signage shall not be altered under the subject application.

7. **General Plan Compliance.** The Project meets the criteria in Section 303(c)(3) by complying with applicable provisions of the Planning Code as established in the Findings 6 and 7 above and by affirmatively promoting the objectives and policies of the General Plan as outlined below:

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 augment an existing desirable business in the neighborhood and will enhance resident employment opportunities to people in the community. The Comet Club is an independently-owned business and an existing nighttime destination for many people. The Conditions of Approval included in Exhibit A are imposed to address potential "quality of life" concerns expressed by some of the residential neighbors.

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 augment an existing commercial activity and will enhance the diverse economic base of the City by allowing continuation of a successful business and by creating an opportunity for more jobs. No neighborhood-serving businesses will be displaced by the proposal.

OBJECTIVE 3: PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

Policy 3.1:

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment opportunities for unskilled and semi-skilled workers.

Policy 3.4:

Assist newly emerging economic activities.

The Comet Club is a small independently-owned and operated business that provides employment opportunities for San Francisco residents. This Authorization will allow for an extension of employment opportunities for local residents and performers, and will also provide employment opportunities during non-traditional business hours.

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, and the Project would not prevent the Union Street NCD from achieving optimal diversity in the types of goods and services available in the neighborhood.

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 Project is sponsored by an independent entrepreneur who seeks to enhance an existing entertainment venue for patrons of the existing bar.

8. **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 retail uses because the extended hours of the other entertainment use will augment the services provided by the existing bar. The business is owned and operated by a San Francisco resident, and the proposal will allow for additional employment opportunities for residents.

- 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 predominantly commercial and mixed-use buildings of two-to-three stories in height with ground-floor commercial uses along Fillmore Street. No changes are proposed to the existing building envelope and no existing housing will be removed. Therefore, the existing housing and neighborhood character will be preserved.

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

This Project does not involve the alteration, or change of status, of any residential dwelling unit.

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

The Comet Club is approximately 2,000 square feet in size and the extension of other entertainment hours will minimally affect demand on neighborhood parking. The area is well-served by public transit. The Project will not impede MUNI transit or 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 an industrial use, and no industrial use will be displaced as part of this Project. Service sector employment opportunities may increase as a result of the proposed extension of hours of the other entertainment 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.

The proposal does not include any alterations that would change the existing structure.

- 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.

9. 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 proposed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
10. 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. 2011.0443C** 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. 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 July 7, 2011.

Linda D. Avery
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: July 7, 2011

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow other entertainment/amplified music until 2 a.m. on Thursday nights at the Comet Club located at 3111 Fillmore Street, Lot 009 in Assessor's Block 0515, pursuant to Planning Code Section(s) 303, 725.48 and 790.38 within the **Union Street Neighborhood Commercial** District and a **40-X** Height and Bulk District and subject to conditions of approval reviewed and approved by the Commission on **July 7, 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.

This authorization is for a conditional use to modify Condition 20 of Motion 18180. All remaining conditions of Motion 18180 shall remain in effect.

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 **July 7, 2011** under Motion No **XXXXXX**.

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 project 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 or relevant permit from another agency 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 permit has not been obtained within three (3) years of the

date of the Motion approving the Project. If a site or building permit is required, 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

MONITORING

- 2. Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion, Motion 18180 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

- 3. 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

OPERATION

- 4. 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/>

- 5. Noise Control.** The premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.

For information about compliance with the fixed mechanical objects such as rooftop air conditioning, restaurant ventilation systems, and motors and compressors with acceptable noise levels, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, www.sfdph.org

For information about compliance with the construction noise, contact the Department of Building Inspection, 415-558-6570, www.sfdbi.org

For information about compliance with the amplified sound including music and television contact the Police Department at 415-553-1012 or 415-5530123, www.sf-police.org

6. **Notices Posted at Bars and Entertainment Venues.** Notices urging patrons to leave the establishment and neighborhood in a quiet, peaceful, and orderly fashion and to not litter or block driveways in the neighborhood, shall be well-lit and prominently displayed at all entrances to and exits from the establishment.

For information about compliance, contact the Entertainment Commission, at 415 554-6678, www.sfgov.org/entertainment

7. **Other Entertainment.** The Other Entertainment shall be performed within the enclosed building only. The building shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance. Bass and vibrations shall also be contained within the enclosed structure. The Project Sponsor shall obtain all necessary approvals from the Entertainment Commission prior to operation. The authorized entertainment use shall also comply with all of the conditions imposed by the Entertainment Commission.

For information about compliance, contact the Entertainment Commission, at 415 554-6678, www.sfgov.org/entertainment

8. **Hours of Operation.** The subject bar is permitted to offer other entertainment/electronic amplification during the following hours: Sunday through Wednesday from 6 p.m. to midnight and Thursday through Saturday 2 p.m. to 2 a.m.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

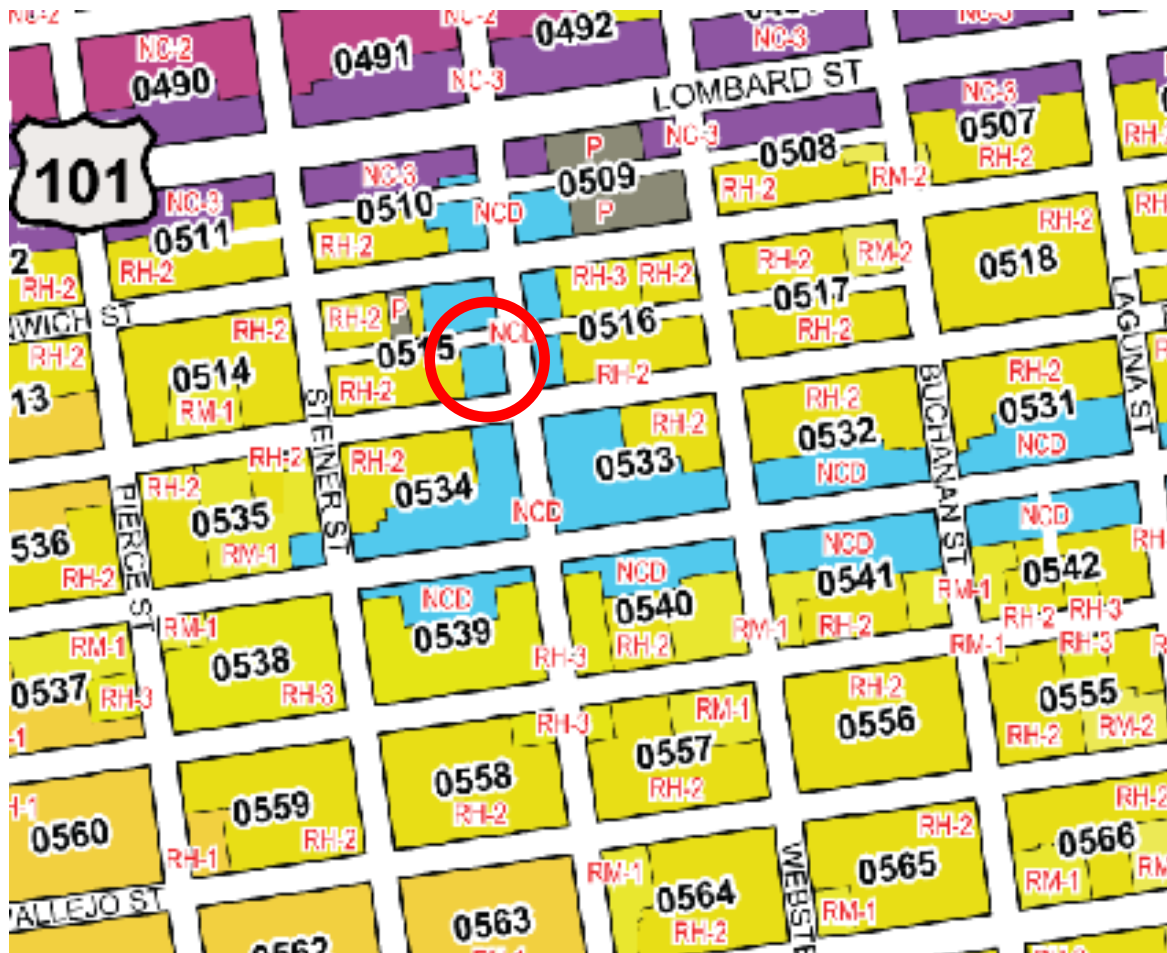
9. **Lighting.** All Project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

10. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Zoning Map



ZONING USE DISTRICTS

RESIDENTIAL, HOUSE DISTRICTS

RH-1(D) RH-1 RH-1(S) RH-2 RH-3

RESIDENTIAL, MIXED (APARTMENTS & HOUSES) DISTRICTS

RM-1 RM-2 RM-3 RM-4

NEIGHBORHOOD COMMERCIAL DISTRICTS

NC-1 NC-2 NC-3 NCD NC-S

SOUTH OF MARKET MIXED USE DISTRICTS

SPD RED RSD SLR SLI SSO

COMMERCIAL DISTRICTS

C-2 C-3-S C-3-G C-3-R C-3-O C-3-O(SD)

INDUSTRIAL DISTRICTS

C-M M-1 M-2

CHINATOWN MIXED USE DISTRICTS

CRNC CVR CCB

RESIDENTIAL-COMMERCIAL DISTRICTS

RC-3 RC-4

REDEVELOPMENT AGENCY DISTRICTS

MB-RA HP-RA

DOWNTOWN RESIDENTIAL DISTRICTS

RH DTR TB DTR

MISSION BAY DISTRICTS

MB-OS MB-O

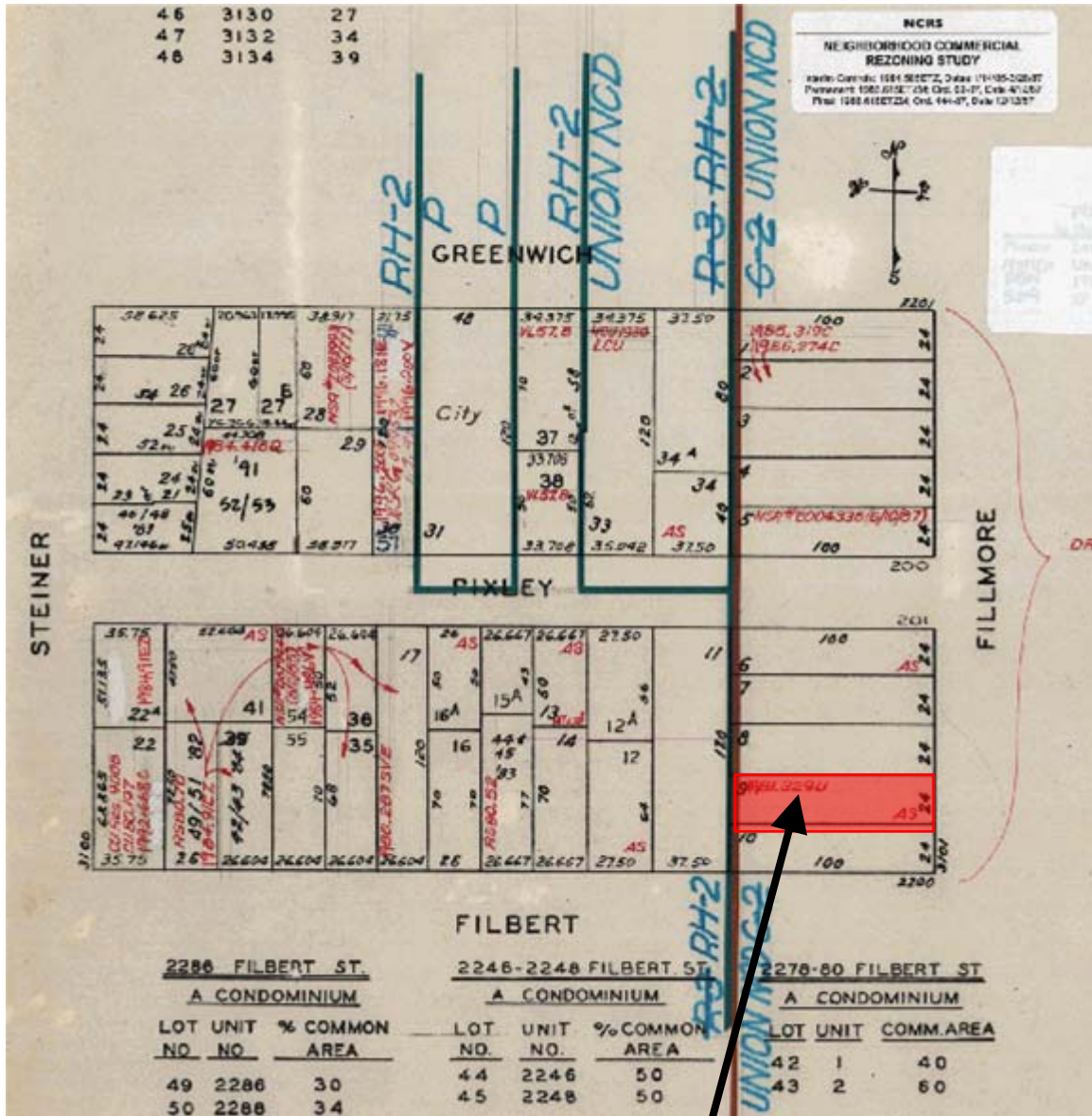
PUBLIC DISTRICT

P



Conditional Use Hearing
Case Number 2011.0443C
3111 Fillmore Street

Parcel Map

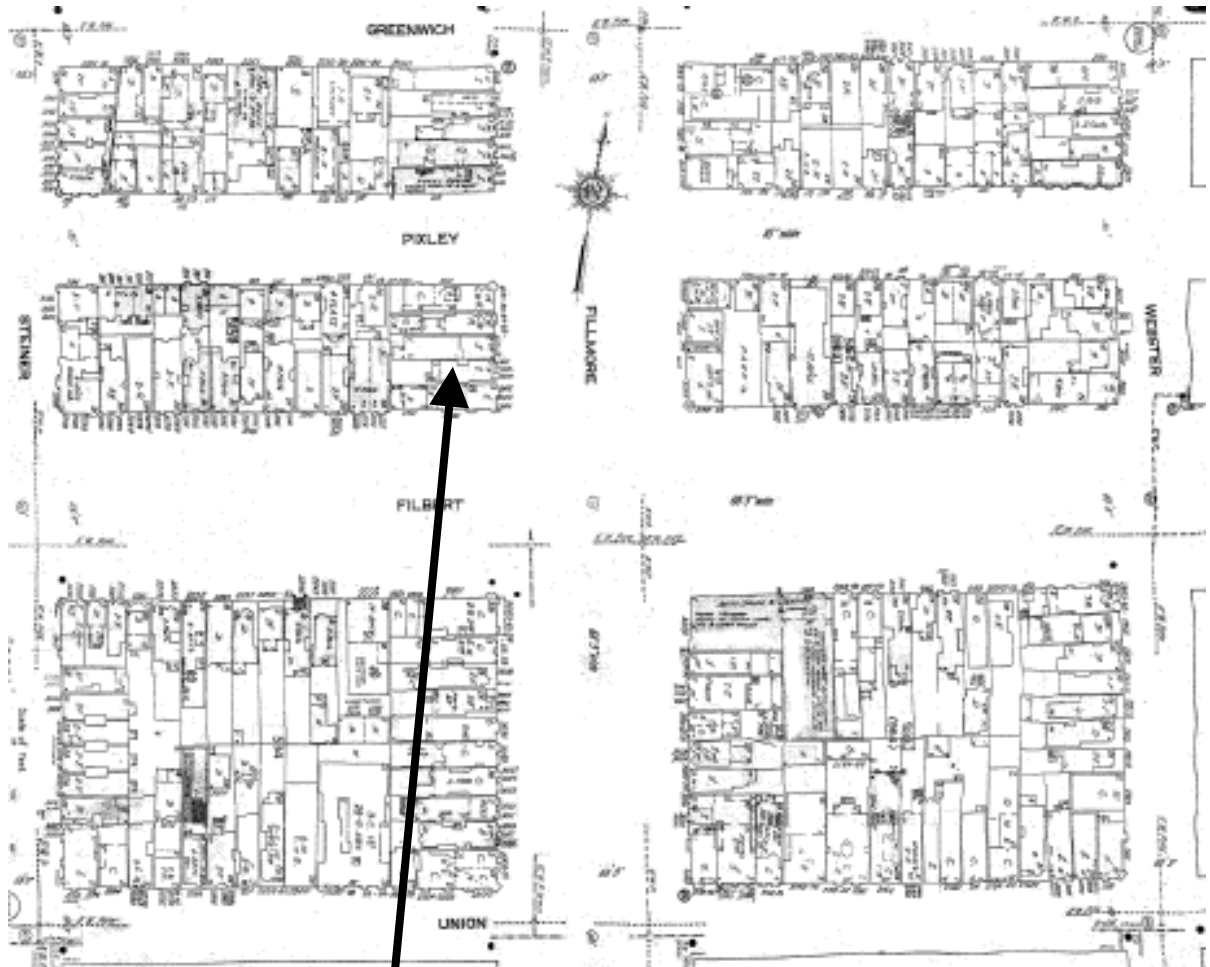


SUBJECT PROPERTY



Conditional Use Hearing
 Case Number 2011.0443C
 3111 Fillmore Street

Sanborn Map*



Subject Property

**The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.*



Aerial Photo

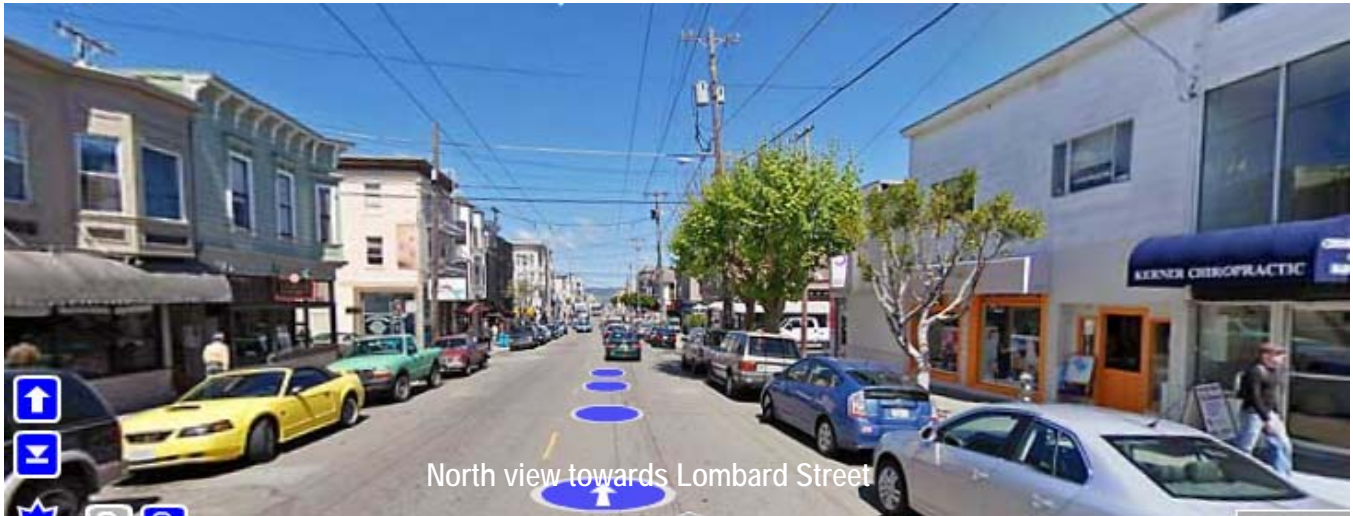


SUBJECT PROPERTY



Conditional Use Hearing
Case Number 2011.0443C
3111 Fillmore Street

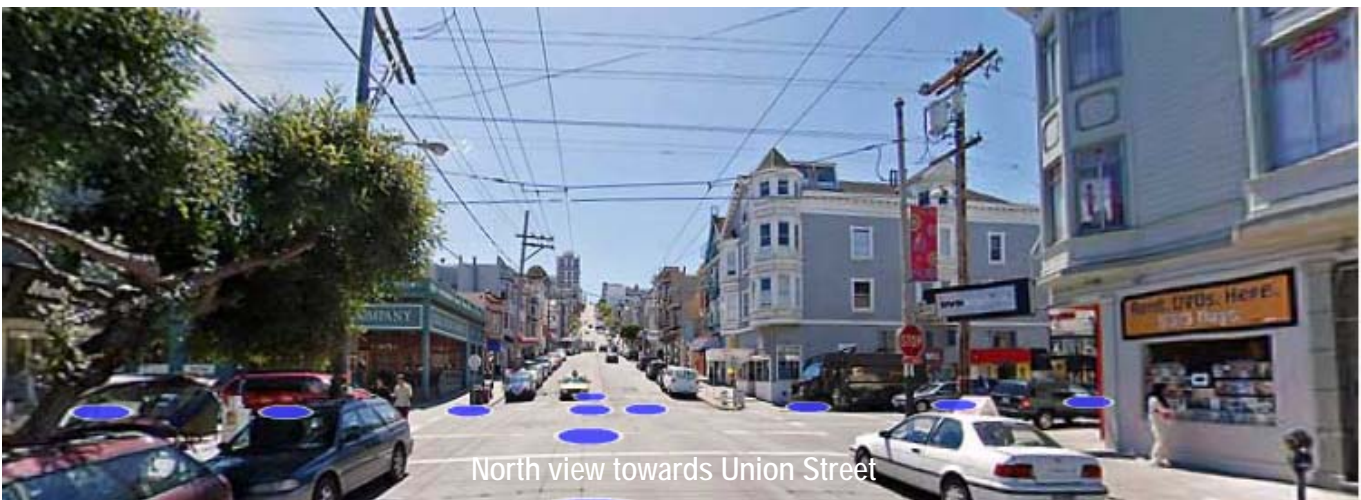
Context Photos



North view towards Lombard Street



East view



North view towards Union Street

Conditional Use Hearing
Case Number 2011.0443C
3111 Fillmore Street

Site Photo



SUBJECT PROPERTY

Conditional Use Hearing
Case Number 2011.0443C
3111 Fillmore Street



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Inclusionary Housing (Sec. 315)
- Jobs Housing Linkage Program (Sec. 313)
- Downtown Park Fee (Sec. 139)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 314)
- Other

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

Planning Commission Motion No. 18180

HEARING DATE: SEPTEMBER 16, 2010

Date: September 2, 2010
Case No.: 2010.0255C
Project Address: 3111 FILLMORE STREET
Zoning: Union Street Neighborhood Commercial District
 40-X Height and Bulk District
Block/Lot: 0515/009
Project Sponsor: Regan Caponi
 3111 Fillmore Street
 San Francisco, CA 94103
Staff Contact: Sara Vellve – (415) 558-6263
 Sara.Vellve@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION, UNDER PLANNING CODE SECTIONS 303, 725.48 AND 790.38 AUTHORIZING AN OTHER ENTERTAINMENT USE IN AN EXISTING BAR (DBA COMET CLUB) WITHIN THE UNION STREET NEIGHBORHOOD COMMERCIAL DISTRICT (NCD) AND 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On May 13, 2010, Regan Caponi of the Comet Club, (hereinafter “Applicant”), made application (hereinafter “Application”) for Conditional Use on the property at 3111 Fillmore Street, Assessor’s Lot 009 in Block 0515 (hereinafter “Property”), to establish an other entertainment use in an existing bar (dba Comet Club), per the application and plans dated May 13, 2010 and labeled “EXHIBIT B” (hereinafter “Project”), within the Union Street Neighborhood Commercial District (hereinafter “Union Street NCD”) in a 40-X Height and Bulk District.

On September 16, 2010 the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2010.0255C. Conditional Use Authorization is required pursuant to Planning Code Sections 303, 725.48 and 790.38 in order to allow an other entertainment use in the Union Street NCD.

The Application was determined by the San Francisco Planning Department (hereinafter “Department”) to be Categorically Exempt from the environmental review process pursuant to Title 14, Class 1(a) of

Category 15301 (Existing Facilities) of the California Administrative Code. The Commission has reviewed and concurs with said determination.

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

MOVED, that the Commission hereby approves the Conditional Use requested in Application No. 2010.0255C subject to the conditions contained in "EXHIBIT A", attached hereto and incorporated herein by reference thereto, based on the following findings:

FINDINGS

Having reviewed all the materials identified in the recitals above, and having heard oral testimony and arguments, this Commission finds, concludes and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Project Description.** The Project seeks a Conditional Use Authorization, pursuant to Planning Code Sections 303, 725.48, and 790.38, to establish an other entertainment use in an existing bar (dba Comet Club). The Subject Property is within the Union Street Neighborhood Commercial District and 40-X Height and Bulk District. Hours of the proposed entertainment are:
 - 6 p.m. until 11 p.m. Sun., Mon., Tues., Weds., Thurs.
 - 6 p.m. until midnight Friday, Saturday

The Comet Club is currently permitted to be a full bar with an ABC license 47 or 48 operating between the hours of 6:00 a.m. and 2:00 a.m., seven days a week.

3. **Site Description and Present Use.** The Subject Property is located at 3111 Fillmore Street, west side between Pixley, Filbert and Greenwich Streets. The lot currently contains a three-story mixed-use structure – built in approximately 1913 – with the Comet Club occupying the ground floor. The building was originally constructed with two upper floor dwelling units, which have been converted to commercial uses. The Department has obtained permits for the bar dating back to 1988 and it is likely that the bar use has been operating on the premises longer. The overall lot area is approximately 2,400 square feet with the Comet Club occupying approximately 2,000 square feet of gross floor area and approximately 14 linear feet of frontage at the sidewalk. Based on the plans submitted for review, there is no outside space to be used by patrons and the only windows are located on the street façade. The property owner has provided evidence that sound proofing has been conducted through the application of sheetrock on the walls and ceiling of the bar.
4. **Surrounding Properties and Neighborhood.** Land uses located within the subject block of Fillmore Street include one-, two-, three- story buildings containing primarily commercial uses on the ground floor with residential units located above. Commercial uses include restaurants,

retail stores, and offices. Land uses located along Pixley, Filbert and Greenwich Streets are generally residential in character with two-, three-, and four-story buildings that are zoned RH-2 (Residential, House, Two Units).

The Subject Property is located within the Union Street NCD. The Union Street 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.

5. **Public Comment.** As of September 2, 2010, the Planning Department has received letters of opposition from approximately seven neighborhood residents concerned about potential noise from the performances and patrons, and garbage. The Department has received one letter of support from the Union Street Association.

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. **Floor Area Ratio (FAR).** Planning Code Section 725.20 allows a floor area ratio of up to 3.0 in the Union Street Neighborhood Commercial District.

The Project will result in a floor area ratio of .83.

B. **Use Size.** Planning Code Section 725.21 requires Conditional Use Authorization for uses of 2,500 gross square feet or above in the Union Street NCD.

Based on plans submitted with the application, the Comet Club presently occupies 2,000 square feet of area on the ground floor of the subject building.

C. **Other Entertainment Use:** Planning Code Section 725.48 permits other entertainment in the Union Street NCD with Conditional Use Authorization. Planning Code Section 790.38 defines "other entertainment" as: "A retail use which provides live entertainment, including dramatic and musical performances, and/or operates as a dance hall which provides amplified taped music for dancing on the premises, including but not limited to those defined in Section 1060 of the Police Code, and which is adequately soundproofed or insulated so as to confine incidental noise to the premises."

The Project seeks Conditional Use Authorization, under Planning Code Sections 725.48 and 790.38, to establish an other entertainment use on the ground floor of the subject building. The project sponsor wishes to hold performances and events that require amplified sound.

D. **Parking:** Section 151 of the Planning Code states that off-street parking is required for every 200 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square-feet.

The Comet Club occupies approximately 2,000 of floor area. A bar and entertainment use of this size does not require any off-street parking.

- E. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code requires that NC Districts containing specific uses, including bars, have at least ½ the total width of the new or altered structure at the commercial street frontage devoted to entrances to commercially used space, windows or display space 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 Project has approximately 15 feet of frontage on Fillmore Street. Approximately 9 feet of the frontage is devoted to either the business entrance or window space.

- F. **Signage.** Currently, there is not a proposed sign program on file with the Planning Department. Any new signage will be subject to Article 6 of the Planning Code and will be reviewed by the Planning Department prior to the issuance of any sign permit.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project complies 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 both necessary and desirable for the neighborhood in that it will augment a well-used existing neighborhood-serving use. The Union Street NCD controls are designed to protect the existing building scale and promote new mixed-use development which is consistent with the exiting neighborhood character. Most commercial uses are permitted at the first two stories of buildings. Commercial businesses are active during both day and evening and include a number of bars, restaurants, grocery stores, and retail outlets which conduct a sizable portion of their daily business in the late evening and nighttime hours. The proposed entertainment venue will contribute to this activity and character, providing quality entertainment in a unique and appropriate atmosphere during evening and nighttime hours. The District is among the most popular destinations in San Francisco for tourists and residents alike. Entertainment and drinking establishments contribute to the area's mixed-use character and livelihood. The proposal does not require any physical changes to the existing building. Although the Comet Club has not previously been authorized to provide other entertainment events, the Department understands that such events have occurred over a number of years without complaints being filed with the Department. Based on Planning Department records, there is one other authorized other entertainment use, the Eastside West within 1,000 feet of the subject property at Greenwich and Fillmore.

- 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 footprint or exterior of the structure on the subject 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;
Traffic conditions will remain substantially unaltered by the addition of entertainment to this bar, because the proposed use is a neighborhood-serving business, frequented via foot, cab, or public transportation by many residents of the surrounding neighborhoods. This Property is well-served by public transit with the 22, 28, 41, 43, 45 and 76 bus lines running within close proximity to the property.
 - 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, or odor, since the Project is an expansion of existing bar use on the Property that does not currently create such offensive emissions. The amplified entertainment will be regulated by the Entertainment Commission and Police Department so that it will meet the San Francisco Noise Control Ordinance, and not be heard outside of the enclosed structure. Furthermore, the Conditions of Approval restrict noise and vibration associated with the entertainment use to within the enclosed structure. The property owner has performed sound abatement measures by applying sheetrock to the interior walls of the property with consultation of an acoustical engineer.
 - iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;
No changes are proposed to such aspects as landscaping and screening of open spaces, parking and loading areas as the building footprint covers the lot. Lighting and signage shall not be altered under the subject application.
- C. With respect to applications filed pursuant to Article 7, Section 703.2(a), zoning category .48 (Other Entertainment), that such use or feature will:
- i. Not be open between 2:00 a.m. and 6:00 a.m.;
The establishment will close no later than 2:00 a.m., seven days a week.
 - ii. Not use electronic amplification between midnight and 6:00 a.m.; and
Amplification will not occur between midnight and 6:00 a.m.
 - iii. Be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified on the San Francisco Noise Control Ordinance.
The San Francisco Entertainment Commission and/or Police Department will regulate noise, verifying that the decibel levels specified in the San Francisco Noise Control Ordinance are not

exceeded. Further, the Project Sponsor has indicated that sound abatement measures have been taken through the application of sheetrock to the interior walls at the recommendation of an acoustical engineer.

8. **General Plan Compliance.** The Project meets the criteria in Section 303(c)(3) by complying with applicable provisions of the Planning Code as established in the Findings 6 and 7 above and by affirmatively promoting the objectives and policies of the General Plan as outlined below:

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 will provide resident employment opportunities to people in the community. The Comet Club is an independently-owned business and an existing nighttime destination for many people. The Conditions of Approval included in Exhibit A are imposed to mitigate potential quality of life concerns expressed by some of the residential neighbors.

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 augment an existing commercial activity and will enhance the diverse economic base of the City by allowing an expansion of a successful business and by creating an opportunity for more jobs. No neighborhood-serving businesses will be displaced by the proposal.

OBJECTIVE 3: PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

Policy 3.1:

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment opportunities for unskilled and semi-skilled workers.

Policy 3.4:

Assist newly emerging economic activities.

The Comet Club is a small independently-owned and operated business that provides employment opportunities for San Francisco residents. This Authorization will allow for more employment opportunities for local residents and performers, and will also provide employment opportunities during non-traditional business hours.

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, and the Project would not prevent the Union Street NCD from achieving optimal diversity in the types of goods and services available in the neighborhood.

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 Project is sponsored by an independent entrepreneur who seeks to provide an entertainment venue for patrons of the existing bar.

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 retail uses because the proposed other entertainment use will augment the services provided by the existing bar. The business is owned and operated by a San Francisco resident, and the augmented business will allow for additional employment opportunities for residents.
- 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 predominantly commercial and mixed-use buildings of two-to-three stories in height with ground-floor retail stores along Fillmore Street. No changes are proposed to the existing building envelope and no existing housing will be removed. Therefore, the existing housing and neighborhood character will be preserved.
- C. That the City's supply of affordable housing be preserved and enhanced,
This Project does not involve the alteration, or change of status, of any residential dwelling unit.
- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.
The Project has approximately 2,000 square feet and will minimally affect demand on neighborhood parking. The area is well-served by public transit. The Project will not impede MUNI transit or 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 an industrial use, and no industrial use will be displaced as part of this Project. Service sector employment opportunities may increase as a result of the proposed entertainment 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.
The proposal does not include any alterations that would change the existing structure.
- 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 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. 2010.0255C** 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. 18180. 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 94103.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on September 16, 2010.

Linda Avery
Commission Secretary

AYES: Antonini, Olague, Sugaya, Miguel

NAYS:

ABSENT: Moore

EXPIRED TERMS: Borden, Lee

ADOPTED: September 16, 2010

Exhibit A

Conditions of Approval

1. The Project seeks a Conditional Use Authorization, pursuant to Planning Code Sections 303, 725.48, and 790.38, to establish an other entertainment use at the property located at 3111 Fillmore Street within the Union Street Neighborhood Commercial District and 40-X Height and Bulk District, in general conformance with plans filed with the Application as received on May 13, 2010, and stamped "EXHIBIT B" included in the docket for Case No. 2010.0255C, reviewed and approved by the Commission on September 16, 2010.
2. After the Conditional Use Authorization for the Project becomes final and before the issuance of any building permit, the Zoning Administrator shall approve and order the recordation of a Notice of Special Restrictions in the Official Records of the Recorder of the City and County of San Francisco against the land record of the Subject Lot. Said notice shall state that the operation of the proposal has been authorized by and is subject to the conditions of this Motion applicable to the Project. From time to time, after the recordation of such notice, at the request of the Applicant or the successor-in-interest thereto, 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 of not less than \$200 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. 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 are subsequently reported to the Zoning Administrator 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 in accordance with the hearing notification and conduct procedures as set forth in Section 174, 306.3 and 306.4 of the Planning Code to consider revocation of this Conditional Use Authorization.
6. The Project Sponsor shall implement any other conditions and/or management practices – as determined by the Zoning Administrator, in consultation with the Police Department and other appropriate public agencies – to be necessary to ensure that management and/or patrons of the establishment maintain the quiet, safety, and cleanliness of the premises and the vicinity of the use.

7. This Authorization must be implemented through issuance of a building permit for the proposed use within a period of three (3) years from the date of approval by the Planning Commission. Conditional Use Authorization may be extended at the discretion of the Zoning Administrator for up to two years where the failure to implement the Project through a building permit is caused by delay by any other public agency or by legal challenge.
8. The Project Sponsor shall appoint a Community Liaison Officer to address issues of concern to neighbors related to the operation of this Project. The Community Liaison Officer will be the current owner, Regan Caponi, who can be contacted at (415) 710 - 0993. The Applicant will keep the Zoning Administrator updated with any changes to the contact information or if a different liaison is designated.
9. The Project Sponsor/Community Liaison shall work with existing neighbors and neighborhood groups toward resolving any problems identified as being caused by the bar and the entertainment use. The Zoning Administrator shall report to the Commission any unresolved matters brought to the Department's attention regarding noncompliance with or ineffectiveness of any condition contained in this Exhibit.
10. The other entertainment use/electronic amplification will generally involve live spoken word and/or comedy performances, vocalists, bands, dancing and recorded amplified music with a DJ between the hours of 2 p.m. and 2 a.m. Friday and Saturday and between the hours of 6 p.m. and midnight on Sunday through Thursday.
11. The operator of the establishment shall obtain all necessary approvals and implement any conditions imposed from the San Francisco Entertainment Commission prior to hosting live entertainment events on-site, but no later than 18 months from the date of this Conditional Use authorization.
12. The establishment shall be adequately soundproofed or insulated for noise so that sound from live entertainment shall not be audible from outside the premises or within other sections of the building. Windows serving the bar shall be inoperable or locked in such a manner that patrons are unable to unlock the windows. The Project Sponsor shall ensure that the establishment provides adequate ventilation within the structure such that doors and/or windows are not left open during business hours.
13. Prior to commencement of the entertainment use, a final sound test shall be conducted by the Entertainment Commission's Sound Technician in order to set the maximum decibel limit allowed for the Subject Property. Any future structural or soundproofing alterations made to the building shall require a new sound check by the Entertainment Commission's Sound Technician to ensure compliance with the San Francisco Sound Ordinance and to verify that all sound, bass, and vibrations are contained within the enclosed structure. It is the responsibility of the Project Sponsor to recognize when such change to the building occurs and schedule the required sound check with the Entertainment Commission.
14. The Project Sponsor shall maintain the building entrances and all sidewalks abutting the Subject Property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and

15. Patrons of the Comet Club shall not be granted access to the rear patio.
16. The Project Sponsor shall maintain an attractive storefront providing visibility of the bar interior through the storefront windows.
17. The Project Sponsor shall provide well lit notices that are prominently displayed at all entrances and exits of the establishment urging patrons to leave the establishment and neighborhood in a quiet, peaceful and orderly fashion and to not litter or block driveways in the neighborhood. These notices shall be made of durable material and permanently affixed to the building.
18. The Project Sponsor and Comet Club management shall at all times keep a copy of these "Conditions of Approval-Exhibit A" on the premises for reference. Comet Club management shall review with new employees as part of their training and orientation, and periodically (at least at twelve month intervals) review with the other Comet Club employees, these Conditions of Approval related to operational concerns and quality of life issues, with emphasis on noise control, street cleanliness, and respectful behavior towards neighbors by Comet Club patrons. Employees are to be reminded that continued successful operation of Comet Club, and their respective jobs are dependant on compliance with these Conditions of Approval.
19. Although sidewalk tables and chairs are not currently proposed, should they be subsequently proposed, they will be removed from the sidewalk by the time any other entertainment/electronic amplification use commences within the building.
20. After a period of six months from the date of the subject approval, the Project Sponsor may submit an application to modify the Conditions of Approval to extend the other entertainment hours until 2 a.m. on Thursday nights.

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