



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use Authorization HEARING DATE: JANUARY 28, 2010

Date: January 21, 2010
Case No.: 2009.0773 C
Project Address: 2111 MARKET STREET (aka 210 CHURCH STREET)
Zoning: Upper Market Street Neighborhood Commercial Transit District (NCT)
40-X/85-X Height and Bulk District
Block/Lot: 3543/001
Project Sponsor: Maurice Farinas
2101 Sacramento Street, Suite 303
San Francisco, CA 94109
Staff Contact: Adrian C. Putra – (415) 575-9079
adrian.putra@sfgov.org
Recommendation: **Approval with Conditions**

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PROJECT DESCRIPTION

The Project Sponsor seeks a Conditional Use Authorization pursuant to Planning Code Sections 303 and 733.41 to allow a bar (dba "Cork, a Wine Bar") at 2111 Market Street. The proposed bar will occupy a vacant, ground floor commercial unit that faces Market Street, and contains approximately 1,372 gross square-feet of floor area. The proposed bar will be independently owned and operated, and is not a formula retail establishment. The Project Sponsor intends to operate the proposed use as a wine bar that will also serve incidental food that does not require major cooking facilities for preparation. The Project Sponsor does not intend to offer or obtain the required ABC license for distilled spirits. The project involves tenant improvements which will not result in the expansion of the building. According to the Project Sponsor, the hours of operation for the bar will be Tuesday through Thursday from 11:00 AM to 11:00 PM, Friday and Saturday from 11:00 AM to 12:00 AM, and closed on Sunday and Monday.

SITE DESCRIPTION AND PRESENT USE

The Subject Property is located at 2111 Market Street (aka 210 Church Street), at the southwest corner of Market and Church Streets, and is occupied by a three-story mixed-use building that contains 16 residential units over eight ground floor commercial units. Businesses located at the subject property include "Church Street Flowers" (retail store), "Crepevine" (full-service restaurant), "Sweet" (retail specialty food store), "Sparky's" (full-service restaurant), "Vevo Optics" (retail store), and "MetroPCS" (retail store). Two of the property's commercial units are vacant, including the project site at 2111 Market Street. The subject property is approximately 6,394 square-feet in area, with approximately 105-feet of frontage along Market Street, and 144-feet of frontage along Church Street.

SURROUNDING PROPERTIES & NEIGHBORHOOD

The Subject Property is located in the Upper Market Street NCT District, which is part of the Upper Market Neighborhood that runs along Market Street between Castro and Church Streets. The Upper Market Street NCT District, which runs along Market Street between Noe and Church Streets, has controls that are designed to encourage a diversified commercial environment with a wide variety of uses, including limited convenience goods to adjacent neighborhoods, as well as a shopping street for a broader trade area. A large number of offices are located on Market Street within easy transit access downtown. The width of Market Street and its use as a major arterial diminish the perception of the Upper Market Street Transit District as a single commercial district. The street appears as a collection of dispersed centers of commercial activity, concentrated at the intersections of Market Street with secondary streets. Additionally, the Upper Market Street NCT District is well served by transit and is anchored by the Market Street subway (with stations at Church and Castro Streets) and the F-Market streetcar line. All light-rail lines in the City traverse the district, including the F, J, K, L, M, and N, and additional key cross-town transit service crosses Market Street at Fillmore and Castro Streets.

The subject block of Market Street is developed with a mix of one-to-three story buildings. In addition to the subject building, other land uses located within the subject block along Market Street include, a church ("Open Bible Church"), a gas station (dba "Unocal 76"), and three commercial buildings. Other businesses found on this block of Market Street that are not located within the subject building include: Crossroads Trading Co. (retail sales and services), Walgreens (retail sales and services), Academy of Ballet (personal service), and 24-Hour Fitness (personal service), and a Unocal 76 Gas Station (gas station). The properties on the subject block are all located within the Upper Market Street NCT District. Currently, there are eight bars and 25 commercial vacancies in the Upper Market Neighborhood.

ENVIRONMENTAL REVIEW STATUS

The Conditional Use Application was determined by the San Francisco Planning Department to be exempt from environmental review pursuant to Title 14, Class 1(a) of Category 15301 (Existing Facilities) of the California Administrative Code.

HEARING NOTIFICATION REQUIREMENTS

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	January 8, 2010	January 8, 2010	20 days
Posted Notice	20 days	January 8, 2010	January 8, 2010	20 days
Mailed Notice	20 days	January 8, 2010	January 8, 2010	20 days

PUBLIC COMMENT

To date the Department has received one letter of support for the project from the Merchants of Upper Market & Castro (MUMC).

ISSUES AND OTHER CONSIDERATIONS

- The proposed bar will be independently owned, is not a formula retail use, and is occupying a vacant storefront.
- There are approximately 25 commercial vacancies (including Project Site) in the Upper Market Neighborhood that runs along Market Street between Castro and Church Streets.
- The Commerce and Industry Element of the General Plan contains Guidelines for Specific Uses. For eating and drinking establishments, the Guidelines states, “the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage.” Planning staff has performed a site survey of the Upper Market Neighborhood (which consists of both the Upper Market Street NCT and NCD) and found that including the project site, approximately 19% of the commercial frontage in this surveyed area is devoted to eating and drinking establishments.
- Approximately 11% of the commercial frontage on the subject block is devoted to eating and drinking establishments.

REQUIRED COMMISSION ACTION

Pursuant to Planning Code Section 733.41 and 303, Conditional Use authorization is required to establish a bar (dba “Cork, a Wine Bar”) in the Upper Market Street Neighborhood Commercial Transit District (NCT), and 40-X/85-X Height and Bulk District.

BASIS FOR RECOMMENDATION

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

- Approving the Project will allow for the establishment of a new independently owned and operated business, will eliminate a vacant commercial storefront, and will generate new employment opportunities for local residents.
- The Project Site is well served by public transit so that potential customers should not adversely affect the traffic flow.

- The Project meets all applicable requirements of the Planning Code and is consistent with the General Plan.
- The Project is a neighborhood serving retail use.
- The neighborhood contains diverse mix of neighborhood serving retail and services uses which should not be adversely impacted by the creation of a new bar.

RECOMMENDATION: Approval with conditions
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Exhibit 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 checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u> |
| <input type="checkbox"/> Height & Bulk Map | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Parcel Map | <input checked="" type="checkbox"/> Checklist for Formula Retail |
| <input checked="" type="checkbox"/> Sanborn Map | <input checked="" type="checkbox"/> Letters in support and/or opposition |
| <input checked="" type="checkbox"/> Aerial Photo | |
| <input checked="" type="checkbox"/> Context Photos | |
| <input checked="" type="checkbox"/> Site Photos | |

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

Planner's Initials

ACP



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|--|--|
| <input type="checkbox"/> Inclusionary Housing (Sec. 315) | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 313) | <input type="checkbox"/> Child Care Requirement (Sec. 314) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 139) | <input type="checkbox"/> Other |

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Planning Commission Draft Motion HEARING DATE, JANUARY 28, 2010

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ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 733.41, AND 303 TO ESTABLISH A BAR (DBA "CORK, A WINE BAR") IN THE UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL TRANSIT (NCT) DISTRICT, AND A 40-X/85-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On August 20, 2009, Maurice Farinas (hereinafter "Project Sponsor") filed an application (hereinafter "Application") with the Department for Conditional Use Authorization on the property at 210 Church (aka 2111 Market Street), Lot 001 in Assessor's Block 3543 (hereinafter "Property") to establish a bar (dba "Cork, a Wine Bar"), in the Upper Market Street Neighborhood Commercial Transit District (NCT), and a 40-X/85-X Height and Bulk District, in general conformity with plans filed with the Application and labeled "Exhibit B" (hereinafter "Project").

On January 28, 2010, the San Francisco Planning Commission (Hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2009.0773C. Conditional Use Authorization is required for the establishment of a bar in the Upper

Market Street Neighborhood Commercial Transit District (NCT) as defined in Planning Code Section 733.41 and 303. The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption under CEQA. The Commission has reviewed and concurs with said determination.

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

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2009.0773C, subject to the conditions contained in EXHIBIT A, attached hereto and incorporated herein by reference thereto, based on the following findings:

FINDINGS

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The Subject Property is located at 2111 Market Street (aka 210 Church Street), at the southwest corner of Market and Church Streets, and is occupied by a three-story mixed-use building that contains 16 residential units over eight ground floor commercial units. Businesses located at the subject property include "Church Street Flowers" (retail store), "Crepevine" (full-service restaurant), "Sweet" (retail specialty food store), "Sparky's" (full-service restaurant), "Veo Optics" (retail store), and "MetroPCS" (retail store). Two of the property's commercial units are vacant, including the project site at 2111 Market Street. The subject property is approximately 6,394 square-feet in area, with approximately 105-feet of frontage along Market Street, and 144-feet of frontage along Church Street.
3. **Surrounding Properties and Neighborhood.** The Subject Property is located in the Upper Market Street NCT District, which is part of the Upper Market Neighborhood that runs along Market Street between Castro and Church Streets. The Upper Market Street NCT District, which runs along Market Street between Noe and Church Streets, has controls that are designed to encourage a diversified commercial environment with a wide variety of uses, including limited convenience goods to adjacent neighborhoods, as well as a shopping street for a broader trade area. A large number of offices are located on Market Street within easy transit access downtown. The width of Market Street and its use as a major arterial diminish the perception of the Upper Market Street Transit District as a single commercial district. The street appears as a collection of dispersed centers of commercial activity, concentrated at the intersections of Market Street with secondary streets.

The Upper Market Street NCT District is well served by transit and is anchored by the Market Street subway (with stations at Church and Castro Streets) and the F-Market streetcar line. All light-rail lines in the City traverse the district, including the F, J, K, L, M, and N, and additional key cross-town transit service crosses Market Street at Fillmore and Castro Streets. Additionally, Market Street is a primary bicycle corridor.

The Upper Market Street NCT District controls are designed to promote moderate-scale development which contributes to the definition of Market Street's design and character. The controls are also intended to preserve the existing mix of commercial uses and maintain the livability of the district and its surrounding residential areas. To promote mixed-use buildings, most commercial uses are permitted with some limitations above the second story. In order to maintain continuous retail frontage and preserve a balanced mix of commercial uses, ground-story neighborhood-serving uses are encouraged, and eating and drinking, entertainment, and financial services uses are limited. Ground-floor commercial space is required along Market and Church Streets.

The subject block of Market Street is developed with a mix of one-to-three story buildings. In addition to the subject building, other land uses located within the subject block along Market Street include, a church ("Open Bible Church"), a gas station (dba "Unocal 76"), and three commercial buildings. Other businesses found on this block of Market Street that are not located within the subject building include: Crossroads Trading Co. (retail sales and services), Walgreens (retail sales and services), Academy of Ballet (personal service), and 24-Hour Fitness (personal service), and a Unocal 76 Gas Station (gas station). The properties on the subject block are all located within the Upper Market Street NCT District. Currently, there are eight bars and 25 commercial vacancies in the Upper Market Neighborhood.

4. **Project Description.** The Project Sponsor seeks a Conditional Use Authorization pursuant to Planning Code Sections 303 and 733.41 to allow a bar (dba "Cork, a Wine Bar") at 2111 Market Street. The proposed bar will occupy a vacant, ground floor commercial unit that faces Market Street, and contains approximately 1,372 gross square-feet of floor area. The proposed bar will be independently owned and operated, and is not a formula retail establishment. The Project Sponsor intends to operate the proposed use as a wine bar that will also serve incidental food that does not require major cooking facilities for preparation. The Project Sponsor does not intend to offer or obtain the required ABC license for distilled spirits. The project involves tenant improvements which will not result in the expansion of the building. According to the Project Sponsor, the hours of operation for the bar will be Tuesday through Thursday from 11:00 AM to 11:00 PM, Friday and Saturday from 11:00 AM to 12:00 AM, and closed on Sunday and Monday.
5. **Public Comment.** To date the Department has received one letter of support for the project from the Merchants of Upper Market & Castro (MUMC). The Department has not received any correspondence in opposition to the project.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Bar.** Planning Code Section 733.41 states that a bar, as defined in Sections 790.22 of the Planning code, are permitted as conditional uses on the first story and below.

The Project Sponsor seeks Conditional Use Authorization for the change of use to a bar (dba "Cork, a Wine Bar") at the first floor of the Subject Property, which is located within the Upper Market Street NCT District.

- B. **Hours of Operation.** Planning Code Section 733.27 states that in the Upper Market NCT maintaining hours of operation from 6:00 PM. to 2:00 AM. is permitted by right, and that hours of operation from 2:00 AM. to 6:00 AM. is conditionally permitted.

The hours of operation for the bar will be Tuesday through Thursday from 11:00 AM to 11:00 PM, Friday and Saturday from 11:00 AM to 12:00 AM, and closed on Sunday and Monday.

- C. **Use Size.** Planning Code Section 731.21 permits a use size of 3,000 square feet and above in the Upper Market Street NCT District with Conditional Use Authorization.

The Project will not increase the use size at the Subject Property. The use size of approximately 1,372 gross square-feet of floor area is below the 3,000 square foot threshold established for uses sizes in the Upper Market Street NCT District.

- D. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code requires that NC Districts containing specific uses – including full-service restaurants – 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 site has approximately 20'-8" of lineal street frontage along Market Street with approximately 12' of street frontage devoted to either the entrance or window space. The windows are un-tinted clear glass, and there is an unobstructed view into the establishment at the pedestrian eye-level.

- E. **Parking.** Section 151 of the Planning Code requires off-street parking for bars for every 200 square-feet of occupied floor area, where the occupied floor area exceeds 5,000 square-feet.

The project site contains approximately 1,372 square-feet of floor area and thus does not require any off-street parking.

- F. **Signage.** Any proposed signage will be subject to the review and approval of the Planning Department.

Any proposed signage shall be subject to the review of the Planning Department and required to meet all provisions set forth in Article 6 of the Planning Code pending the approval of this application.

- G. **Bar.** Section 790.22 of the Code defines a bar as a retail use which provides on-site alcoholic beverage sales for drinking on the premises, including bars serving beer, wine and/or liquor

to the customer where no person under 21 years of age is admitted (with Alcoholic Beverage Control [ABC] licenses 42, 48, or 61) and drinking establishments serving liquor (with ABC licenses 47 or 49) in conjunction with other uses which admit minors, such as restaurants, movie theaters, and other entertainment.

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 provide a new bar use for local residents that can serve as a complementary use to the existing restaurant uses in the Upper Market and Castro Neighborhoods. Currently there are no bar uses on the subject block. Additionally there are no bar uses in the Upper Market Neighborhood; which includes both the Upper Market Street NCT and NCD, that focus on wine.

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The size and shape of the Project Site is compatible with the pattern of development in the area, and the Project does not include exterior alterations that will affect the size, shape or arrangement of structures on the lot.

- 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 that can be easily frequented via foot, cab, or public transportation by many residents of the surrounding neighborhoods. This Property is well served by public transit and is located within a transit district (Upper Market Street NCT) along Market Street. The Project does not trigger a parking requirement because its intensity is well below the 5,000 square-foot threshold that triggers an off-street parking requirement.

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

The Project will not produce noxious or offensive emissions related to noise, glare and dust.

- 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 proposed changes to existing conditions as they relate to landscaping, screening, open spaces, parking and loading areas, service areas and lighting. Any proposed signage shall be subject to the review of the Planning Department and required to meet all provisions set forth in Article 6 of the Planning Code pending the approval of this application

- 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 Project is consistent with the stated purpose of Upper Market NCT in that the use is located at the ground floor, provides a compatible convenience service for the immediate surrounding neighborhoods, provides entry level job opportunities, and operates with hours of operation that are permitted by right within the district.

- 8. **General Plan Compliance.** The Project is consistent with the Objectives and Policies of the General Plan in that:

NEIGHBORHOOD COMMERCE

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 proposed development will provide desirable use to the neighborhood that is independently owned and operated and will provide resident employment opportunities to those in the community. Further, the Project Site is located within the Upper Market NCT and is thus consistent with the uses in this neighborhood and with in the commercial land use plan.

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.

Approval of the Project will allow the immediate neighborhood to establish a new commercial use that could generate additional pedestrian activity to the area. This will contribute the diverse economic base of the City.

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 improvement opportunities for unskilled and semi-skilled workers.

Approving the Project will create entry-level employment opportunities for local unskilled and semi-skilled workers.

Policy 3.2:

Promote measures designed to increase the number of San Francisco jobs held by San Francisco residents.

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

Policy 6.1:

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

The Project will not displace an existing commercial tenant or prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood. There are currently 44 eating and/or drinking establishments located within the Upper Market Neighborhood.

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

The General Plan states that there is a concern with the potential over-concentration of food-service establishments, and the Commerce and Industry Element of the General Plan contains the 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. However, the approval of this application will not result in an over-concentration of eating and drinking establishments within the Upper Market Neighborhood, because including the proposed bar, only approximately 19% of the commercial frontage of the Upper Market Street Neighborhood is dedicated to eating and drinking establishments. Additionally, within this neighborhood there is already diverse mix of neighborhood serving retail and service uses.

TRANSPORTATION ELEMENT

Objectives and Policies

OBJECTIVE 1:

MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE, CONVENIENT AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH QUALITY LIVING ENVIRONMENT OF THE BAY AREA.

Policy 1.3:

Give priority to public transit and other alternatives to the private automobile as the means of meeting San Francisco's transportation needs, particularly those of commuters.

The Project is located in an area well served by public transit, minimizing the need for private automobiles. The availability of transit, combined with the small scale of the use, will mitigate impacts.

OBJECTIVE 11:

ESTABLISH PUBLIC TRANSIT AS THE PRIMARY MODE OF TRANSPORTATION IN SAN FRANCISCO AND AS A MEANS THROUGH WHICH TO GUIDE FUTURE DEVELOPMENT AND IMPROVE REGIONAL MOBILITY AND AIR QUALITY.

Policy 11.3:

Encourage development that efficiently coordinates land use with transit service, requiring that developers address transit concerns as well as mitigate traffic problems.

The Project will not interfere with transit service operations. Approval of the Project should not significantly alter the existing levels of vehicle traffic.

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.

No retail uses will be displaced as a result of this authorization. Additionally, this authorization will allow for the creation of new job opportunities.

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

The Project will not adversely affect existing housing and is consistent with the surrounding neighborhood character.

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

No housing will be removed for this Project.

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

The Project is within close access to public transit as it is served by the L Muni line. Additionally, approval of the Project should not significantly alter the existing automobile traffic and parking availability that currently exists in the immediate neighborhood.

- 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.

Approval of this Project will not adversely affect any industrial or service sector jobs rather it will create new service sector employment opportunities for local residents.

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

The Project will be designed and constructed to conform to the structural and seismic safety requirements of the San Francisco Building Code where applicable. Therefore, the Project will not impact the existing structure's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

The Project does propose minor façade modification. However, the existing structure is not an architecturally rated building, nor is it included on any architectural survey. Therefore, no historic buildings will be adversely affected by the proposed change of use.

- 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 there is no change to the existing building footprint.

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

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2009.0773C** 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. 17940. 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, 94012.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on January 28, 2010.

Linda Avery
Commission Secretary

AYES:

NAYES:

ABSENT:

ADOPTED: January 28, 2010

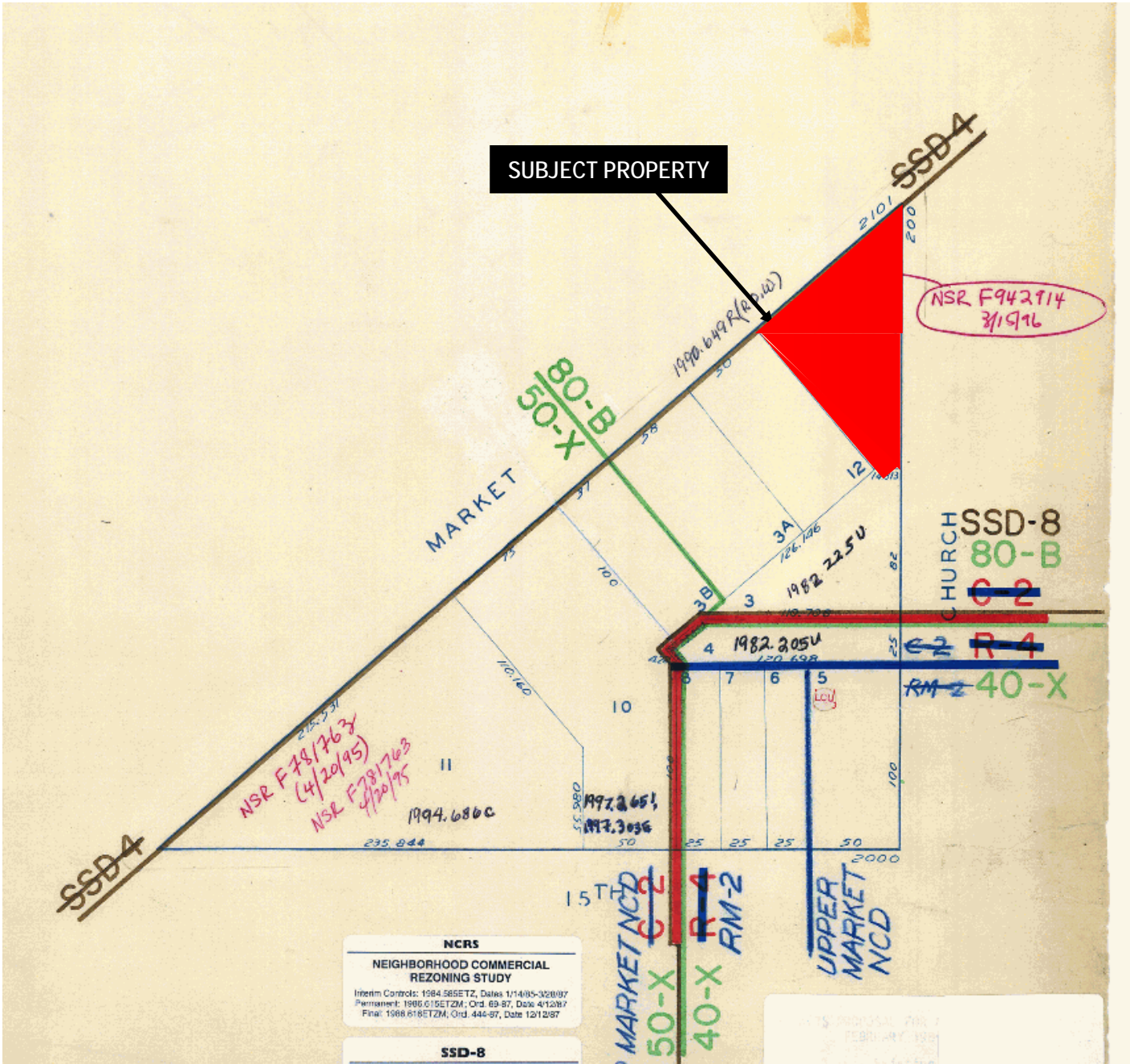
Exhibit A

Conditions of Approval

1. This authorization is for a Conditional Use under Planning Code Sections 733.41, and 303 to establish a bar (dba "Cork, a Wine Bar") in the Upper Market Neighborhood Commercial Transit District, and a 40-X/85-X Height and Bulk District, in general conformance with plans filed with the Application as received on August 20, 2009 and stamped "EXHIBIT B" included in the docket for **Case No. 2009.0773C**, reviewed and approved by the Commission on **January 28, 2010**.
2. Prior to the issuance of the Building Permit for the Project the Zoning Administrator shall approve and order the recordation of a Notice of Special Restrictions with the Office of the Recorder of the City and County of San Francisco for the premises (Assessor's 3543, Lot 001), which notice shall state that construction has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied.
3. Community Liaison. Within 10 days of the effective date of this authorization, the Project Sponsor shall appoint a community liaison officer to resolve issues of concern to neighbors and residents relating to the construction and operation of the facilities. Upon appointment, the Project Sponsor shall report in writing the name, address and telephone number of this officer to the Zoning Administrator. The Community Liaison Officer 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.
4. 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 no less than \$250 a day in accordance with Planning Code Section 176.
5. 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).
6. The operator shall appoint a community liaison officer to deal with issues of concern to neighbors related to operation of the Project. The name and telephone number of the community liaison shall be reported to the Zoning Administrator.
7. The operator shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.

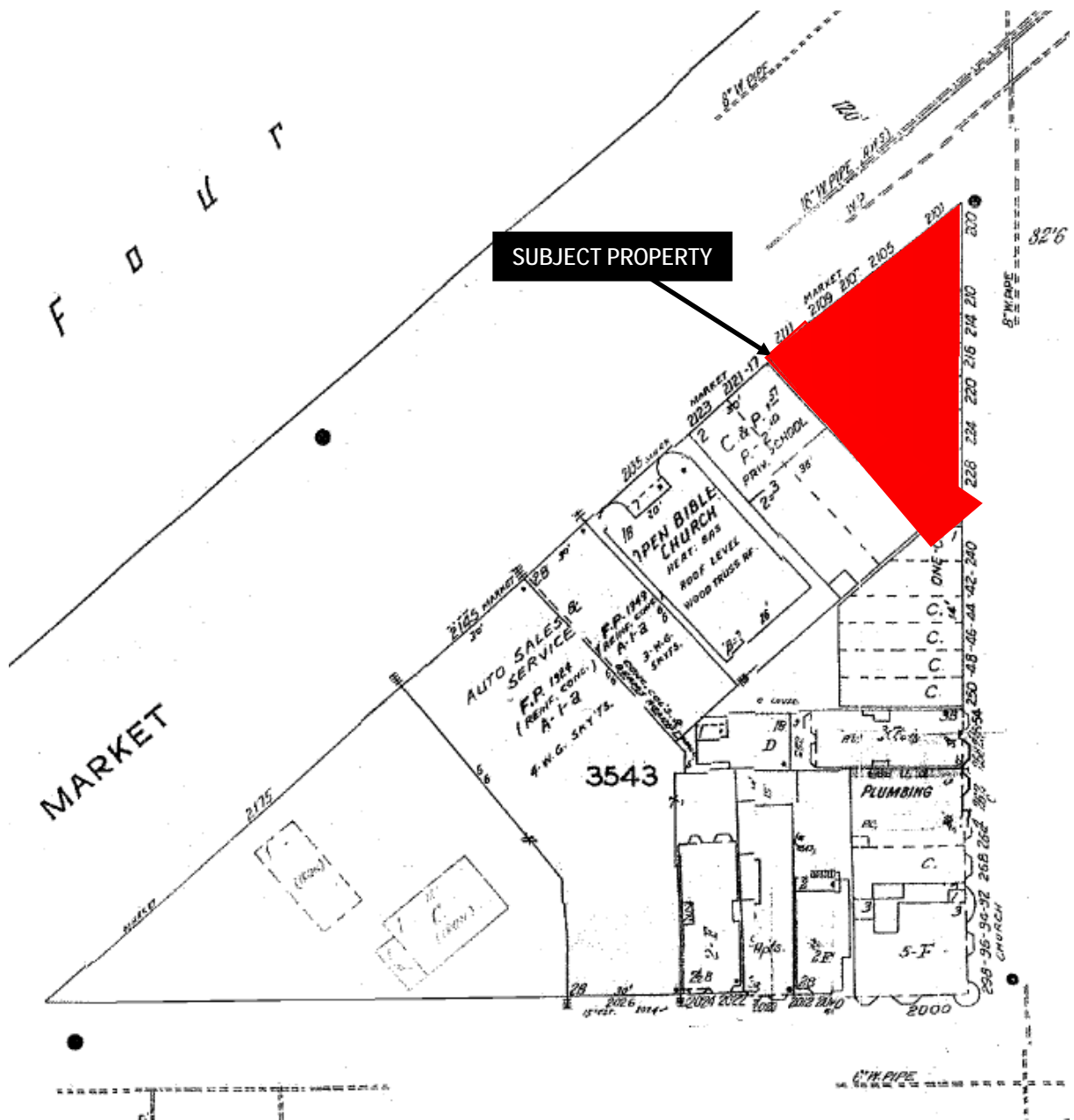
8. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed.
9. The operator shall maintain an attractive storefront providing visibility of the bar interior through the storefront windows. Street-facing windows shall not be blocked by displays or other obstacles in order to allow for visual connection between the street and the store interior. Highly reflective glass, tinted glass, or mirror glass shall not be applied on any area of the façade.
10. Any decorative railings or decorative grille work-including security gates-that are placed in front of or behind such windows, shall be at least 75 percent open to perpendicular view and no more than six feet in height above grade, in accordance with Planning Code Section 145.1(a).
11. The operator shall operate the proposed bar such that noise is kept at reasonable levels so as not to unduly disturb neighboring businesses and residents.
12. The exterior of the business must be kept clean, graffiti-free and well-maintained, including regular sweeping and washing of the curb outside of the storefront. Project sponsor agrees to paint out and/or remove graffiti within 48 hours.
13. Refuse containers shall be provided both inside and outside the establishment for use by patrons of the bar. All refuse containers shall be kept within the building until pick-up by the disposal company.
14. Notices shall be well-lit and prominently displayed at all entrances to and exits from the establishment urging patrons to leave the establishment and neighborhood in a quiet, peaceful, and orderly fashion and to please not litter or block driveways in the neighborhood.
15. Employees shall insure that patrons entering and exiting the establishment are urged to respect the quiet and cleanliness of the neighborhood as they walk to their parked vehicle or otherwise leave the area.
16. The authorization and right vested by virtue of this action shall be deemed void and canceled, if within 3 years of this Motion a site permit or building permit for the Project has not been secured by Project Sponsor. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a city, state, or federal agency or by appeal of the issuance of such permit.

Parcel Map



Conditional Use Hearing
 Bar – Cork Wine Bar
 Case Number 2009.0773C
 2111 Market St. (aka 210 Church St.)

Sanborn Map*



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



Conditional Use Hearing
Bar – Cork Wine Bar
Case Number 2009.0773C
2111 Market St. (aka 210 Church St.)

Aerial Photo

view looking east



SUBJECT PROPERTY

Conditional Use Hearing
Bar – Cork Wine Bar
Case Number 2009.0773C
2111 Market St. (aka 210 Church St.)

Aerial Photo view looking south



SUBJECT PROPERTY

Conditional Use Hearing
Bar – Cork Wine Bar
Case Number 2009.0773C
2111 Market St. (aka 210 Church St.)

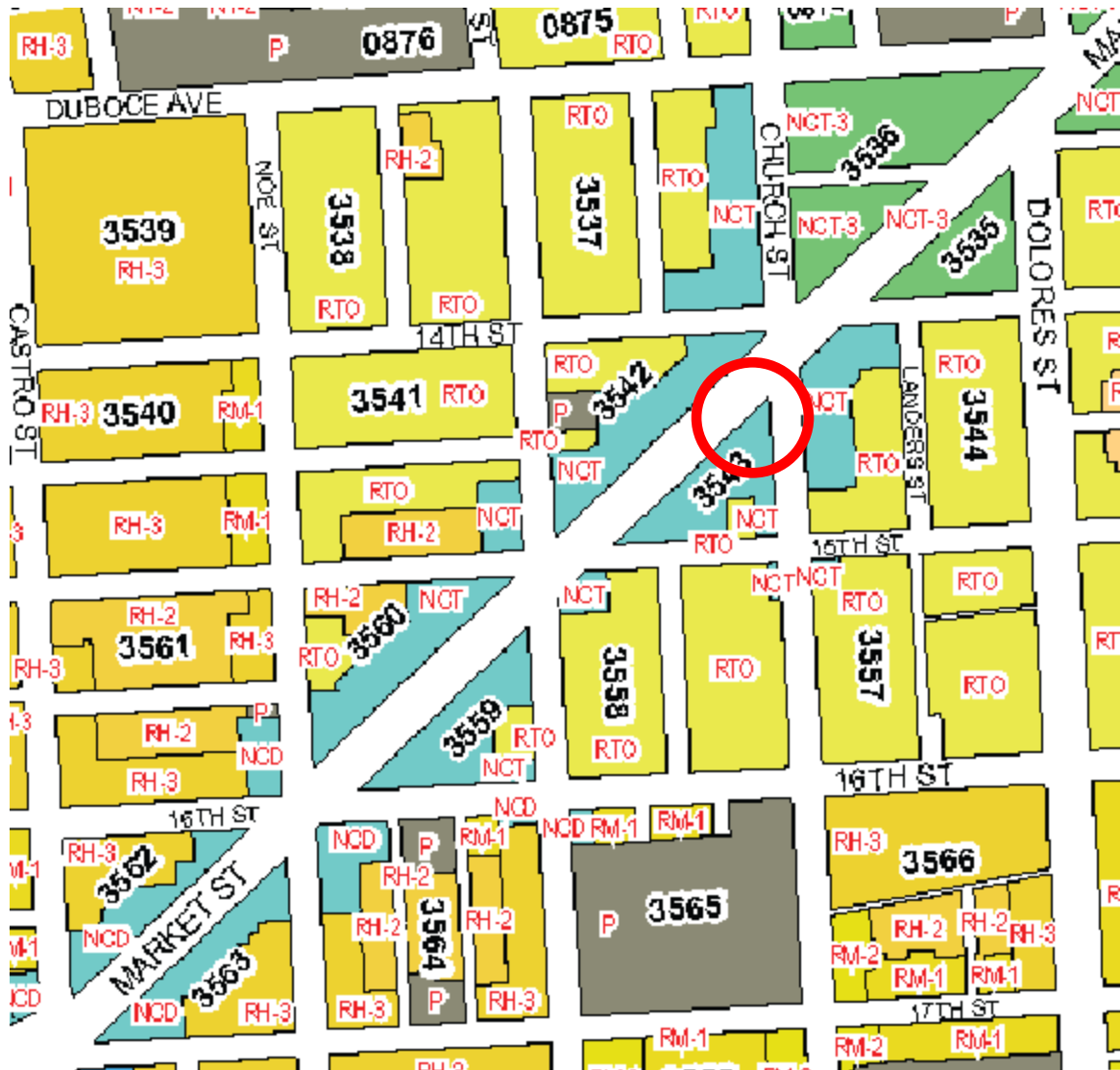
Aerial Photo view looking west



SUBJECT PROPERTY

Conditional Use Hearing
Bar – Cork Wine Bar
Case Number 2009.0773C
2111 Market St. (aka 210 Church St.)

Zoning Map



Conditional Use Hearing
Bar – Cork Wine Bar
Case Number 2009.0773C
2111 Market St. (aka 210 Church St.)

Site Photo



SUBJECT PROPERTY

Conditional Use Hearing
Bar – Cork Wine Bar
Case Number 2009.0773C
2111 Market St. (aka 210 Church St.)



PLANNING DEPARTMENT

CHECKLIST FOR FORMULA RETAIL APPLICATIONS

1. REQUIREMENTS

Planning Code Sections 182 and 703.3 regulate Formula Retail uses in **RH, RM, and Neighborhood Commercial Districts.**

A retail use defined in Article 7 of the Planning Code as one of the following categories: Amusement Game Arcade (790.4), Bar (790.22), Drive-up Facility (790.30), Eating and Drinking Use (790.34), Liquor Store (790.55), Movie Theater (790.64), Restaurant, Large Fast Food (790.90), Restaurant, Small Self Service (790.91), Restaurant, Full Service (790.92), Sales and Service, Other Retail (790.102), Sales and Service, Retail (790.104), Take-out Food (790.122), or Video Store (790.135) **could also be Formula Retail** and subject to the restrictions and requirements applying to that designation if it exceeds thresholds defined in Part 5 of this form.

If the proposed use is listed above, and there is a Permit Application for Alteration, New Construction, Commercial Tenant Improvement, Change of Use, or for Signs, which relates to the establishment of that use, then this checklist must be completed and signed as required below before the project application is considered complete.

2. APPLICANT'S CERTIFICATION & CONTACT INFORMATION

I hereby attest under penalty of perjury that the information I have entered on this document is true and correct to the best of my knowledge, and that I have read and understood this form, and that I am an owner, manager or other responsible staff member of the proposed business, familiar with its operation, and able to provide accurate and complete information herein.

[Handwritten Signature]

Signature of Applicant/Permit Holder

01/18/2010

Date Signed

Maarten M. Bon.

Print Name

President.

Job Title

4071 A 24th Street

Mailing Address: Street

(415) 748-0708

Phone

San Francisco, CA 94114

Mailing Address: City, State, Zip

corkwinebar@live.com

Fax # or Email Address

3. SITE INFORMATION

2111 Market Street

Project Address

Church St.

Cross Streets

3543 / 001

Block / Lot (s)

Upper Market St. NCT

Zoning District

Office Space

Existing or Previous Use

+/- 1400 SF.

Square Footage

4. PROPOSED USE

Bar

Name of Proposed Use Category per Article 7

790.22.

Code Section

Cork, a wine bar.

Proposed Business Name

Sale of Wine and

Description of Products or Services

Incidental Foods.

Description of Products or Services (cont'd.)

Description of Products or Services (cont'd.)

5. RETAIL OPERATION

The applicant must answer questions 1a, 1b, and 1c in the following table:

1a	Number of Retail Locations in Operation	How many retail locations of this business are currently in operation nationwide? (Exclude the location proposed herein.)	<input type="radio"/>
1b	Other Pending Locations in the City and County of San Francisco	For how many sites in San Francisco (excluding the subject of this application) are there pending applications or approved permits to establish additional locations for this business, which have not yet begun to operate?	<input type="radio"/>
1c	Other Pending Locations Nationwide Outside Of San Francisco	For how many U.S. sites outside San Francisco are there pending applications or approved permits to establish additional locations for this business, which have not yet begun to operate?	<input type="radio"/>

If the number entered on Line 1a above is **11 or more**, then the proposed use may be a Formula Retail Use and the questions in the table below must be answered. If the sum is **10 or fewer**, the Applicant does not need to provide any additional information on this form.

STANDARDIZED FEATURES			YES	NO
2	Standardized array of merchandise	Will this proposed use sell merchandise from a single distributor, bearing uniform markings and comprising 50% or more of the merchandise offered for sale, as measured by shelf or display space, in common with other locations of this business?		
3	Standardized façade	Will the proposed façade (face or front of the building looking onto a street or an open space), including awnings, have a façade design in common with other locations of this business?		
4	Standardized décor and color scheme	Will the interior of the business space, which may include but is not limited to, finishes, style of furniture, wall coverings, permanent fixtures, or furnishings, have a style in common with other locations of this business?		
5	Uniform apparel	Will the proposed business require standardized items of clothing for employees, including but not limited to aprons, pants, shirts, smocks or dresses, hats, and pins (other than name tags) as well as standardized colors of clothing style in common with other locations of this business?		
6	Standardized signage	Will the proposed business display one or more business signs (as defined in Section 602.3 of the Planning Code) in common with other locations of this business?		
7	Trademark or Service mark	Will the proposed business utilize a <i>Trademark</i> (a word, phrase, symbol or design, or a combination of those that identifies and distinguishes the source of the <u>goods</u> of one party from those of others) or a <i>Service mark</i> (a word, phrase, symbol or design, or a combination of those that identifies and distinguishes the source of the <u>service</u> of one party from those of others) in common with other locations of this business?		
8	Total Features	Enter the total number of "YES" responses from lines 1 through 6		

6. REQUIREMENTS AND PROVISIONS OF THE CODE

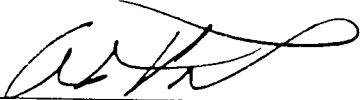
If the number of national locations (excluding the location proposed in this application) in Line 1a is **eleven or more**, and if the number of total features in common among the locations of this business in Line 8 is **2 or more**, then the proposed use is defined as a Formula Retail Use.

All building permit applications for Formula Retail Uses for any use categories permitted in other Neighborhood Commercial Districts shall be subject to the notification and design review procedures of Section 312 of the Planning Code as changes of use.

If the City determines that an application or permit is for a Formula Retail Use, the permit applicant or holder bears the burden of proving to the City that the proposed or existing use is not a Formula Retail Use. Any permit approved for a use that is determined by the City to be for a Formula Retail Use that *did not* identify the use as such is subject to revocation at any time.

7. PLANNING DEPARTMENT DETERMINATION

THE INFORMATION BELOW IS TO BE COMPLETED BY PLANNING DEPARTMENT STAFF ONLY

Subject Address	<u>2111 Market Street</u>	Block / Lot	<u>3543/001</u>
Application #	<u>2009.0773C</u>	Date Filed	<u>8/20/09</u>
Application Type	_____		
The proposed use has been determined		to be Formula Retail.	
		<u>not to be Formula Retail.</u>	
In the subject District, the proposed use is		principally permitted.	
		<u>conditionally permitted.</u>	
		<u>not permitted.</u>	
 _____ Signature of Planner		<u>1/20/10</u> _____ Date Signed	
<u>Adrian C. Putra</u> _____ Print Name of Planner		<u>575-9079</u> _____ Phone Number	



584 Castro Street, # 333
San Francisco CA 94114-2512
Email MUMC-SF@earthlink.net
www.CastroMerchants.com

Stephen H. Adams, President
415/773-1530
SAdams@SterlingBank.com

August 10, 2009

Maarten Bon and Maurice Farinas
for *Cork Wine Bar* at 2111 Market Street, San Francisco
4071-A 24th Street
San Francisco CA 94114

Gentlemen,

This confirms that **MUMC's** Members voted at their monthly Meeting on August 6, 2009, to SUPPORT your plans for *Cork Wine Bar* at 2111 Market Street, as described at that Meeting.

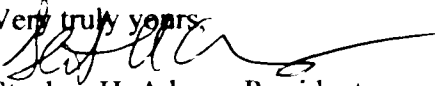
At the Meeting and prior to our Members' vote, you described plans for a new Wine Bar also serving light food to in-store patrons, and well as the take-out sale of bottled wine. Approvals by appropriate agencies are required for the proposed new Conditional Use at 2111 Market as well as on- and off-sale ABC licenses.

As you apply for those approvals, this information about **MUMC's** support may be shared with the San Francisco Planning Department and Commission and the California Department of Alcoholic Beverage Control, so long as there is no substantial change in or expansion of the plans you described before **MUMC's** vote. Should your plans change, please contact us again before indicating **MUMC's** support to others.

MUMC is the merchants' organization serving San Francisco's Castro-Upper Market area, generally along Market Street from Octavia Blvd. to Castro Street; Castro from Market to 19th Street, and cross streets through that area. **MUMC** currently has over 250 paid Members; there are about 650 merchants and other businesses in our service area. The proposed Project at 2111 Market Street is within **MUMC's** service area.

Our best wishes for success as you plan your new business. As your plans develop, we hope that you will consider becoming active **MUMC** Members. You can start that process anytime by going to "MUMC Application" on our website at www.CastroMerchants.com, completing the Form and following instructions for remitting Dues.

Please let me know if you have questions regarding **MUMC's** support, or **MUMC's** work to support our business community.

Very truly yours,

Stephen H. Adams, President

