SAN FRANCISCO
PLANNING DEPARTMENT

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Executive Summary

Conditional Use

HEARING DATE: April 1, 2010

Release Date:	March 25, 2010
Case No.:	**2009.1185 C**
Project Address:	**195 6th STREET (aka 988 HOWARD STREET)**
Zoning:	SoMa Neighborhood Commercial Transit District, SoMa Youth and Family Special Use District, 85-X Height and Bulk District
Block/Lot:	3725 / 025
Project Sponsor:	Akki Patel 4050 Redwood Highway San Rafael, CA 94534
Staff Contact:	Corey Teague – (415) 575-9081 corey.teague@sfgov.org
Recommendation:	**Approval with Conditions**

PROJECT DESCRIPTION

The project proposes to establish a Large Fast- Food Restaurant (dba Subway) of approximately 1,500 square feet within the SoMa Neighborhood Commercial Transit District. The subject commercial unit, currently vacant, has not been occupied since the building's construction in 2006.

Subway is a national chain restaurant and is identified as a Formula Retail use. Subway will provide sandwiches, salads, soups, and other related foods to the general public. The proposed scope of work is comprised of interior tenant improvements (no building permit application is currently on file) and new business signs.

SITE DESCRIPTION AND PRESENT USE

The proposed project is located on the northern corner of 6th and Howard Streets, within the SoMa NCT District, the Youth and Family Special Use District, and an 85-X height and bulk district. The 8,400 square foot corner lot is improved with an eight story residential structure with ground floor commercial space that was developed by the San Francisco Redevelopment Agency in 2006. Residential uses are located on the second floor and above. The commercial ground floor consists of two commercial storefronts primarily fronting on 6th Street. The subject commercial storefront is currently vacant and occupies approximately 1,500 square feet. The adjacent store front is also vacant.

SURROUNDING PROPERTIES & NEIGHBORHOOD

The project site falls in the East SoMa Plan Area and the South of Market Redevelopment Project Area between Howard and Mission Streets. The area includes a variety of small businesses and housing types, and a substantial Residential Enclave District is nearby along Minna and Natoma Streets between 6th and 7th Streets.

The SoMa Neighborhood Commercial Transit District (NCT) is located along a portion of the 6th Street and Folsom Street corridors in South of Market (SoMa). The commercial area provides a limited selection of convenience goods for the residents of SoMa. Although there is only a moderate number of eating and drinking establishments, they contribute to the district's mixed-use character and activity in the evening hours. A number of upper-story professional and business offices are located in the district. In general, residential uses are found above the commercial uses on the ground floor.

The site is well served by nearby transit, including the 8, 14, 19, 27, and multiple Market Street bus lines, as well as the Civic Center and Powell MUNI and BART stations.

ENVIRONMENTAL REVIEW STATUS

The project is categorically exempt from environmental review as a Class 1(a) project.

HEARING NOTIFICATION REQUIREMENTS

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	March 12, 2010	March 10, 2010	22 days
Posted Notice	20 days	March 12, 2010	March 10, 2010	22 days
Mailed Notice	20 days	March 12, 2010	March 10, 2010	22 days

PUBLIC COMMENT

The Department received one letter of opposition for the proposal. However, the project is supported by the San Francisco Redevelopment Agency and was unanimously endorsed by the South of Market Project Area Committee (SOMPAC).

ISSUES AND OTHER CONSIDERATIONS

- The project proposes to establish a Large Fast-Food Restaurant (dba Subway) of approximately 1,500 square feet within the SoMa NCT District. The subject commercial unit has been vacant since the building's construction in 2006.

- With respect to an application for a formula retail use as defined in Planning Code Section 703.3, the Planning Commission shall consider the following additional findings:

- The existing concentration of formula retail uses within the NC District;
- The availability of other similar retail uses within the NC District;
- The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the NC District;
- The existing retail vacancy rate within the NC District; and
- The existing mix of Citywide servicing retail uses and neighborhood servicing retail uses within the NC District.

Department Staff conducted a walking survey of the SoMa NCT District in which the proposed project is situated in March 2010. The survey indicated that there is only one existing Formula Retail use within the District: "Extreme Pizza" on Folsom Street. Within the Neighborhood Commercial District there are three other establishments offering similar delicatessen-style fare, although two of those are quite small. The survey indicated a total of twelve vacant storefronts of varying sizes. Independently owned establishments far outnumber formula retail uses within the SoMa NCT District, a neighborhood commercial district that contains few neighborhood serving retail uses. The project does not propose to expand the existing building envelope and beyond new business signs there are no proposed alterations to the façade.

REQUIRED COMMISSION ACTION

Authorize Conditional Use under Planning Code Sections 703.4, 735.43, 249.40A and 303 to allow the establishment of a Formula Retail use as a Large Fast Food Restaurant within the SoMa Neighborhood Commercial Transit District and the SoMa Youth and Family Special Use District.

BASIS FOR RECOMMENDATION

- The proposed project has been found to be necessary or desirable for the neighborhood because the proposed project would be only the second formula retail eating establishment in the District.
- The proposed project would add to the few commercial establishments that offer delicatessen-style fare within the District.
- Certain aspects of the proposed project would be desireable. The proposed project would provide a source of entry level employment opportunities for neighborhood residents and would occupy a storefront that has been vacant since the building was constructed in 2006.
- The proposed project is well served by public transit and should have a negligible impact upon private automobile traffic.
- There are currently six vacant storefronts advertised as available for lease in the District.
- The proposed project is consistent with the envisioned development for the area and with the existing neighborhood commercial character.
- The proposed project is supported by the San Francisco Redevelopment Agency, and it was unanimously endorsed by the South of Market Project Area Committee (SOMPAC).
- The proposed project is consistent with Planning Code Section 101.1(b) and the General Plan.

RECOMMENDATION:	**Approve with Conditions**

Exhibit Checklist

- ☒ Executive Summary
- ☒ Draft Motion
- ☐ Environmental Determination
- ☒ Parcel Map
- ☐ Height & Bulk Map
- ☒ Sanborn Map
- ☒ Aerial Photo
- ☐ Context Photos
- ☒ Site Photos
- ☒ Zoning District Map
- ☒ Project sponsor submittal

  Drawings: Existing Conditions

  ☒ Check for legibility

  Drawings: Proposed Project

  ☒ Check for legibility
- ☒ Letters of Project Support / Opposition

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

Planner's Initials

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

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Planning Commission Motion No. xxxxx

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ADOPTING FINDINGS RELATING TO APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303(i), 703.3, 703.4 AND 735.43 OF THE PLANNING CODE TO ALLOW THE ESTABLISHMENT OF A FORMULA RETAIL USE AND A LARGE FAST-FOOD RESTAURANT, DBA "SUBWAY" WITHIN THE SOMA NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT, THE SOMA YOUTH AND FAMILY SPECIAL USE DISTRICT, AND A 85-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On December 31, 2009, Akki Patel (Project Sponsor) filed an application with the San Francisco Planning Department (hereinafter "Department") for Conditional Use authorization under Planning Code Sections 303(i), 703.3, 703.4 and 735.43 of the Planning Code to allow the establishment of a Formula Retail Use within the SoMa NCT (Neighborhood Commercial Transit) District, the SoMa Youth and Family Special Use District, and an 85-X Height and Bulk District.

On April 1, 2010, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2009.1185C.

The Project was determined by the Department to be categorically exempt from environmental review. 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 Project Sponsor, Department staff, and other interested parties.

MOVED, that the Commission hereby approves the Conditional Use requested in Application No. 2009.1185C, 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. **Project Description.** The project proposes to establish a Large Fast- Food Restaurant (dba Subway) of approximately 1,500 square feet within the SoMa Neighborhood Commercial Transit District. The subject commercial unit, currently vacant, has not been occupied since the building's construction in 2006.

   Subway is a national chain restaurant and is identified as a Formula Retail use. Subway will provide sandwiches, salads, soups, and other related foods to the general public. The proposed scope of work is comprised of interior tenant improvements (no building permit application is currently on file) and new business signs.

3. **Site Description.** The proposed project is located on the northern corner of 6th and Howard Streets, within the SoMa NCT District, the Youth and Family Special Use District, and an 85-X height and bulk district. The 8,400 square foot corner lot is improved with an eight story residential structure with ground floor commercial space that was developed by the San Francisco Redevelopment Agency in 2006. Residential uses are located on the second floor and above. The commercial ground floor consists of two commercial storefronts primarily fronting on 6th Street. The subject commercial storefront is currently vacant and occupies approximately 1,500 square feet. The adjacent store front is also vacant.

4. **Surrounding Neighborhood.** The project site falls in the East SoMa Plan Area and the South of Market Redevelopment Project Area between Howard and Mission Streets. The area includes a variety of small businesses and housing types, and a substantial Residential Enclave District is nearby along Minna and Natoma Streets between 6th and 7th Streets.

   The SoMa Neighborhood Commercial Transit District (NCT) is located along a portion of the 6th Street and Folsom Street corridors in South of Market (SoMa). The commercial area provides a limited selection of convenience goods for the residents of SoMa. A moderate number of eating and drinking establishments contribute to the street's mixed-use character and activity in the

evening hours. A number of upper-story professional and business offices are located in the district. In general, residential uses are found above the commercial uses on the ground floor.

The site is well served by nearby transit, including the 8, 14, 19, 27, and multiple Market Street bus lines, as well as the Civic Center and Powell MUNI and BART stations.

5. **Public Comment**. The Department received one letter of opposition for the proposal from a nearby property owner, and one letter of support from the San Francisco Redevelopment Agency. It was also unanimously endorsed by the South of Market Project Area Committee (SOMPAC).

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. **Neighborhood Commercial Permit Review**. Planning Code Section 312 requires neighborhood notification of changes in use to a formula retail, as defined by Planning Code Section 703.3, and to a large fast-food restaurant, as defined by Planning Code Section 790.90 for lots within the Neighborhood Commercial Districts.

   Section 312 notification for this project was conducted in conjunction with the Conditional Use authorization notification.

   B. **Street Frontage in Neighborhood Commercial Districts**. Section 145.1 of the Planning Code requires that NC Districts containing specific uses – including large fast-food 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 proposed project devotes 100 percent of its frontage to either the restaurant entrance or to window space. The windows are clear glass, providing an unobstructed view into the establishment at pedestrian eye-level.

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

   The proposed project contains only 1,500 square feet of occupied floor area and therefore does not require any off-street parking.

   D. **Large Fast-Food Restaurant.** Section 790.90 of the Planning Code defines a large fast-food restaurant as:

(a) A retail eating or drinking use which provides ready-to-eat food to a high volume of customers at a high turnover rate for consumption on or off the premises, which may or may not provide seating. Such use exhibits the following characteristics:

i. A gross floor area of 1,000 square feet or more;
ii. A limited menu of ready-to-eat food prepared in advance of customer orders, or food which is able to be quickly prepared for consumption on or off the premises;
iii. Food served in disposable wrappers or containers;
iv. Food is ordered and served at customer service counter;
v. Food is paid for prior to consumption;
vi. Public food service area, including queuing areas and service counters without fixed seats, which counters are designed specifically for the sale and distribution of food and beverages;
vii. Food available upon a short waiting time.

It includes, but is not limited to, delicatessens, ice cream and cookie stores, sandwich shops, and bakeries. It does not include retail grocery stores with accessory take-out food activities, as described in Section 703.2(b)(1)(C) of this Code, or retail uses which sell prepackaged or bulk ready-to-eat foods with no on-site food preparation area, such as confectionery or produce stores. When a fast-food restaurant operates within and in conjunction with another retail use, such as a retail grocery store, the area of the fast-food restaurant use shall be measured to include the area devoted to food preparation and service, seating and separate public food service counters, excluding fish, poultry and mean counters.

(c) It may provide off-site beer, wine, and/or liquor sales for consumption off the premises (with ABC licenses 20 or 21) or on-site beer and/or wine sales for drinking on the premises (with ABC licenses 40, 41, or 60). If it serves liquor for drinking on the premises (with ABC licenses 487 or 48), or does not admit minors (with ABC licenses 42 or 61), then it shall also be considered a bar, as defined in Section 790.22 of this Code.

(d) It shall be conducted in accordance with the following conditions:

(1) All debris boxes shall be kept in enclosed structures.
(2) The operator shall be responsible for cleaning the sidewalk within a one-block radius daily to maintain the sidewalk free of paper or other litter during its business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code.
(3) Noise and odors shall be contained within the premises so as not to be a nuisance to nearby residents or neighbors.

The proposed Subway restaurant contains approximately 1,500 gross square feet of floor area and is classified as a large fast-food restaurant use. The change of use from a vacant storefront to a large fast-food restaurant is permitted with Conditional Use Authorization and requires Section 312 Notification. Section 312 Notification was conducted in conjunction with the Conditional Use Notification.

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 uses or feature, 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 proposed use, a large fast-food restaurant, is necessary because there is only a moderate number of eating and drinking establishments with the SoMa NCT District, and they currently provide little variety. A March 2010 Planning Department survey indicated that there are 12 existing eating and drinking establishments within the SoMa NCT District; there are no other eating or drinking establishments on the block where the proposed project is located, and 3 small establishments within a block on 6th or Howard Streets. The project proposes to occupy a storefront that has been vacant since the building's construction. The proposal does not seek to expand the existing building or storefront in any way.

   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 proposed project will operate within the existing building envelope. No exterior expansion is proposed.

      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;

         The Planning Code does not require parking or loading for a large fast-food restaurant with an occupied floor area of less than 5,000 feet. The proposed project is well served by public transit, minimizing the need for private automobile trips.

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

         The proposed use, given its nature, would not emit large amounts of offensive noise or odor.

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

Parking and loading areas are not required for the proposed use because the commercial use contains less than 5,000 square feet of occupied floor area. Landscaping is not proposed as the building has no front setback. The Department shall review all proposed signs separately.

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 purposed of the SoMa NCT District in that the intended use is located at the ground floor, and will provide a compatible convenience service for the immediately surrounding neighborhood.

8. **Sections 303(i) and 703.4** require Conditional Use authorization for the establishment of a formula retail use in Neighborhood Commercial Districts. The Planning Commission shall consider the following criteria set forth in Section 303(i) in addition to the criteria set forth in Section 303(c):

A. The existing concentrations of formula retail uses within the Neighborhood Commercial Districts;

There is currently only one formula retail use (dba Extreme Pizza) in the SoMa NCT District.

B. The availability of other similar retail uses within the Neighborhood Commercial District;

There is currently only a moderate number of eating and drinking establishments with the entire SoMa NCT District, and they provide little variety. A March 2010 Planning Department survey indicated that there are 12 existing eating and drinking establishments within the SoMa NCT District; there are no other eating or drinking establishments on the block where the proposed project is located, and 3 small establishments within a block on 6th or Howard Streets. The project proposes to occupy a storefront that has been vacant since the building's construction.

C. The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the Neighborhood Commercial District;

The project does not propose to expand the existing building envelope. There are no proposed alterations to the façade beyond a change of business sign.

D. The existing retail vacancy rates within the Neighborhood Commercial District;

The walking survey of the SoMa NCT District indicated twelve vacant storefronts of varying sizes.

E. The existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the Neighborhood Commercial District.

The SoMa NCT District as a whole contains a limited number of neighborhood or citywide serving retail uses. The proposed project would add such a neighborhood serving retail use in a District that is currently underserved.

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

EAST SOMA AREA PLAN

Objectives and Policies

OBJECTIVE 1.1:
ENCOURAGE PRODUCTION OF HOUSING AND OTHER MIXED-USE DEVELOPMENT IN EAST SOMA WHILE MAINTAINING ITS EXISTING SPECIAL MIXED-USE CHARACTER.

Policy 1.1.9:
Require active commercial uses and encourage a more neighborhood commercial character along 4th and 6th Streets.

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 1:
MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKINIG 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 goods and services to the neighborhood and will provide resident employment opportunities to those who live or go to school in the community. The Project will provide net benefits by improving 1,500 gross square feet of vacant commercial space to serve the immediate neighborhood with a large fast-food restaurant. The Project Site is located within a Neighborhood Commercial District and is thus consistent with activities in the commercial land use plan. In addition, the Project's close walking proximity to Market Street and the high availability of nearby public transit will mitigate any traffic and parking effects on the area.

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 attracts new commercial activity to a vacant commercial space in a District that is currently underserved in terms of neighborhood retail. This will enhance the diverse economic base of the City, and provide low-skilled job opportunities for students and City residents.

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.

Policy 3.2:
Promote measures designed to increase the number of San Francisco jobs held by San Francisco residents.

The Project will create new entry-level employment opportunities for unskilled and semi-skilled workers.

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 brings a new commercial tenant into an existing vacant storefront. The new tenant will provide neighborhood-serving goods and services to a Neighborhood Commercial District with a moderate-

to-high vacancy rate. No commercial tenant would be displaced and the project would not prevent the District from achieving optimal diversity in the types of goods and services available throughout the neighborhood.

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 of 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
Eating and drinking establishments include bars, sit-down restaurants, fast food restaurants, fast-food restaurants, and take-out food. Associated uses that 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.

Fast Food Restaurants and Self-Service Restaurants
Fast food restaurants and self-service restaurants including take-out food establishments are retail uses, which provide quick food service for consumption on or off the premises, which are often designed to serve a high volume of customers at a high turnover rate. As a result, this use can generate problems in traffic and pedestrian circulation, parking congestion, litter, noise and odors. All guidelines for eating and drinking establishments should apply to fast food restaurants and fast-food restaurants in addition to the guidelines stated below.

- Large fast food restaurants occupying more than 1,000 square feet of floor area are discouraged in neighborhood commercial cluster districts, small-scale neighborhood commercial districts and those individual districts where such discouragement is noted in their description and purpose statements. Large fast food restaurants of that size usually are designed to attract high volumes of customers from a large trade area. Such volumes of customers can generate various nuisance problems for the surrounding residential neighborhoods, especially parking congestion, traffic and pedestrian circulation, litter and late-night activity.

- The proposed use should not add to an over-concentration of fast-food restaurants in a single district. As a general rule, fast food restaurants should be evenly distributed throughout the district. However, in certain locations, clustering may be more appropriate. For example, a configuration of clustered fast food restaurants where sufficient off-street parking is shared between them might make more efficient use of land than an even distribution of fast food restaurants throughout the district. The number of large fast food restaurants and small fast-food restaurants should not exceed the maximum number that would be allowed if all fast food restaurants in the district were at least 500 feet from each other.
- To avoid potential pedestrian-vehicle conflicts where large numbers of children are present, fast food restaurants should not be within 500-foot walking distance of an elementary or secondary school.
- New or expanding large fast food restaurants should provide a detailed analysis of their anticipated impacts on transportation systems. If problems are anticipated, especially on transit-preferential streets, the proposed use should be reduced in size and/or redesigned to mitigate the above impacts, or prohibited. If the estimated parking demand for the use cannot be accommodated by existing or new off- or on-street parking facilities, the use should provide ample off-street parking on the site or within a reasonable walking distance of the site to provide for the parking demand; otherwise the use should be prohibited (see Auto-Oriented Facilities section and Policy 9 of this Objective for detailed guidelines.
- The use should provide adequate waiting space for walk-in patrons.
- The use should be equipped with sufficient outdoor and indoor trash receptacles to avoid litter problems in the surrounding neighborhood.
- The operator of the use should be responsible for maintaining the sidewalk within a one-block radius of the site free of paper or litter.
- The use should be designed and operated to contain fumes and odors within the cooking areas, so that such fumes and odors will not spread to adjacent or upper-story uses.
- The new or expanding use should close at 12:00 Midnight or earlier.

There is not a concern with the potential over-concentration of food-service establishment in SoMa NCT District. The Commerce and Industry Element of the General Plan contains Guidelines for Specific Uses. For eating and drinking establishments, the Guidelines state, "the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage." Planning staff performed a site survey of the SoMa NCT District, which contains the proposed tenant space. Less than 15 percent of the street frontage within this SoMa NCT District is dedicated to eating and drinking establishments.

The subject establishment is not located within a 500-foot walking distance of an elementary or secondary school. Additionally, this establishment is a neighborhood-serving establishment that will not attract a high volume of customers who arrive by automobile. The use also provides adequate space for walk-in patrons, and approximately 35 seats will be provided for customers who wish to dine-in. The conditions of approval help to ensure that the area around the business is kept clean.

10. **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 not 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 Project would enhance the district by providing a large fast-food restaurant in an area that is not over concentrated by restaurants. The business would be locally owned and operated although it is a franchise formula retail business, and it will create new low and semi-skilled employment 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 would not impact any existing housing or the existing cultural diversity of the neighborhood. The neighborhood currently contains little retail diversity, and the proposed project would help create more retail diversity in the neighborhood.

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

    No housing is removed as a result of this Project.

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

    The Project would not adversely impact public transit or place a burden on the existing supply of parking in the neighborhood, as the size of the project is relatively small and the site is well served by various public transit options.

    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 Project will not adversely affect industrial or service sector uses or related employment opportunities. Rather, additional service sector employment opportunities are created by the authorization of this large fast-food restaurant, which will occupy a vacant storefront that has not had a tenant since the building's construction.

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

    The Project area is contained within a recently constructed building and will not impact the property's ability to withstand an earthquake.

G. That landmarks and historic buildings be preserved.

Neither a landmark nor historic building occupy the Project site.

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

The Project will have no negative impact on existing parks or open spaces.

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. 2009.1185C.**

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 94012.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on April 1, 2010.

Linda Avery
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: April 1, 2010

Exhibit A
Conditions of Approval

1. This authorization is for a Conditional Use Authorization under Planning Code Sections 303, 703.3, 703.4, 735.43, and 790.90 to establish a formula retail large fast-food restaurant (dba Subway) in a vacant storefront within the SoMa NCT (Neighborhood Commercial Transit) District, SoMa Youth and Family Special Use District, and 85-X Height and Bulk District, in general conformance with plans filed with the Application as received on December 31, 2009, and stamped "EXHIBIT B" included in the docket for **Case No. 2009.1185C**, reviewed and approved by the Commission on April 1, 2010.

2. Prior to the operation of the formula retail large fast-food restaurant, 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 premises (Assessor's 3725, Lot 025), which notice shall state that the formula retail use change 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. 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 up to $500 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. The property owner 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.

6. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed.

7. The Project shall appoint a Community Liaison Officer to address issues of concern to neighbors related to the operation of this Project. The Project Sponsor shall report the name and telephone number of this Officer to the Zoning Administrator and the neighborhood for reference. The Applicant will keep the above parties apprised should a different staff liaison be designated.

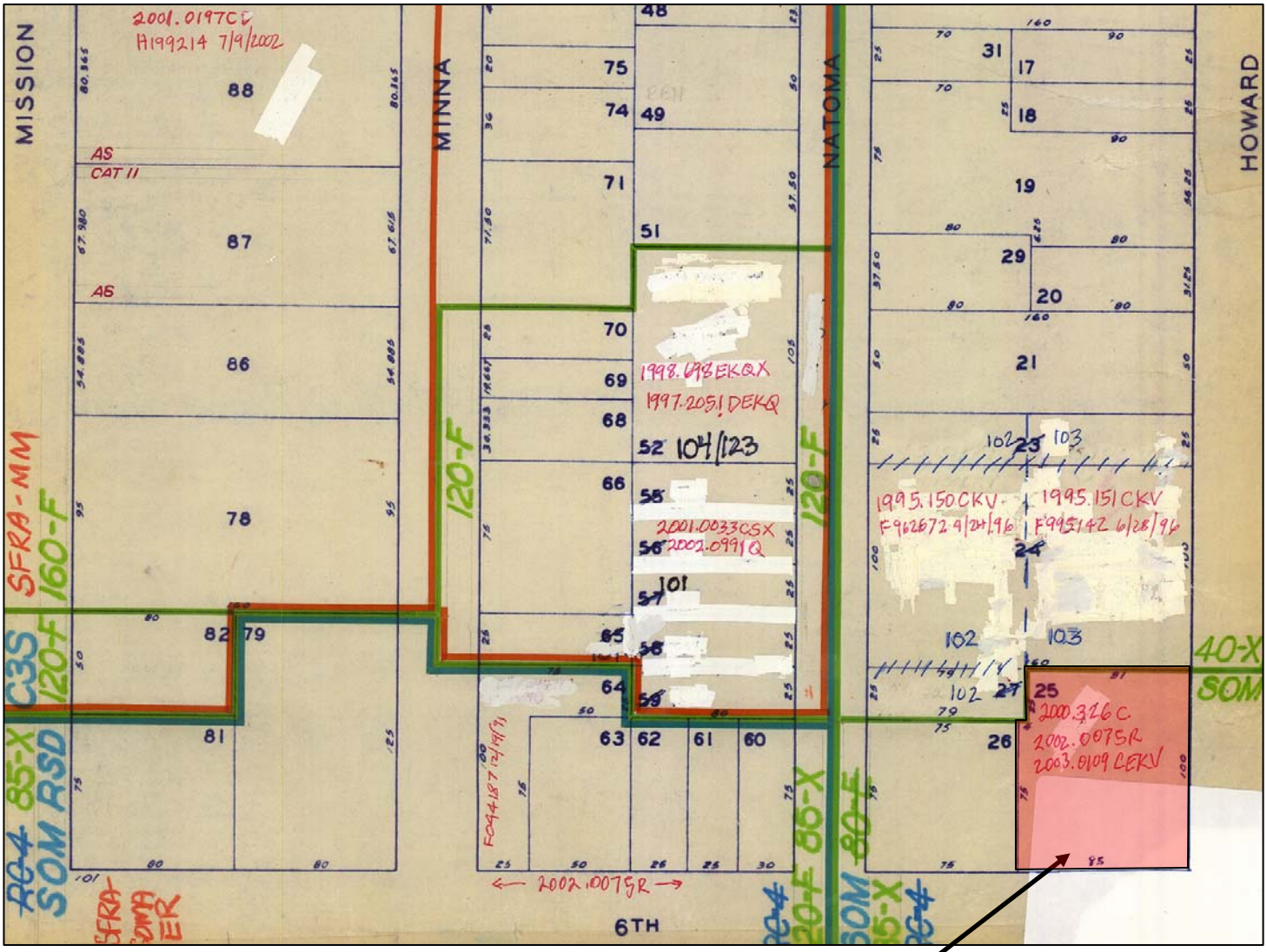
8. Noise and odors shall be contained within the premises so as not to be a nuisance to nearby residents or neighbors.

9. An enclosed garbage area shall be provided within the establishment. All garbage containers shall be kept within the building until pick-up by the disposal company.

10. Refuse containers shall be provided both inside and outside the establishment for use by patrons of the restaurant. The operator of the use shall be responsible for maintaining and cleaning the sidewalk within a one-block radius of the site free of paper or litter generated by the restaurant, in accordance with Article 1, Section 34 of the San Francisco Police Code.

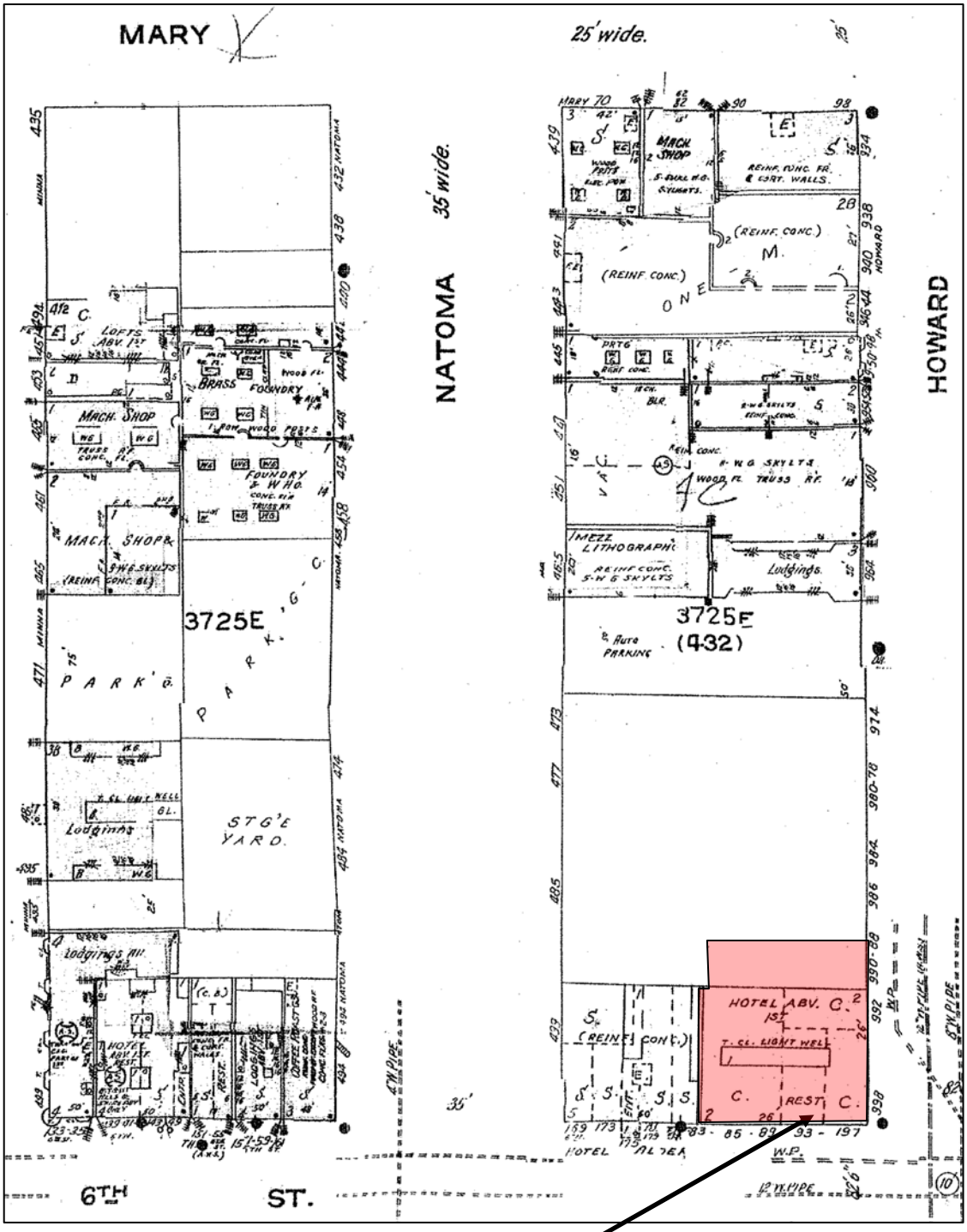
11. The authorization and right vested by virtue of this action shall be deemed void and canceled if, within 3 years of the date of this Motion, a site permit or building permit for the Project has not been secured by Project Sponsor. This authorization may be extended at the discretion of the Zoning 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 Authorization
Case Number 2009.1185C
Formula Retail – Large Fast-Food Restaurant
195 6th Street (aka 988 Howard Street)

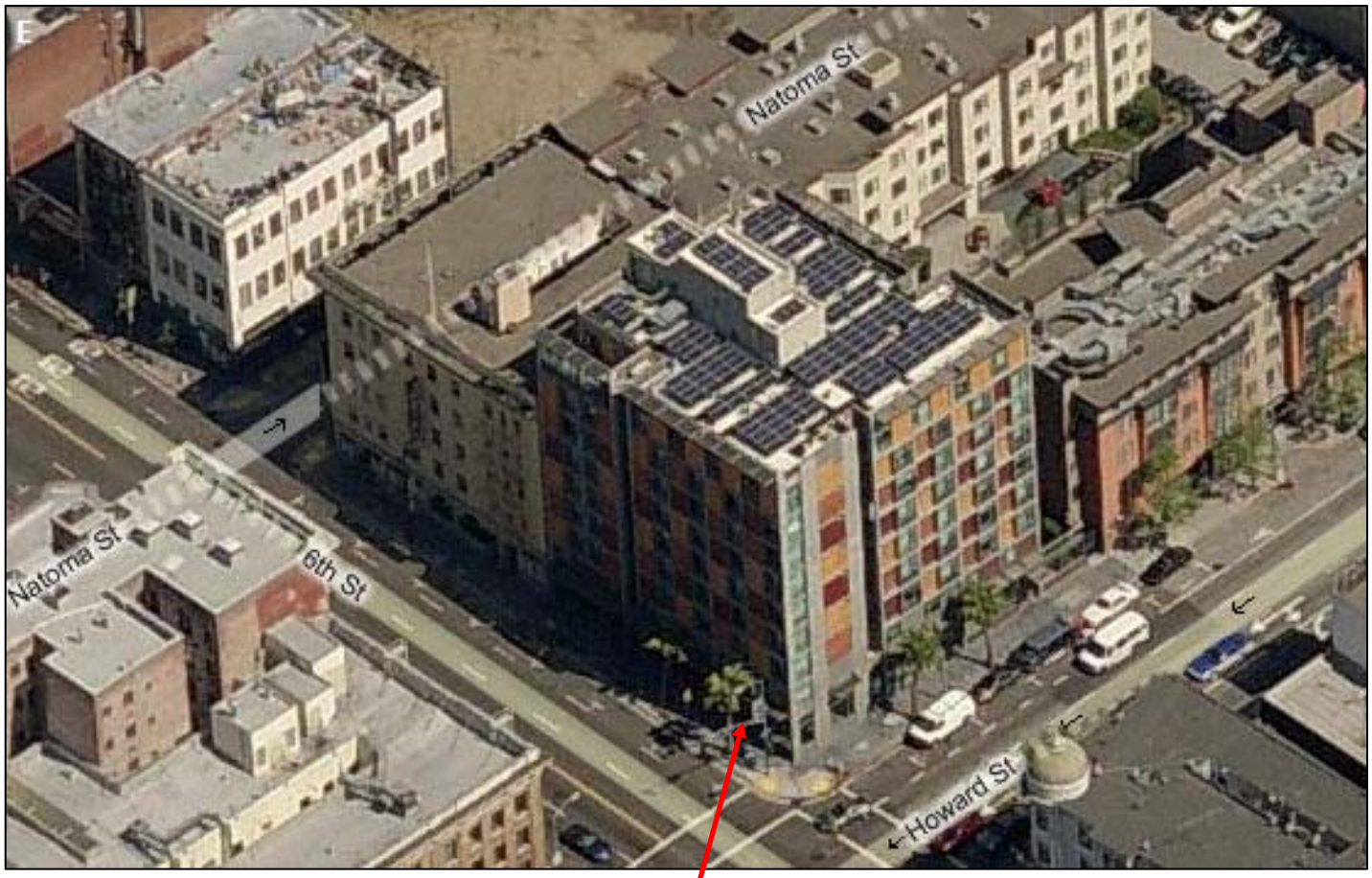
Sanborn Map*



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

Conditional Use Authorization
Case Number 2009.1185C
Formula Retail – Large Fast-Food Restaurant
195 6th Street (aka 988 Howard Street)

Aerial Photo

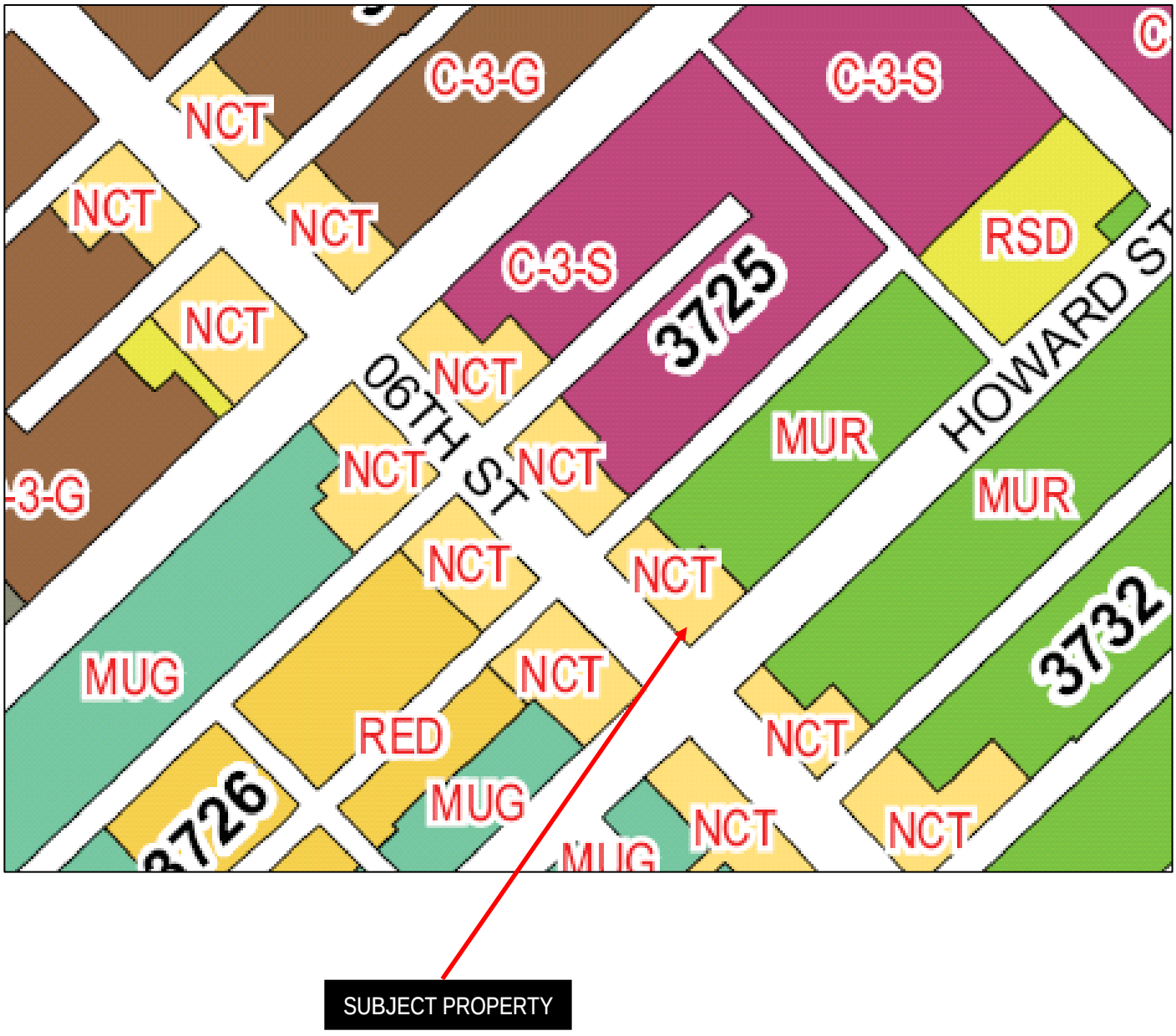


Conditional Use Authorization
Case Number 2009.1185C
Formula Retail – Large Fast-Food Restaurant
195 6th Street (aka 988 Howard Street)

Site Photo

SUBJECT UNIT

Height and Bulk Map



Conditional Use Authorization
Case Number 2009.1185C
Formula Retail – Large Fast-Food Restaurant
195 6th Street (aka 988 Howard Street)

Lefkos Aftonomos
1914 Lyon St.
San Francisco, CA 94115

RECEIVED

MAR 16 2010

CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
NEIGHBORHOOD PLANNING

March, 15, 2010

RE: Case Number 2009.1185C

Dear Mr. Teague:

I am responding the San Francisco Planning Commission notice of hearing regarding the above referenced case. As a property owner on Natoma St., I strongly object to the proposed Conditional Use Authorization for placement of a Subway fast food restaurant at 988 Howard.

There are already multiple fast food restaurants within a few blocks of this location and I can see no way in which another fast food chain restaurant enhances the character of this neighborhood or contributes to local quality of life. If anything, the addition of more chain restaurants discourages the opening of locally owned restaurants and threatens existing ones that find it difficult to compete with these mass market businesses.

The redevelopment of the 6th street corridor should focus on supporting and encouraging local business-not formula, chain establishments. I fear that with the encroachment of such establishments into the neighborhood, it becomes increasingly difficult for a small, locally owned business to start up and survive. The example of 18th street in the Mission is a model of how local establishments provide employment, good food, have a multiplier effect in terms of using locally sourced ingredients and support and enhance the character of a neighborhood. Imagine the same area with McDonalds, Jack in the Box, KFC etc.

There is also the practical problem of trash and garbage. It seems a loosing battle trying to keep sidewalks clear and trash bins from overflowing with the discarded packaging and food wrapping from nearby fast food restaurants.

Again, in my opinion, granting of this permit discourages local business development, increases the burden of trash and cleaning and damages the local character of the neighborhood and I favor denial of this permit.

Respectfully,

Lefkos Aftonomos

SOUTH OF MARKET PROJECT AREA COMMITTEE
1035 FOLSOM STREET SAN FRANCISCO, CA 94103
415.487.2166 Fax 415. 487.2169 website: http://www.sompac.com
Advisory body to the San Francisco Redevelopment Agency

Chair
Antoinetta Stadlman
SRO Residential Tenant/

Vice Chair
Charles Range
CBO: SF Medical
Outreach Program/

Parliamentarian
Henry Karnilowicz
Business Owner
Service/

Ingrid Aquino
Non-SRO Residential
Tenant/

Stephen Best
Residential Property
Owner/Occupant/

Maureen Burns
SRO Residential Tenant/

William Curry III
Residential Owner/
Non-Occupant/

Artena Dickerson
CBO: SF Clean City Coalition/

John Elberling
CBO: TODCO/

Christine Ericksen
Non-SRO residential Tenant/

Jasen Ildefonzo
CBO: Bessie Carmichael
Parent/

Elaine Jones
SRO Residential Tenant/

Allan Manalo
CBO: Bindlestiff Studio/

Don Marcos
CBO: South of
Market Employment
Center/

Lisa Matthews
Non-SRO Residential
Tenant/

Paul Mobbs
Residential Property
Owner/Occupant/

Dipak Patel
SRO Hotel Owner/

Nasir Patel
SRO Hotel Owner/

Marie Romero
6th Street Retail
Commercial Tenant/

Raymon Smith
CBO : Senior Action
Network/

Mark Swenson
Wholesale BusinessOwner/

March 11, 2010

Corey A. Teague, AICP, LEED AP/City Planner
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: Subway Sandwich Shop Located at 6th & Howard

Dear Mr. Teague:

The South of Market Project Area Committee ("SOMPAC") is an advisory body formed to advise the San Francisco Redevelopment Agency ("Agency"). SOMPAC has been working with and advising the Agency since 1997 with respect to the area bounded by 5th to 7th and Harrison to Stevenson Streets.

The Subway Sandwich Shop was discussed at our Economics Subcommittee meeting and endorsed by our full PAC on August 15, 2009 at the General PAC meeting. The following motion was made at the meeting:

Motion: *The PAC supports the Subway Sandwich Shop in the ground floor retail space at the Plaza Apartments on 6th Street and Subway agrees to keep the area clean of trash."*
A roll call vote was taken.

Those voting Yes: Ingrid Aquino, Stephen Best, Maureen Burns, Artena Dickerson/SF Clean City Coalition, John Elberling/TODCO, Christine Ericksen, Elaine Jones, Don Marcos/SOM Employment Center, Dipak Patel, Charles Range/SOM Health Center, Marie Romero and Antoinetta Stadlman

Those Voting No: 0

Those Abstaining: Raymon Smith

Vote: Yes: 12 No: 0 Abstain: 1 Motion Passes

We would like to extend our appreciation to Subway for reaching out to the community and listening to our concerns.

Sincerely,
Antoinetta Stadlman
SOMPAC Chair

c: SOMPAC Members
Mike Grisso/SOM Project Manager