



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use

HEARING DATE: SEPTEMBER 16, 2010

Date: September 9, 2010
Case No.: **2010.0255C**
Project Address: **3111 FILLMORE STREET**
Zoning: Union Street Neighborhood Commercial District
40-X Height and Bulk District
Block/Lot: 0515/009
Project Sponsor: Regan Capone
3111 Fillmore Street
San Francisco, CA 94118
Represented by: Jeremy Paul, Quickdraw
Staff Contact: Sara Vellve – (415) 558-6263
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Recommendation: **Approval with Conditions**

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PROJECT DESCRIPTION

The request is for Conditional Use Authorization, pursuant to Planning Code Sections 303, 725.48, and 790.38, to establish an other entertainment use in an existing bar (dba Comet Club). The Subject Property is within the Union Street Neighborhood Commercial District and 40-X Height and Bulk District. Based on the sponsor's Planning Commission submittal, the proposed hours of operation and other entertainment/electric amplification are:

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

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

SITE DESCRIPTION AND PRESENT USE

The Subject Property is located at 3111 Fillmore Street, west side between Pixley, Filbert and Greenwich Streets. The lot currently contains a three-story mixed-use structure – built in approximately 1913 – with the Comet Club occupying the ground floor. The building was originally constructed with two upper floor dwelling units, which have been converted to commercial uses. The adjacent buildings to the south and east contain residential uses. The Department has obtained permits for the bar dating back to 1988 and it is likely that the bar use has been operating on the premises longer. The overall lot area is approximately 2,400 square feet with the Comet Club occupying approximately 2,000 square feet of gross floor area and approximately 14 linear feet of frontage at the sidewalk. Based on the plans submitted for review, there is no outside space to be used by patrons and the only windows are located on the street

façade. The property owner has provided evidence that sound proofing has been conducted through the application of sheetrock on the walls and ceiling of the bar.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

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

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

ENVIRONMENTAL REVIEW

The Application was determined by the San Francisco Planning Department (hereinafter "Department") to be Categorically Exempt from the environmental review process pursuant to Title 14, Class 1(a) of Category 15301 (Existing Facilities) of the California Administrative Code. The Commission has reviewed and concurs with said determination.

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	August 27, 2010	August 25, 2010	22 days
Posted Notice	20 days	August 27, 2010	August 27, 2010	20 days
Mailed Notice	20 days	August 27, 2010	August 20, 2010	27 days

PUBLIC COMMENT

The Department has received approximately seven letters of opposition to the other entertainment use. The primary concerns include noise generated by the amplified sound and patrons, poor behavior by patrons leaving the premises, garbage on the street and public urination. The Union Street Association submitted a letter of support.

ISSUES AND OTHER CONSIDERATIONS

- Based on concerns expressed by residential neighbors, the Department is recommending that the other entertainment/electric amplification cease at midnight on Thursday evenings.
- The Department understands that electric amplification has been conducted on the premises for a number of years and the subject request is to formalize the other entertainment use.

- Contained in a report submitted to the Department in January of 2010 there are approximately 45 letters of support from neighborhood merchants that a place of entertainment on the subject property is *necessary and desirable*. These letters of support do not address the proposed hours of electronic amplification.
- The project sponsor has requested that the other entertainment hours extend to 2 a.m. Thursday, Friday and Saturday nights. Planning Code Section 303(c)(5)(A)(iii) prohibits electronic amplification between midnight and 6 a.m. However, pursuant to Planning Code Section 303(c)(5)(B), the Planning Commission may authorize electronic amplification until 2 a.m. if the “facts presented are such to establish that the use will be operated in such a way as to minimize disruption to residences in and around the district with respect to noise and crowd control.”

While the sponsor has agreed to many noise control conditions, and has already completed some soundproofing, there continues to be neighborhood opposition to the proposal due to existing noise from the premises and potential crowd control issues. The Department recognizes that the proposal could have generated substantial neighborhood opposition and did not. In order for the Department to fully support electronic amplification until 2 a.m. on Thursday nights, support from neighborhood residents is necessary. Such support would indicate that the sponsor has conducted adequate community outreach so as to address residents concerns and that the premises currently operate in a manner that is acceptable to them.

The hours of electronic amplification stated in the Executive Summary and Motion represent the Department’s determination of reasonable hours based on the sponsor’s desire and some neighborhood residents’ response to the proposal. The Department recommends that the electronic amplification ceases at midnight on Thursday nights.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant conditional use authorization to allow for the establishment of an other entertainment use at the subject property.

BASIS FOR RECOMMENDATION

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

- The project promotes small-business ownership.
- The project is a neighborhood serving use.
- The District is well served by transit, therefore customers should not impact traffic.
- The Conditions of Approval in Exhibit A mitigate much of the neighbors concerns while providing the Comet Club the opportunity to continue to provide activities that involve electric amplification.
- The Comet Club is an independantly-owned, neighborhood-serving business.

- As there appears to be only one other venue (Eastside West) with conditional use authorization for electronic amplification within 1,000 feet of the project site, there will not result in an over-concentration of other entertainment establishments in the Union Street NCD.
- The Project meets all applicable requirements of the Planning Code and is consistent with the General Plan.

RECOMMENDATION: Approval with Conditions
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Attachments:

- Parcel Map
- Sanborn Map
- Aerial Photographs
- Zoning Map
- Photographs
- Hearing/Section 312 Notice
- Letters of Opposition
- Letters of Support
- Sponsor's Submittal
 - letter
 - floor plans

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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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Draft Planning Commission Motion

HEARING DATE: SEPTEMBER 16, 2010

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

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

PREAMBLE

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

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

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

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

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

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

FINDINGS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- E. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code requires that NC Districts containing specific uses, including bars, have at least ½ the total width of the new or altered structure at the commercial street frontage devoted to entrances to commercially used space, windows or display space at the pedestrian eye-level. Such windows shall use clear, un-tinted glass, except for decorative or architectural accent. Any decorative railings or decorated grille work, other than wire mesh, which is placed in front or behind such windows, shall be at least 75 percent open to perpendicular view and no more than six feet in height above grade.

The Project has approximately 15 feet of frontage on Fillmore Street. Approximately 9 feet of the frontage is devoted to either the business entrance or window space.

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

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project complies with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

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

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

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

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

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

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 1:

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1:

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development that has substantial undesirable consequences that cannot be mitigated.

Policy 1.2:

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

Policy 1.3:

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

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

OBJECTIVE 2:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1:

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

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

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

Policy 3.1:

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

Policy 3.4:

Assist newly emerging economic activities.

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

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

Policy 6.1:

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

No commercial tenant would be displaced by the authorization of this Conditional Use, and the Project would not prevent the Union Street NCD from achieving optimal diversity in the types of goods and services available in the neighborhood.

Policy 6.2:

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to the economic and technological innovation in the marketplace and society.

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

9. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.
The granting of this Conditional Use Authorization will not adversely affect the existing neighborhood retail uses because the proposed other entertainment use will augment the services provided by the existing bar. The business is owned and operated by a San Francisco resident, and the augmented business will allow for additional employment opportunities for residents.
- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.
The immediate vicinity is characterized by predominantly commercial and mixed-use buildings of two-to-three stories in height with ground-floor retail stores along Fillmore Street. No changes are proposed to the existing building envelope and no existing housing will be removed. Therefore, the existing housing and neighborhood character will be preserved.
- C. That the City's supply of affordable housing be preserved and enhanced,
This Project does not involve the alteration, or change of status, of any residential dwelling unit.
- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.
The Project has approximately 2,000 square feet and will minimally affect demand on neighborhood parking. The area is well-served by public transit. The Project will not impede MUNI transit or overburden the City's streets or neighborhood parking.
- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.
The existing building does not contain an industrial use, and no industrial use will be displaced as part of this Project. Service sector employment opportunities may increase as a result of the proposed entertainment use.
- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.
The building will comply with all required seismic and life-safety codes in order to achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.
- G. That landmarks and historic buildings be preserved.
The proposal does not include any alterations that would change the existing structure.
- H. That our parks and open space and their access to sunlight and vistas be protected from development.
This Project will not affect any parks or open space because it does not include any expansion to the existing building envelope.

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

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2010.0255C** subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 17637. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94103.

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

Linda Avery
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: September 16, 2010

Exhibit A

Conditions of Approval

1. The Project seeks a Conditional Use Authorization, pursuant to Planning Code Sections 303, 725.48, and 790.38, to establish an other entertainment use at the property located at 3111 Fillmore Street within the Union Street Neighborhood Commercial District and 40-X Height and Bulk District, in general conformance with plans filed with the Application as received on May 13, 2010, and stamped "EXHIBIT B" included in the docket for Case No. 2010.0255C, reviewed and approved by the Commission on September 16, 2010.
2. After the Conditional Use Authorization for the Project becomes final and before the issuance of any building permit, the Zoning Administrator shall approve and order the recordation of a Notice of Special Restrictions in the Official Records of the Recorder of the City and County of San Francisco against the land record of the Subject Lot. Said notice shall state that the operation of the proposal has been authorized by and is subject to the conditions of this Motion applicable to the Project. From time to time, after the recordation of such notice, at the request of the Applicant or the successor-in-interest thereto, the Zoning Administrator shall affirm in writing the extent to which the conditions of this motion have been satisfied.
3. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines of not less than \$200 a day in accordance with Planning Code Section 176.
4. Should monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(e)(1).
5. Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and are subsequently reported to the Zoning Administrator and found to be in violation of the Planning Code and/or the specific Conditions of Approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter in accordance with the hearing notification and conduct procedures as set forth in Section 174, 306.3 and 306.4 of the Planning Code to consider revocation of this Conditional Use Authorization.
6. The Project Sponsor shall implement any other conditions and/or management practices – as determined by the Zoning Administrator, in consultation with the Police Department and other appropriate public agencies – to be necessary to ensure that management and/or patrons of the establishment maintain the quiet, safety, and cleanliness of the premises and the vicinity of the use.

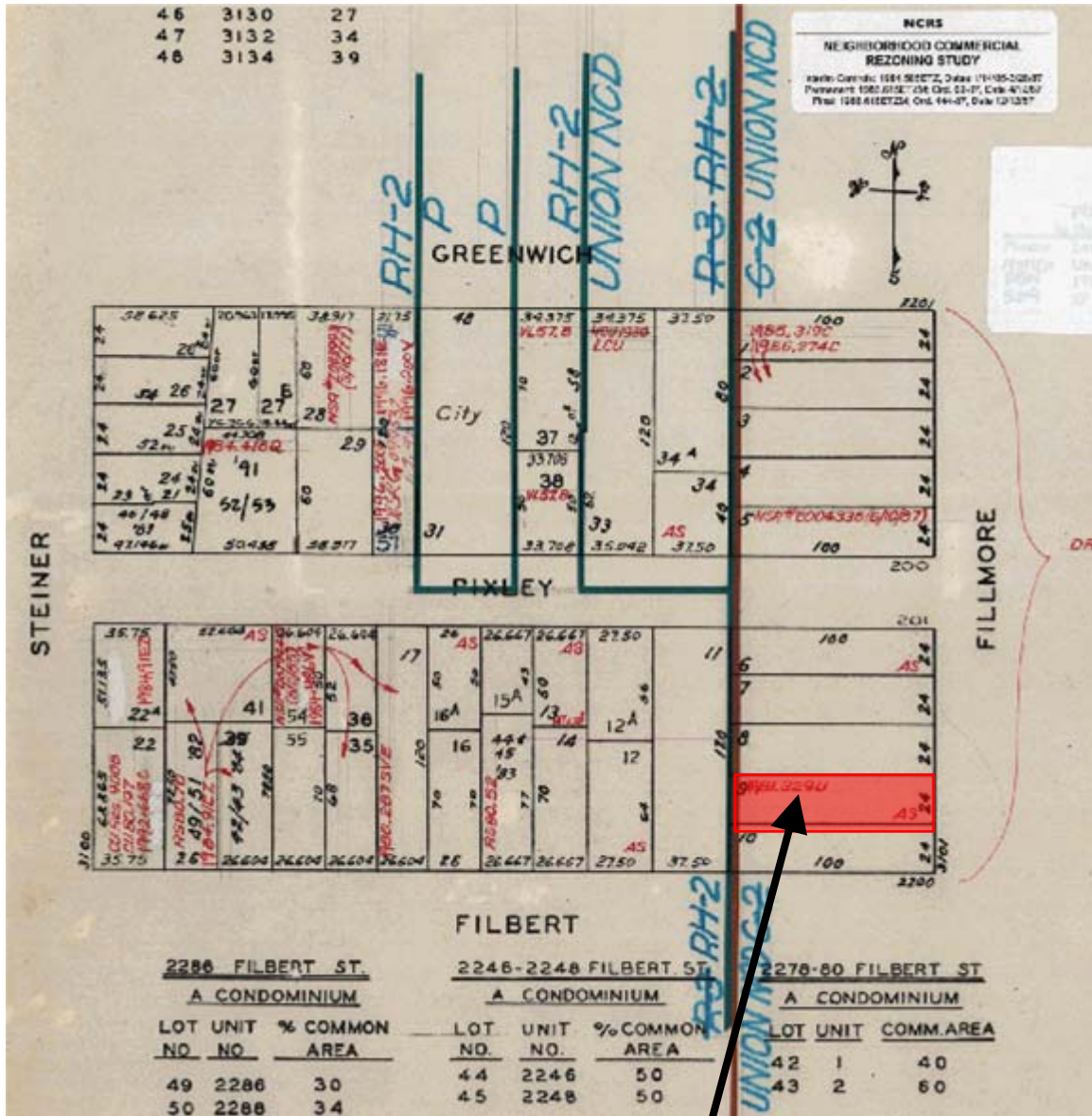
7. This Authorization must be implemented through issuance of a building permit for the proposed use within a period of three (3) years from the date of approval by the Planning Commission. Conditional Use Authorization may be extended at the discretion of the Zoning Administrator for up to two years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

disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.

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

SV:G:\DOCUMENTS\CONDITIONAL USES\2010.0255C - 3111 Fillmore\Motion.doc

Parcel Map

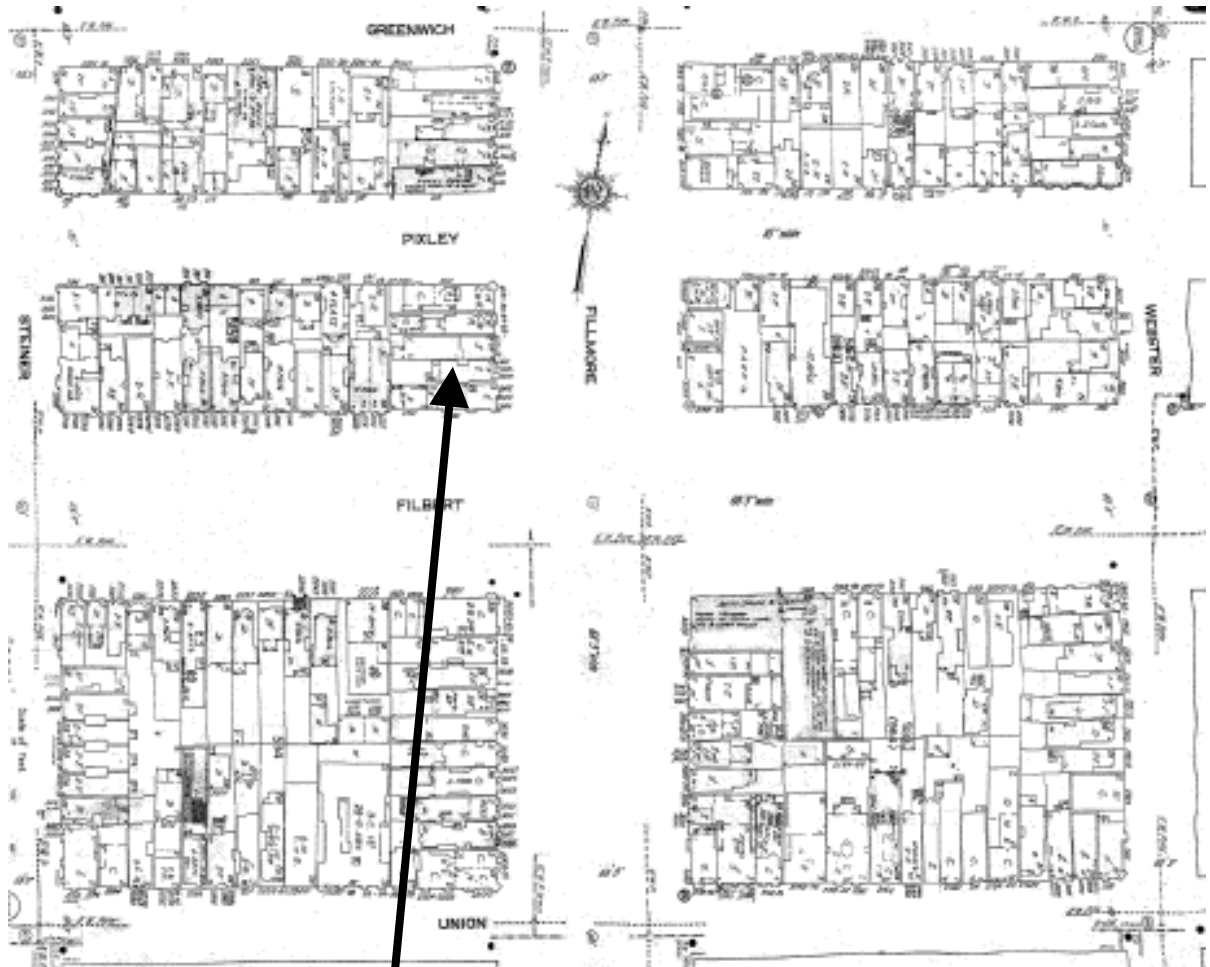


SUBJECT PROPERTY



Conditional Use Hearing
 Case Number 2010.0255C
 3111 Fillmore Street

Sanborn Map*



Subject Property

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



Conditional Use Hearing
Case Number 2010.0255C
3111 Fillmore Street

Aerial Photo

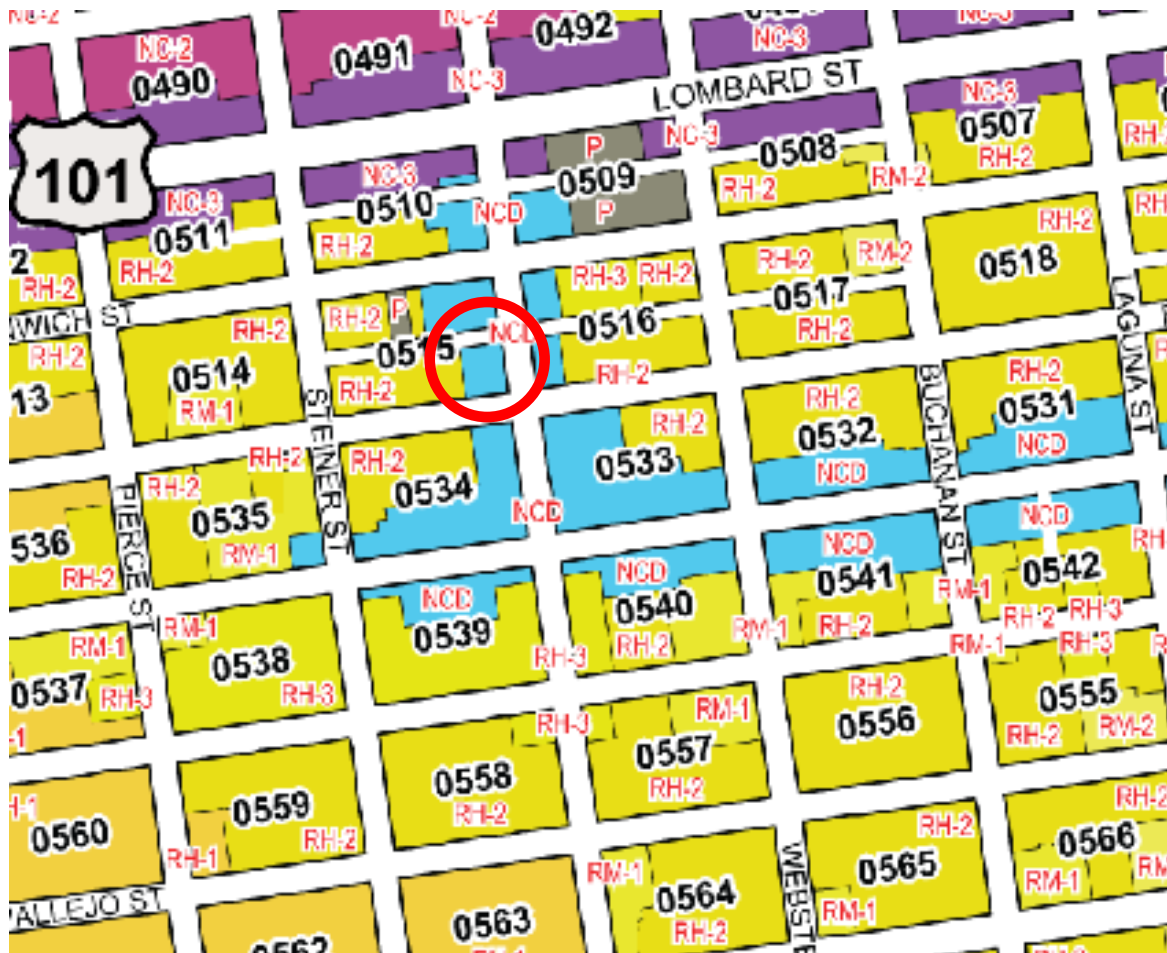


SUBJECT PROPERTY



Conditional Use Hearing
Case Number 2010.0255C
3111 Fillmore Street

Zoning Map



ZONING USE DISTRICTS

RESIDENTIAL, HOUSE DISTRICTS

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

RESIDENTIAL, MIXED (APARTMENTS & HOUSES) DISTRICTS

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

NEIGHBORHOOD COMMERCIAL DISTRICTS

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

SOUTH OF MARKET MIXED USE DISTRICTS

SPD RED RSD SLR SLI SSO

COMMERCIAL DISTRICTS

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

INDUSTRIAL DISTRICTS

C-M M-1 M-2

CHINATOWN MIXED USE DISTRICTS

CRNC CVR CCB

RESIDENTIAL-COMMERCIAL DISTRICTS

RC-3 RC-4

REDEVELOPMENT AGENCY DISTRICTS

MB-RA HP-RA

DOWNTOWN RESIDENTIAL DISTRICTS

RH DTR TB DTR

MISSION BAY DISTRICTS

MB-OS MB-O

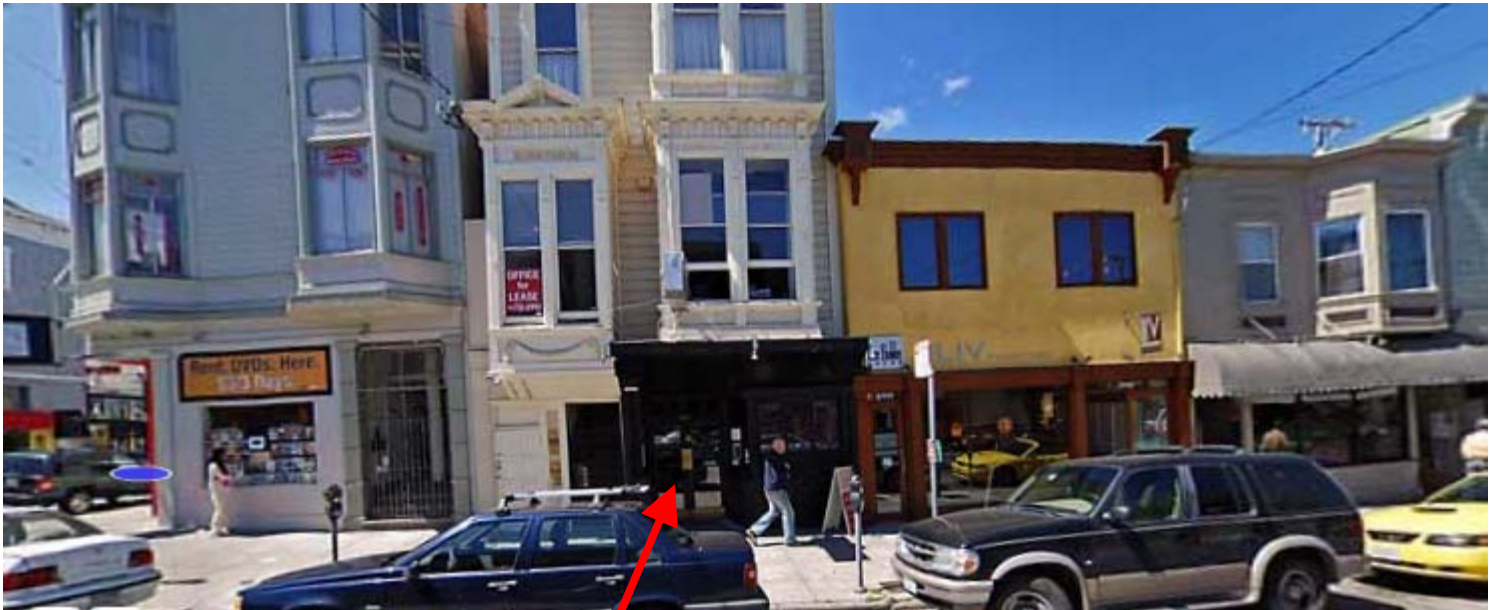
PUBLIC DISTRICT

P



Conditional Use Hearing
Case Number 2010.0255C
3111 Fillmore Street

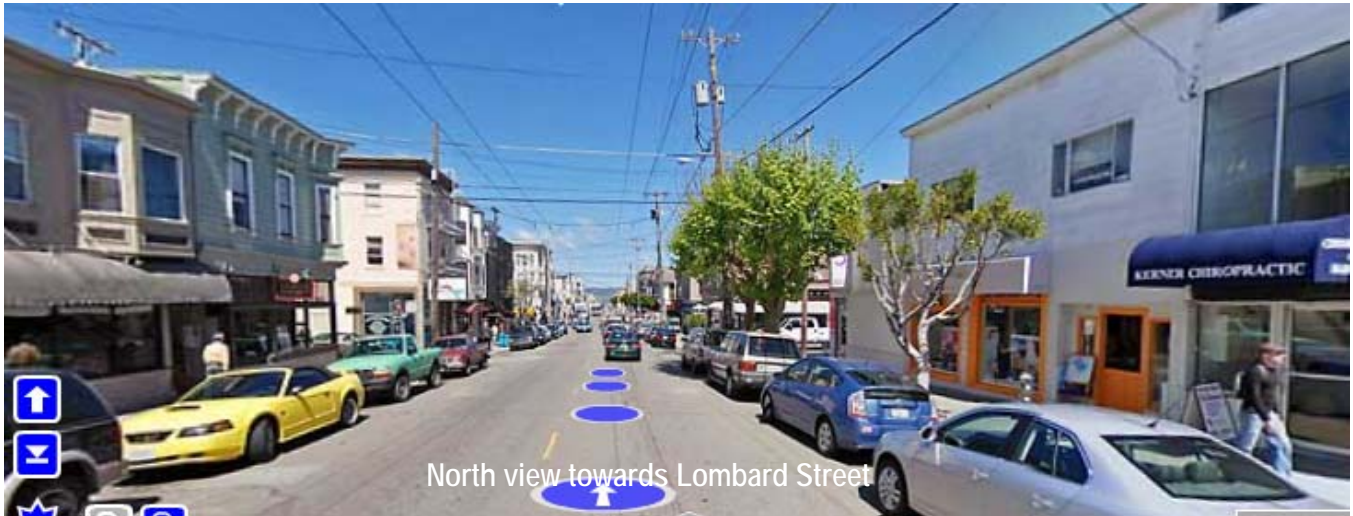
Site Photos



SUBJECT PROPERTY

Conditional Use Hearing
Case Number 2010.0255C
3111 Fillmore Street

Context Photos



North view towards Lombard Street



East view



North view towards Union Street

Conditional Use Hearing
Case Number 2010.0255C
3111 Fillmore Street

From: [Frances Taylor](#)
To: sara.vellve@sfgov.org
Subject: Case # 2010.0255C
Date: 07/26/2010 04:45 PM

I would like you to place a condition on the authorization of the Comet Club to have "Other Entertainment." The condition would be that they not be allowed to have tables on the sidewalk. I ask for this condition in order to control the noise the music would produce. Thank you.

Frances Taylor
2212 Greenwich St
San Francisco, CA

--

Fran

From: [PATRICK](#)
To: sara.vellve@sfgov.org
Subject: case # 2010.0255c: 3111 Fillmore St
Date: 08/26/2010 09:35 AM

I'm unable to attend the scheduled Planning Commission hearing but would like to comment on case # 2010.0255c: 3111 Fillmore St.

I can hear the current noise that comes from this establishment. They tend to play music that has deep bass. It's a low frequency but nevertheless bothersome when you are trying to sleep.

This is my only complaint. I'm like a block away from this bar and can still hear the beat. The noise level really needs to be lowered. Especially on thurs nites. There really is no need for loud music after midnite. This is when people need their sleep. This is a residential neighborhood where loud music is disturbing the peace.

Best regards,

Patrick Lew
415-922-2649

From: [Tamara Dinsmore](#)
To: sara.vellve@sfgov.org
Subject: case 2010.0255C
Date: 09/06/2010 09:38 PM

I think that the proposal to add amplified and acoustical live music is unacceptable for residents such as myself living adjacent this club. The additional volume will exacerbate the already bad behavior of their liquored up clientele. So with the louder music comes louder voices and shouting so that they can hear themselves; and then they stumble around looking for their cars and urinate in front of my building. I am not able to attend the hearing later this month because I will be out of town. But I would like my email read to the board.

Thank you.

Tamara Dinsmore

Owner
235-239 Pixley Street
San Francisco California 94123
415-310-1613

From: [Virgil Skipton](#)
To: sara.vellve@sfgov.org
Subject: Case No. 2010.0255C: 3111 Fillmore Street
Date: 08/19/2010 03:35 PM

Dear Sara:

I am writing as a concerned neighbor. I live at 235 Pixley, just down the alley from the Comet Club at 3111 Fillmore Street.

This neighborhood is turning into a bit of a zoo, with people partying and yelling, not to mention, vomiting and using Pixley as a toilet, til 3:00 AM nearly every day of the week, and especially on weekends.

To grant a Conditional Use permit for amplified music would certainly make things worse.

I have lived at this location for 6 years, and it just keeps getting noisier. All of my neighbors are in complete agreement on this.

Please do not allow this to happen. The neighborhood does not need any more loud music. Please take the party elsewhere!

Thank you for your time and consideration.

Sincerely,

VIRGIL E. SKIPTON AIA, IIDA

ASSOCIATE

SKIDMORE, OWINGS & MERRILL LLP

ONE FRONT STREET, SUITE 2400, SAN FRANCISCO CA 94111

415-352-3821

From: [Sugar Works](#)
To: sara.vellve@sfgov.org
Subject: CASE NO. 2010.0255C: 3111 Fillmore Street
Date: 08/09/2010 10:16 PM

Dear Ms. Vellve,

This letter is regarding the conditional use application case number 2010.0255C: 3111 Fillmore Street requesting planning department approval to allow amplified live entertainment.

We are a family of four who live around the corner from 3111 Fillmore at 2180 Filbert Street. We have lived here since 1996. We are opposed to allowing this venue to provide amplified live performances. There is already a constant problem of noise in our neighborhood due to the density of bars and restaurants in the area. The crowd noise and actions of inebriated patrons at the bars and wandering the neighborhood is barely tolerable on weekend nights and is audible from inside our residence. The addition of amplified music will make this situation much worse and possibly drive us and other families out of the neighborhood. We are also concerned that if this is allowed, it will set a precedent for other bars nearby to apply for the same conditional use.

Please understand that families do live in this neighborhood. There are many conveniences and amenities that make this area a desirable location to live - even for families. We understand and tolerate the current noise level as part of living in an urban environment but we did not foresee having to contend with amplified live music this close when we purchased the property.

Thanks for your time and attention.

Bradley Sugarman, AIA, LEED AP
Lisa Tam

SUGAR WORKS

2180 FILBERT STREET
SAN FRANCISCO, CA 94123
T|F 415.922.5574

E| MAIL@SUGARWORKSDESIGN.COM

From: [Palmer, Beth](#)
To: Sara.Vellve@sfgov.org
cc: [Jeff Ivarson](#)
Subject: See attached re CASE NO 2010.0255C
Date: 08/31/2010 01:24 PM

Sara,
I have also mailed you the following via US mail today.

Beth A. Palmer
On Behalf of 2222-2228 Filbert Street TIC
2222 Filbert Street
San Francisco, CA 94123

August 30, 2010

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

Re: CASE NO. 12010.0255C: 3111 FILLMORE STREET;
Lot 009 in Assessor's Block 0515:
Request for Conditional use authorization for amplified live
entertainment

Dear Ms. Vellve:

I am writing on behalf of myself, owner of 2222 Filbert Street, and on behalf of myself and the other occupants of our TIC building, (Ivarsons in 2224 Filbert; Ricks in 2226; Glass in 2228), located within 300 feet of the Comet Club, located at 3111 Fillmore Street, I also plan to attend the hearing on Sept 16th regarding this request. Our written comments regarding this request as solicited in the SF Planning Commission Notice of Hearing sent to our property (and enclosed) are below. (We also received notice as we are within 150 feet of the 3111 Fillmore Street property.)

We have been informed by the Planning Department that the Comet Club (property located at 3111 Fillmore Street) is seeking this permit, although to our knowledge they have been operating in violation for at least twenty (20) years, playing acoustic and amplified music for that length of time without this permit.

Current City Codes:

1. It is a City code that amplified music has to stop at 12 midnight even though a business can operate until 2:00 a.m..
2. Amplified music and general sound levels are monitored by the police and have legal limits.

Page 2

August 30, 2010

Letter to Sara Vellve

Proposed Conditions:

1. Limit hours of amplified music as follows; Sunday through Thursday- no later than 10:30 p.m. and Friday and Saturday- no later than 12:00 a.m. (existing City Code requirement)
2. Improve and maintain current level sound deadening insulation
3. Increase sound deadening insulation if sound level increases
4. Limit sound decimal levels to community standard
5. Increase security for events with more than a certain number of attendees such as 2/3 or 3/4 of total capacity
6. Limit access to backdoor as noise escapes each time it opens with no backdoor access for any Comet Club patrons allowed (only employees)
7. Patrol neighborhood during evening hours of operation and each morning

for glass bottles and debris discarded by CC patrons within a 50 yard radius

8. Limit all service and activity to within the Club - no outdoor service front or back of Comet Club

Thank you.

Best regards,

//

Beth A. Palmer

Beth A. Palmer, Esq. | Regional Sales Vice President | California

Special Counsel, Inc.

Direct: 415-591-2206 | Cell: 415-350-1187

Main: 415-392-9246 | Fax to Outlook: 904-549-0165

beth.palmer@specialcounsel.com | www.specialcounsel.com

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From: [Lesley Leonhardt](#)
To: sara.vellve@sfgov.org
Subject: 3111 Fillmore street
Date: 08/03/2010 04:25 PM
Attachments: [regan.doc](#)

Dear Ms. Vellve,
The Union Street Association approves of this Conditional Use application. Our letter is attached.
Thank you,
Lesley Leonhardt
Executive Director

--

Lesley Leonhardt
Union Street Association
1686 Union St.
San Francisco, CA 94123

Tel.: (415) 441-7055.

email: ll@imagesnorth.com

website: www.unionstreetsf.com

From: [Michael Williams](mailto:Michael.Williams@sfgov.org)
To: sara.vellve@sfgov.org; david.lindsay@sfgov.org
cc: cathy@quickdrawsf.com; jeremy@quickdrawsf.com; fillmoreco@aol.com
Subject: COMET CLUB_AMENDING OF RECOMENDATIONS FOR APPROVAL
Date: 09/07/2010 12:49 PM
Attachments: [COMET CLUB_CUP_final.pdf](#)

Mr. Rahaim, Mr. Sanchez, Mr. Lindsay and Commissioners,

Having been involved with the revitalization efforts in our historic neighborhood for several years, I've come to know its needs and have responded to its most sensitive issues coming before You many times.

Attached is the original report I filed some months ago with planning staff and commissioners with respect to Written Determination on this location as POE. It was determined at that time to be in need of conditional use permit to continue as POE.

Commissioners, this location as does the neighborhood, reflects a compromised customer base specific to that of live entertainment, and especially during the hours of 8-11pm; a customer base whose interest is comedy club nights, acoustic singer songwriters, and occasional nites of flamenco, never live bands; true entertainment we mature folks and travelers would welcome and patronize.

The recorded amplified music in DJ format, which comes later at night, is consistent with that of currently permitted operations within the neighborhood (Matrix Fillmore) nallowed to operate until 2AM. These recomendations for approval should reflect the following: Comet Club should be permitted hours of operation as a Place Of Entertainment consistent with other merchants in the area which includes 2AM closing.

As you will read in the report, when it comes to live entertainment, we have none, and our hotels from Presidio to Van Ness send their customers elsewhere; consequently that precious revenue to our restaraunts and other nighttime retailers goes elsewhere, as well.

Mr. Caponi agreed to numerous conditions of approval and compliance prior to even filing for his conditional use, to include a late night clean up of the area following close of business and extra security staff.

Mr Caponi has provided additional insulation beyond that required, and become a proactive member of the Merchants Association, attended every meeting this year, met several times with neighborhood groups key to the success of the preservation of the quality of life in our neighborhood.

He has continually addressed any/all concerns by neighbors in close proximity and garnered tremendous support from the merchant neighborhood at large as a result.

Mr Caponi has a 27 year history of exceptional management of bar ownership, some w/live entertainment activity in San Francisco, and maintains an impeccable record of compliance with NO infractions.

As a result of soundproofing efforts, you cannot hear excessive noise coming from what takes place inside the buildings four walls

I invite you to read the attached report completed about 9 months ago (attached) which has approximately 150 hours of work behind it. It stands as accurate today. You're welcome to give me a call and discuss further concerns at any time, I live in the neighborhood (35 years), and would be happy to shed any light I can on both the Project and the Process to provide clarity to everyone.

Best,

Michael Williams
299-7713

From: [Paul Woodberry](#)
To: Sara.vellve@sfgov.org
Subject: Support for Comet Club's interest to provide live music and comedy (case # 2010.0255c)
Date: 09/09/2010 09:18 AM

Septemeber 9th, 2010

Sara,

I am writing in support of the Comet Club's (3111 Fillmore Street) interest to provide live music and comedy shows. Being a resident and homeowner of the neighborhood for nearly 15 years (2232 Filbert), I have always enjoyed visiting the club, and particularly so, the hospitable service.

Should you or anyone on your staff have any questions about my support for this, please feel free to contact me at 415-999-1535.

Sincerely,

Paul Woodberry

December 1, 2009



K R I M S A
fine rugs & décor

TO: Larry Badiner, Zoning Administrator

CC: Bob Davis, Director, Entertainment Commission
Jocelyn Kane, Deputy Director, SF Entertainment Commission
San Francisco Entertainment Commissioners, Justin Roja, President
San Francisco Planning Commissioners, Ron Miguel, President
San Francisco Planning Department, John Rahaim, Director

RE: Request for Written Determination

Street Address: 3107-3111 Fillmore Street
Assessor's information: Block 0515; Lot 009
Zoning District: Union Street NCD, C-2, 40-X, SUD, SSD

Building Owner/Project Sponsor: Regan Caponi, dba "Comet Club"

Dear Mr. Badiner & Commission Members,

We have recently been made aware of the current request for Written Determination of the above-referenced property as "A Place of Entertainment." We also understand current evidence suggests this determination would provide the project sponsor and the NCD at large with (entertainment) offerings we consider both *necessary and desirable*.

In the interest of our continuing efforts to revitalize a local customer base, this location would serve the Union Street NCD appropriately as a "Place of Entertainment." On behalf of the project sponsor, Mr. Regan Caponi, dba "Comet Club" please accept this letter as support from (business name) KRIMSA fine rugs & décor located at 2190 Union Street. Our business has operated within the Union Street Neighborhood Commercial District since 2002.

Renee Locke
Name (please print)

Manager Renee Locke
Signature & Title

Comments _____



SAN FRANCISCO PLANNING DEPARTMENT

SAN FRANCISCO PLANNING COMMISSION NOTICE OF HEARING

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Notice is hereby given to the general public that an application involving the property described below has been filed with the Planning Department for review as set forth in the Planning Code. The Planning Commission will hold a **PUBLIC HEARING** on this item and on other matters on **Thursday, SEPTEMBER 16, 2010 at 1:30 P.M. or later, in City Hall, 1 Dr. Carlton B. Goodlett Place, Room 400.**

CASE NO. 2010.0255C: 3111 FILLMORE STREET, west side between Filbert and Greenwich Streets; Lot 009 in Assessor's Block 0515: Request for Conditional Use authorization pursuant to Sections 725.48, 790.38 and 303 of the Planning Code to establish an "Other Entertainment" use at the Comet Club located within the Union Street Neighborhood Commercial and a 40-X Height and Bulk District.

The proposal would enable the existing bar to offer amplified and acoustical live entertainment on the premises. Physical changes to the building are not proposed at this time.

For further information, call Sara Velve at (415) 558-6263 and ask about Case Number 2010.0255C.

You are receiving this notice because you own property within a 300-foot radius of the subject property. If you are interested in viewing the plans, please call the planner whose name is stated below. Please call one day in advance so that the plans can be ready for you at the Planning Department's "Pick Up" box on the fourth (4th) floor at 1650 Mission Street.

This notice will also serve to comply with Planning Code Section 312 for project notification of occupants within a 150-foot radius of the subject property.

Persons who are unable to attend the scheduled Planning Commission hearing may submit written comments regarding this case to **Sara Velve** at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA 94103.

Comments received by 11:00 a.m. on the day of the hearing will be made a part of the official record and will be brought to the attention of the Planning Commission.

Comments which cannot be delivered to the Planning Commission by noon on the day of the hearing may be taken directly to the hearing at the location listed above. Comments received at 1650 Mission Street after the noon deadlines will be placed in the project file, but probably cannot be brought to the attention of the Planning Commission at the public hearing.

Pursuant to Government Code §65009, if you challenge, in court, the approval of a conditional use, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.