



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use

HEARING DATE: OCTOBER 28, 2010

Date: October 21, 2010
Case No.: 2010.0470 C
Project Address: 2301 MARKET STREET
Zoning: Upper Market Street Neighborhood Commercial District (NCD)
50-X Height and Bulk District
Block/Lot: 3563/034
Project Sponsor: F. Lee Moulton, TSAO Design Group
417 Montgomery Street, Suite #800
San Francisco, CA 94104
Staff Contact: Adrian C. Putra – (415) 575-9079
adrian.putra@sfgov.org
Recommendation: **Approval with Conditions**

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PROJECT DESCRIPTION

The Project Sponsor seeks a Conditional Use Authorization, pursuant to Planning Code Sections 721.44 and 303, to allow a small, self-service restaurant (d.b.a. TBD) in a ground floor commercial space that is currently occupied by a retail coffee store (d.b.a. Power Up Café). This establishment is accessed through the main entrance of Gold's Gym that faces Market Street. The proposed small, self-service restaurant would face Market Street, and contain approximately 555 gross square-feet of floor area. This proposal will not involve any tenant improvements to the existing space. The Project Sponsor is seeking this conditional use authorization in order to provide space for a new small business to operate a small, self-service restaurant at this location. To date, no new tenant has signed a lease for the project site. The project site is leased to Power Up Café on a month-to-month basis. The Power Up Café is not being displaced by the property owner, but rather will be voluntarily closed by the café owner.

As a retail coffee store, Power Up Café is limited to only providing ready-to-drink coffee and/or other nonalcoholic beverages for consumption on or off the premises. A retail coffee store may or may not provide seating, can only serve prepackaged food or non prepackaged food goods such as pastries, and is not allowed to have on-site food preparation. In comparison, a small, self-service restaurant would be permitted to offer food prepared on-site for consumption on or off the premises, along with being able to offer prepackaged food goods and ready-to-drink beverages.

SITE DESCRIPTION AND PRESENT USE

The Subject Property is located at 2301 Market Street, at the southwest corner of Market and Noe Streets, and developed with a two-story building. The building contains two-stories of commercial activity that consisting of a retail coffee store (d.b.a. Power Up Café), a personal service use (d.b.a. Gold's Gym), and a retail store (d.b.a. Vibrant Health Vitamin Center). The subject property is approximately 6,394 square-feet in area, with approximately 105-feet of frontage along Market Street, and 144-feet of frontage along Church Street.

SURROUNDING PROPERTIES & NEIGHBORHOOD

The Subject Property is located in the Upper Market Street Neighborhood Commercial District (NCD), which is part of the Upper Market Neighborhood that runs along Market Street between Castro and Church Streets, and is situated at the border of the Eureka Valley, Buena Vista, and Duboce Triangle neighborhoods. The Upper Market Street NCD is a multi-purpose commercial district that provides limited convenience goods to adjacent neighborhoods, but also serves as a shopping street for a broader trade area. A large number of offices are located on Market Street within easy transit access to downtown. The width of Market Street and its use as a major arterial diminish the perception of the Upper Market Street District as a single commercial district.

The subject block of Market Street is developed with a mix of one-to-three story buildings. In addition to the subject building other businesses found on this block of Market Street include: Kenneth Wingard (retail store), Sunglass Hut (retail store, and formula retail use), Earthtones (retail store), Ixia (retail store), Crystal Way (retail store), Blue (full-service restaurant), Face It (personal service), Mirrors & Frames (retail store), Rolo on Market, (retail store), Coldwell Banker (professional service), Bisou (full-service restaurant), Subway (small, self-service restaurant and formula retail use), the Café (other entertainment), and Chevron (automotive gas station). The Market Street facing properties on the subject block are all located in the Upper Market Street NCD District. Within the entire Upper Market Neighborhood there are six small, self-service restaurants and 11 commercial vacancies.

ENVIRONMENTAL REVIEW STATUS

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

HEARING NOTIFICATION REQUIREMENTS

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

PUBLIC COMMENT

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

ISSUES AND OTHER CONSIDERATIONS

- There are approximately 11 commercial vacancies in the Upper Market Neighborhood that runs along Market Street between Castro and Church Streets.
- The Commerce and Industry Element of the General Plan contains Guidelines for Specific Uses. For eating and drinking establishments, the Guidelines states, “the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage.” Planning staff has performed a site survey of the Upper Market Neighborhood (which consists of both the Upper Market Street NCT and NCD) and found that including the project site, approximately 19% of the commercial frontage in this surveyed area is devoted to eating and drinking establishments.
- Currently, approximately 12% of the commercial frontage on the subject block is devoted to eating and drinking establishments.
- The Project Sponsor has yet to acquire a new tenant to occupy the project site. However, if a prospective tenant is considered a formula retail use under Planning Code Sections 703.3 and 703.4 then that tenant will need to apply for a new Conditional Use Authorization to allow a new formula retail use.

REQUIRED COMMISSION ACTION

Pursuant to Planning Code Section 721.44 and 303, Conditional Use authorization is required to establish a small, self-service restaurant in the Upper Market Street Neighborhood Commercial District (NCD), and 50-X Height and Bulk District.

BASIS FOR RECOMMENDATION

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

- The project site is well served by public transit so that potential customers should not adversely affect the traffic flow.
- The project meets all applicable requirements of the Planning Code and is consistent with the General Plan.
- The project will be a neighborhood serving retail use.
- The neighborhood contains diverse mix of neighborhood serving retail and services uses which should not be adversely affected by the change of use of a retail coffee store into a small, self-service restaurant.

RECOMMENDATION: Approval with Conditions
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Exhibit Checklist

- | | |
|---|---|
| <input checked="" type="checkbox"/> Executive Summary | <input checked="" type="checkbox"/> Project sponsor submittal |
| <input checked="" type="checkbox"/> Draft Motion | Drawings: <u>Existing Conditions</u> |
| <input type="checkbox"/> Environmental Determination | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u> |
| <input type="checkbox"/> Height & Bulk Map | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Parcel Map | <input checked="" type="checkbox"/> Public Correspondence |
| <input checked="" type="checkbox"/> Sanborn Map | <input type="checkbox"/> Coverage Maps |
| <input checked="" type="checkbox"/> Aerial Photo | <input type="checkbox"/> RF Report and DPH Evaluation |
| <input type="checkbox"/> Context Photos | <input type="checkbox"/> Notice of Community Outreach Meeting |
| <input checked="" type="checkbox"/> Site Photos | |

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

ACP
Planner's Initials

ACP



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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

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ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 721.44 AND 303, FOR A CHANGE OF USE TO ESTABLISH A SMALL, SELF-SERVICE RESTAURANT (D.B.A. TBD) IN THE UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL DISTRICT (NCD), AND A 50-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On June 17, 2010, F. Lee Moulton (Project Sponsor) filed an application with the Department for Conditional Use Authorization under Planning Code Sections 721.44 and 303 of the Planning Code for a change of use to establish a small, self-service restaurant (d.b.a. TBD) within the Upper Market Street Neighborhood Commercial District (NCD), and a 50-X Height and Bulk District.

On October 28, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2010.0470C.

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

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

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2010.0470C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The Subject Property is located at 2301 Market Street, at the southwest corner of Market and Noe Streets, and developed with a two-story building. The building contains two-stories of commercial activity that consisting of a retail coffee store (d.b.a. Power Up Café), a personal service use (d.b.a. Gold's Gym), and a retail store (d.b.a. Vibrant Health Vitamin Center). The subject property is approximately 6,394 square-feet in area, with approximately 105-feet of frontage along Market Street, and 144-feet of frontage along Church Street.
3. **Surrounding Properties and Neighborhood.** The Subject Property is located in the Upper Market Street Neighborhood Commercial District (NCD), which is part of the Upper Market Street Neighborhood. The Upper Market Street NCD, which runs along Market Street from Castro to Sanchez Streets, and on side streets off Market, is situated at the border of the Eureka Valley, Buena Vista, and Duboce Triangle neighborhoods. Upper Market Street is a multi-purpose commercial district that provides limited convenience goods to adjacent neighborhoods, but also serves as a shopping street for a broader trade area. A large number of offices are located on Market Street within easy transit access to downtown. The width of Market Street and its use as a major arterial diminish the perception of the Upper Market Street District as a single commercial district. The street appears as a collection of dispersed centers of commercial activity, concentrated at the intersections of Market Street with secondary streets.

The Upper Market Street district controls are designed to promote moderate-scale development which contributes to the definition of Market Street's design and character. They are also intended to preserve the existing mix of commercial uses and maintain the livability of the district and its surrounding residential areas. Large-lot and use development is reviewed for consistency with existing development patterns. Rear yards are protected at residential levels. To promote mixed-use buildings, most commercial uses are permitted with some limitations above the second story. In order to maintain continuous retail frontage and preserve a balanced mix of commercial uses, ground-story neighborhood-serving uses are encouraged, and eating and drinking, entertainment, and financial service uses are limited. Continuous frontage is promoted by prohibitions of most automobile and drive-up uses.

The subject block of Market Street is developed with a mix of one-to-three story buildings. In addition to the subject building other businesses found on this block of Market Street include: Kenneth Wingard (retail store), Sunglass Hut (retail store, and formula retail use), Earthtones (retail store), Ixia (retail store), Crystal Way (retail store), Blue (full-service restaurant), Face It (personal service), Mirrors & Frames (retail store), Rolo on Market, (retail store), Coldwell Banker (professional service), Bisou (full-service restaurant), Subway (small, self-service restaurant and formula retail use), the Café (other entertainment), and Chevron (automotive gas station). The Market Street facing properties on the subject block are all located in the Upper Market Street NCD District. Within the entire Upper Market Neighborhood there are six small, self-service restaurants and 11 commercial vacancies.

4. **Project Description.** The Project Sponsor seeks a Conditional Use Authorization, pursuant to Planning Code Sections 721.44 and 303, to allow a small self-service restaurant (d.b.a. TBD) in a ground floor commercial unit (project site) that is currently occupied by a retail coffee store (d.b.a. Power Up Café). The retail coffee store is accessed through the main entrance of Gold's Gym that faces Market Street. The proposed small, self-service restaurant would face Market Street, and contain approximately 555 gross square-feet of floor area, and does not involve any tenant improvements to the existing space. The Project Sponsor is seeking this conditional use authorization to provide the opportunity for a new business to operate a small, self-service restaurant at this location. To date, no new tenant has signed a lease for the project site. The project site is leased to Power Up Café on a month-to-moth basis. The owner of Power Up Café has stated that he is not being displaced by the property owner, since he intends to voluntarily close the café.

As a retail coffee store, Power Up Café is limited to only providing ready-to-drink coffee and/or other nonalcoholic beverages for consumption on or off the premises. A retail coffee store may or may not provide seating, can only serve prepackaged food or non prepackaged food goods such as pastries, and is not allowed to have on-site food preparation. In comparison, a small, self-service restaurant would be permitted to offer food prepared on-site for consumption on or off the premises, along with also being able to offer prepackaged food goods and ready-to-drink beverages.

5. **Public Comment.** The Department is not aware of any opposition to this project.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Small, Self-Service Restaurant.** Planning Code Section 721.44 states that a small, self-service restaurant, as defined in Sections 790.91 of the Planning Code, is permitted as conditional uses on the first story and below.

The Project Sponsor seeks Conditional Use Authorization to allow a new small, self-service restaurant at the first floor of the Subject Property, which is located within the Upper Market Street NCD.

- B. **Formula Retail Use.** Planning Code Sections 703.3 and 703.4 defines a formula retail use and requires Conditional Use authorization from the Planning Commission for all new formula retail uses within all Neighborhood Commercial Districts.

The Project Sponsor has yet to acquire a new tenant to occupy the project site. However, if a prospective tenant is considered a formula retail use under Planning Code Sections 703.3 and 703.4 then that tenant will need to apply for a new Conditional Use Authorization to allow a new formula retail use.

- C. **Hours of Operation.** Planning Code Section 721.27 states that in the Upper Market Street NCD maintaining hours of operation from 6:00 PM. to 2:00 AM. is permitted by right, and that hours of operation from 2:00 AM. to 6:00 AM. is conditionally permitted.

The Project has no proposed hours of operation because a tenant has not yet been established for the new use. However, a new tenant will be required to file a new conditional use application to have hours of operation from 2:00 AM. to 6:00 PM.

- D. **Use Size.** Planning Code Section 721.21 permits a use size of 3,000 square feet and above in the Upper Market Street NCD District with Conditional Use Authorization.

The Project will not increase the use size at the Subject Property. The use size of approximately 555 gross square-feet of floor area is below the 3,000 square foot threshold established for uses sizes in the Upper Market Street NCD.

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

The project site has approximately 26 feet of lineal street frontage along Market Street with approximately 19 feet of street frontage devoted to either the entrance or window space. The windows are un-tinted clear glass, and there is an unobstructed view into the establishment at the pedestrian eye-level.

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

The project site contains approximately 555 square-feet of floor area and thus does not require any off-street parking.

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

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

- H. **Small, Self-Service Restaurant.** Section 790.91 of the Code defines a small, self-service restaurant as a retail eating or eating and drinking use which provides ready-to-eat food for consumption on and off the premises and which may or may not provide seating. Such use exhibits the following characteristics:

- (1) Contains fewer than 50 seats and less than 1,000 square feet of gross floor area;
- (2) 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;
- (3) Food served in disposable wrappers or containers;
- (4) Food is ordered and served at customer service counter;
- (5) Food is paid for prior to consumption;
- (6) 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;
- (7) Food available upon a short waiting time.

It does not include retail grocery stores with accessory take-out food activity, as described in Section 703.2(b)(1)(C) of this Code, self-service specialty food use, as described in Section 790.93 of this Code, or retail uses which sell prepackaged or bulk ready-to-eat foods with no-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 meat counters.

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 47 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.

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

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

The size of the proposed use is in keeping with other storefronts in the Upper Market Street NCD. Allowing a new small, self-service restaurant will have minimal impacts to traffic or parking in a neighborhood that is easily accessible by public transportation. The Project is necessary and desirable because it contributes to the economic vitality of the neighborhood by allowing the change of use from a retail coffee store to a small, self-service restaurant which would allow the existing commercial space to provide a wider variety of goods to the community by also providing food items in addition to drinks. Project would also provide entry-level job opportunities for neighborhood residents.

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

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

The size and shape of the Project Site is compatible with the pattern of development in the area, and the Project does not involve any alterations to the exterior of the subject building.

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

Traffic conditions will remain substantially unaltered by this Project because the proposed use is a neighborhood-serving business that can be easily frequented via foot, cab, or public transportation by many residents of the surrounding neighborhoods. The Project does not trigger a parking requirement because the use size is well below the 5,000 square-foot threshold that triggers an off-street parking requirement.

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

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

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

There are no proposed changes to existing conditions as they relate to landscaping, screening, open spaces, parking and loading areas, service areas and lighting. Any proposed signage shall be subject to the review of the Planning Department and required to meet all provisions set forth in Article 6 of the Planning Code pending the approval of this application

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.

- D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

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

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

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1:

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

Policy 1.2:

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

Policy 1.3:

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

The project will provide a desirable use to the neighborhood that is independently owned and operated and will provide resident employment opportunities to those in the community.

OBJECTIVE 2:

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

Policy 2.1:

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

Approval of the Project will allow for a new small, self-service restaurant in the immediate neighborhood that could generate additional pedestrian activity to the area. This will contribute the diverse economic base of the City.

OBJECTIVE 3:

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

Policy 3.1:

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

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

EATING AND DRINKING ESTABLISHMENTS

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

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

- Regulate the distribution and proliferation of eating and drinking establishments, especially in districts experiencing increased commercial activity;
- Control nuisances associated with their proliferation;
- Preserve storefronts for other types of local-serving businesses; and
- Maintain a balanced mix of commercial goods and services.
- The regulation of eating and drinking establishments should consider the following:

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

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

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

The General Plan states that there is a concern with the potential over-concentration of food-service establishments, and the Commerce and Industry Element of the General Plan contains the Guidelines for Specific Uses. For eating and drinking establishments, the Guidelines state, "the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage. However, the approval of this application will not result in an over-concentration of eating and drinking establishments within the Upper Market Street Neighborhood, because including the proposed small, self-service restaurant, only approximately 19% of the commercial frontage of the Upper Market Street Neighborhood is dedicated to eating and drinking establishments.

Additionally, this neighborhood there is already contains diverse mix of neighborhood serving retail and service uses, and is well served by public transit.

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

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

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

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

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

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

No housing will be removed for this Project.

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

The Project is within close access to public transit as it is located within one block of the Castro MUNI station. Additionally, approval of the Project should not significantly alter the existing automobile traffic and parking availability that currently exists in the immediate neighborhood.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

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

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

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

- G. That landmarks and historic buildings be preserved.

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

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

This Project will not affect any parks or open space because there is no change to the existing building footprint.

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

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2010.0470C** subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. XXXXX. The effective date of this Motion shall be the date of this Motion if not appealed (after the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA, 94012.

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

Linda Avery
Commission Secretary

AYES:

NAYES:

ABSENT:

ADOPTED: October 28, 2010

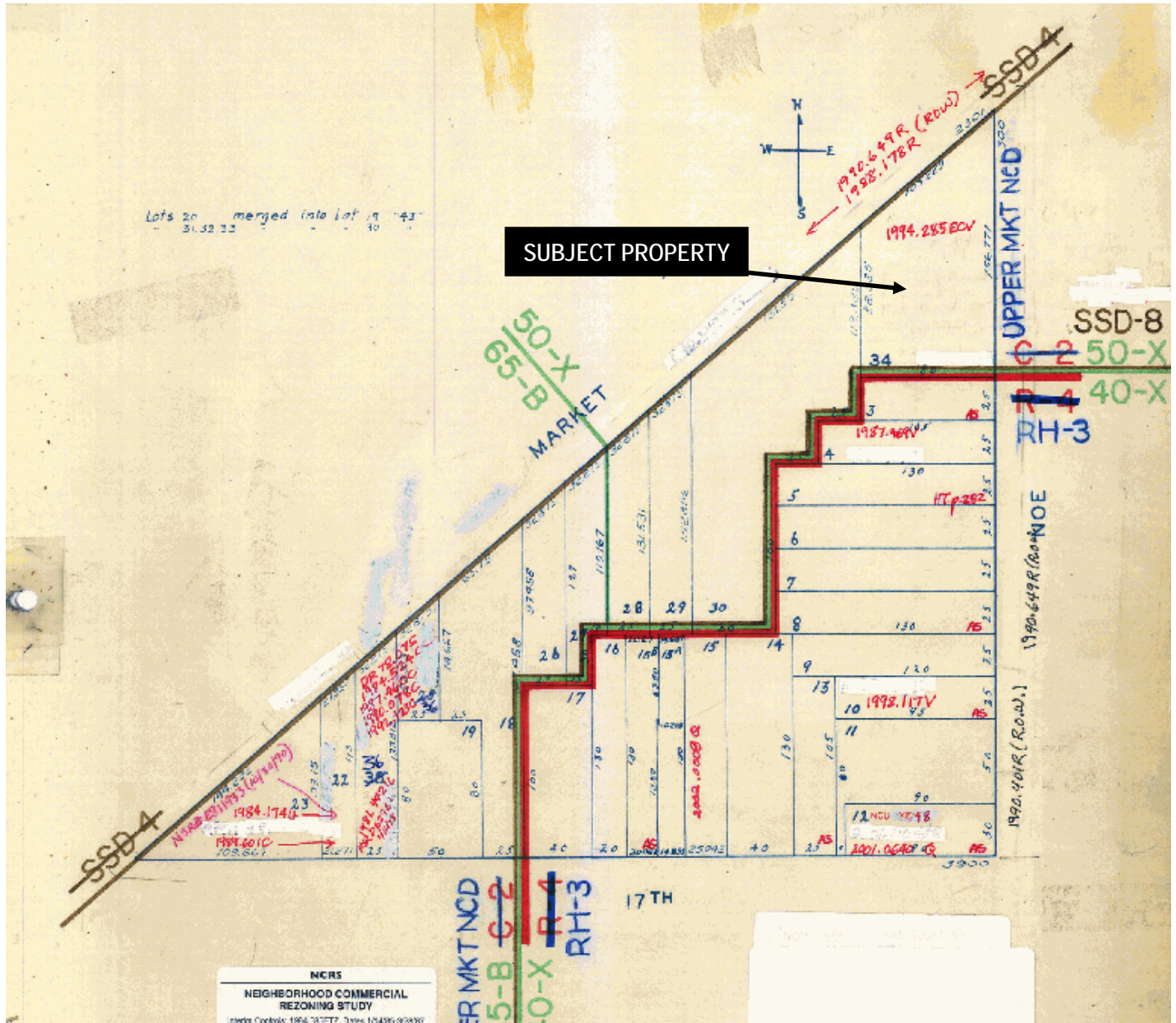
Exhibit A

Conditions of Approval

1. This authorization is for a Conditional Use under Planning Code Sections 721.44, and 303 to establish a small, self-service in the Upper Market Neighborhood Commercial District, and a 50-X Height and Bulk District, in general conformance with plans filed with the Application as received on June 17, 2010 and stamped "EXHIBIT B" included in the docket for **Case No. 2010.0470C**, reviewed and approved by the Commission on **October 28, 2010**.
2. Prior to the issuance of the Building Permit for the Project the Zoning Administrator shall approve and order the recordation of a Notice of Special Restrictions with the Office of the Recorder of the City and County of San Francisco for the premises (Assessor's 3563, Lot 034), which notice shall state that construction has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied.
3. 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.
4. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines of no less than \$250 a day in accordance with Planning Code Section 176.
5. Should monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(e)(1).
6. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed.
7. The operator shall maintain an attractive storefront providing visibility of the small, self-service restaurant interior through the storefront windows. Street-facing windows shall not be blocked by displays or other obstacles in order to allow for visual connection between the street and the store interior. Highly reflective glass, tinted glass, or mirror glass shall not be applied on any area of the façade.
8. The operator shall operate the proposed small, self-service restaurant such that noise is kept at reasonable levels so as not to unduly disturb neighboring businesses and residents.

9. The exterior of the business must be kept clean, graffiti-free and well-maintained, including regular sweeping and washing of the curb outside of the storefront. Project sponsor agrees to paint out and/or remove graffiti within 48 hours.
10. The project sponsor shall maintain appropriate odor control equipment to prevent any significant noxious or offensive kitchen odors from escaping the premises.
11. 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.
12. Refuse containers shall be provided both inside and outside the establishment for use by patrons of the small, self-service restaurant. All refuse containers shall be kept within the building until pick-up by the disposal company.
13. The authorization and right vested by virtue of this action shall be deemed void and canceled, if within 3 years of this Motion a site permit or building permit for the Project has not been secured by Project Sponsor. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a city, state, or federal agency or by appeal of the issuance of such permit.

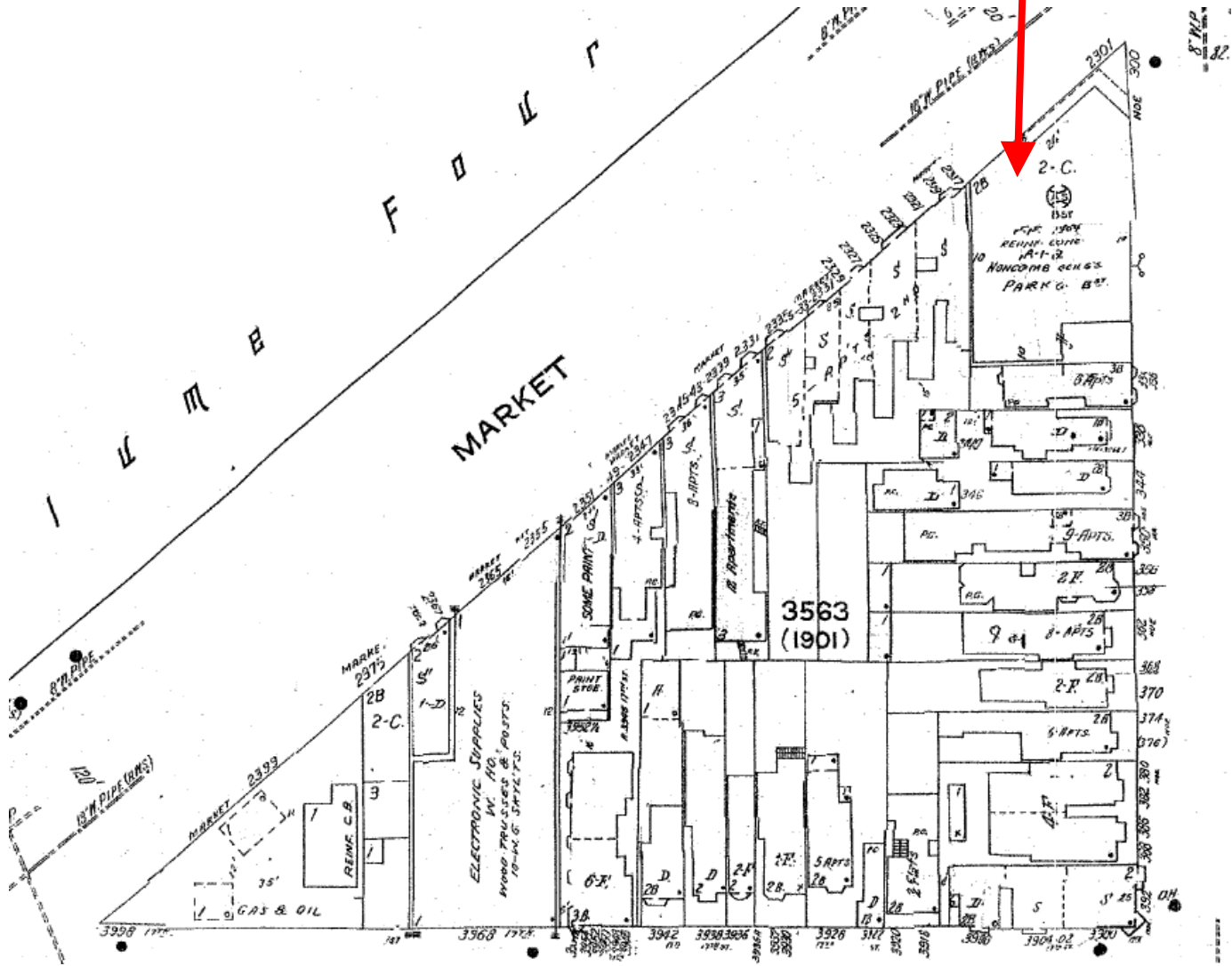
Parcel Map



Conditional Use Request Hearing
 Case Number 2010.0470C
 Small, Self-service Restaurant
 2301 Market Street

Sanborn Map

SUBJECT PROPERTY



Conditional Use Request Hearing
Case Number 2010.0470C
Small, Self-service Restaurant
2301 Market Street

Aerial Photo view looking South



SUBJECT PROPERTY

Conditional Use Request Hearing
Case Number 2010.0470C
Small, Self-service Restaurant
2301 Market Street

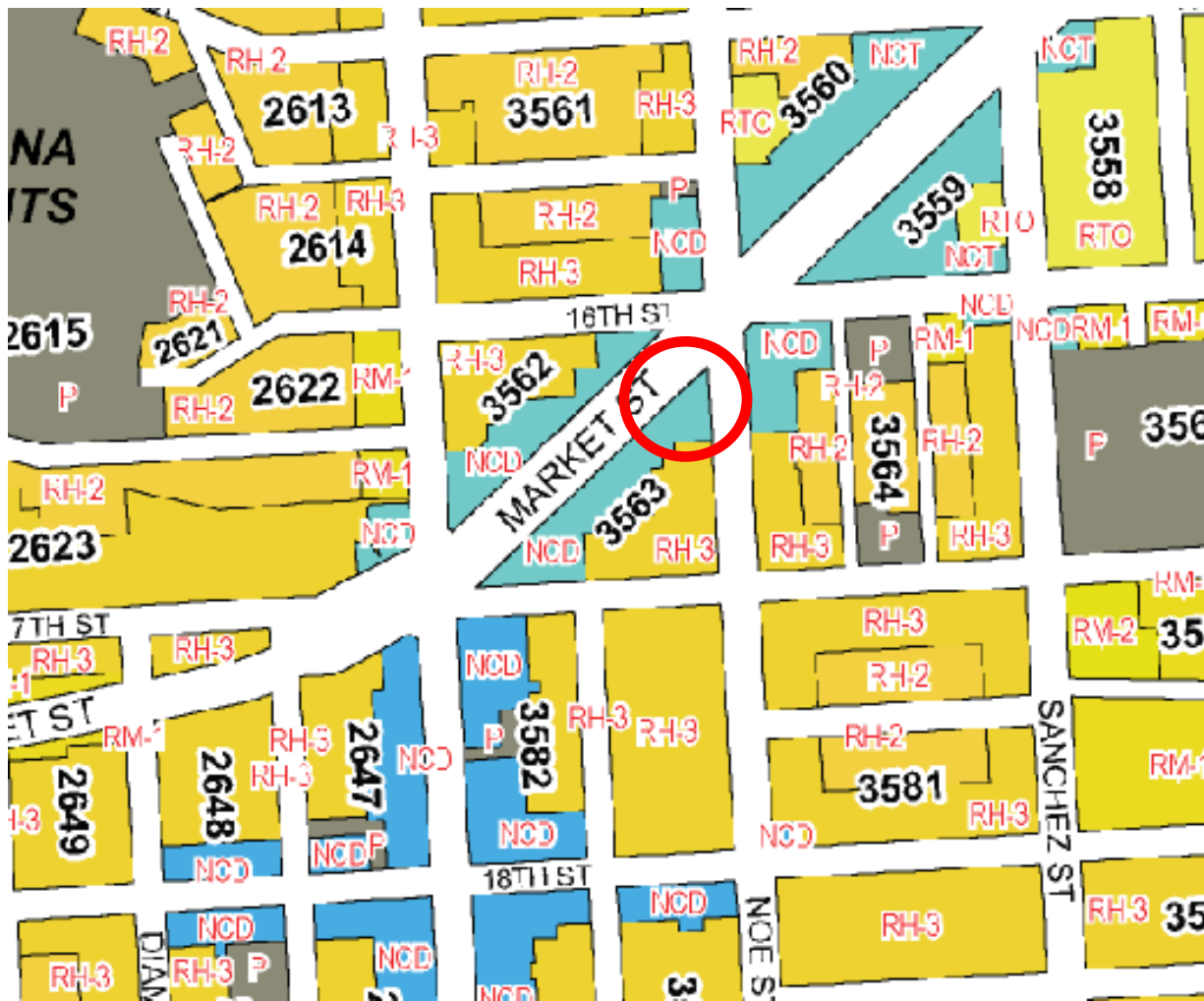
Aerial Photo view looking North



SUBJECT PROPERTY

Conditional Use Request Hearing
Case Number 2010.0470C
Small, Self-service Restaurant
2301 Market Street

Zoning Map



Conditional Use Request Hearing
Case Number 2010.0470C
Small, Self-service Restaurant
2301 Market Street

Site Photo

Subject Property



SUBJECT PROPERTY

Conditional Use Request Hearing
Case Number 2010.0470C
Small, Self-service Restaurant
2301 Market Street

Site Photo

View From Opposite Side of Street



Conditional Use Request Hearing
Case Number 2010.0470C
Small, Self-service Restaurant
2301 Market Street

2301 Market Associates LLC
2 Fifer Avenue, Suite #250
Corte Madera, CA 94925

September 23, 2010

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

Re: Restaurant, Small Self-Service
2301 Market Street, Ground Floor
San Francisco, CA 94114

Dear Mr. Putra,

I am writing regarding my building at 2301 Market Street and the ground-floor café space currently leased by Westfield Pacific, Inc., under the name Power Up Café. If we are able to bring a new tenant to an agreement, Westfield Pacific has agreed to give up their month-to-month lease.

At this time we are not able to disclose the new tenant, but it is a San Francisco-based restaurant proprietor who would like to open a small self-service restaurant at this location. The restaurant has more than one location in San Francisco, but it is not formula retail.

Please let me know if you have further questions.

Sincerely,


Thomas Jackovics

Owner
2301 Market Associates LLC

CC: F. Lee Moulton, TASO Design Group

September 23, 2010

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

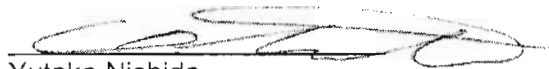
Re: **Power Up Café Castro**
2301 Market Street
San Francisco, CA 94114

Dear Mr. Putra,

This is to inform you of our lease agreement between Westfield Pacific, Inc. (DBA Power Up Café Castro) and 2301 Market Street Associates LLC (Gold's Gym Castro) covering the space currently operated as Power Up Café, Castro branch. According to the agreement, the Café space is presently leased to us on a month-to-month basis, which allows either party to terminate the lease with a prior notice of one month.

This is one of two locations for our Power Up Café in San Francisco. As a result of the business climate, we are not able to sustain our operation at the 2301 Market Street location. To be clear, a new business that can relieve us of our current lease at this location is welcome. We will not be displaced as we plan to voluntarily close our café. We are in support of another business taking over this location.

Sincerely,



Yutaka Nishida

President
Westfield Pacific, Inc.
DBA Power Up Café Castro

Copy: Thomas Jackovics, 2301 Market Associates LLC
F. Lee Moulton, TASO Design Group



2301 Market Street

PROPOSED PROJECT:
Restauratnt, Small Self-Service



2301 Market Street at Noe Street

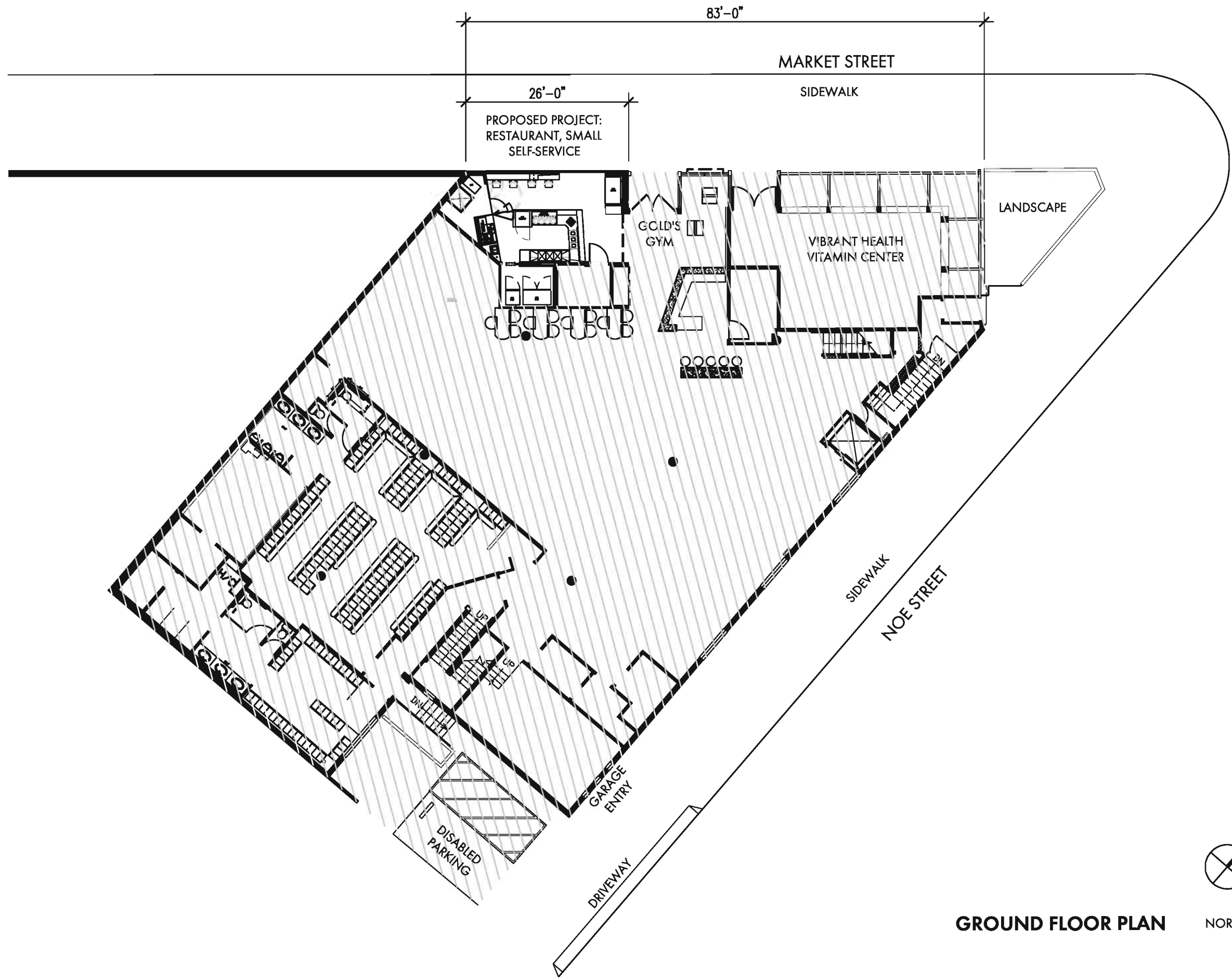
PROPOSED PROJECT:
Restauratnt, Small Self-Service

Sheet Name
PHOTOGRAPHS

Date 06.17.2010

Project 1016.01
S.F. PLANNING - CONDITIONAL USE
RESTAURANT, SMALL SELF-SERVICE
BLOCK 3563, LOT 034
2301 MARKET STREET
SAN FRANCISCO, CA 94114

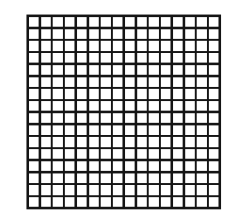
TSAO DesignGroup
417 Montgomery Street
San Francisco California 94104
415.398.5500 P
415.398.5510 F
www.tsadesign.com



GROUND FLOOR PLAN



NORTH

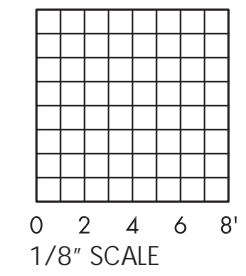


1/16" SCALE



EXTERIOR ELEVATION
 2301 Market Street
 SCALE: 1/8"=1'-0"

PROPOSED PROJECT:
 Restaurant, Small Self-Service



Sheet Name
 EXTERIOR ELEVATION

Date 06.17.2010

Project 1016.01
 S.F. PLANNING - CONDITIONAL USE
 RESTAURANT, SMALL SELF-SERVICE
 BLOCK 3563, LOT 034
 2301 MARKET STREET
 SAN FRANCISCO, CA 94114

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