



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use

HEARING DATE: NOVEMBER 18, 2010

Date: November 9, 2010
Case No.: **2010.0695C**
Project Address: **2016 Chestnut Street**
Zoning: NC-2 (Small-Scale Neighborhood Commercial District)
40-X Height and Bulk District
Block/Lot: 0467A/023
Project Sponsor: Tice Hamblet for T-Mobile
c/o Loeven and Associates
5140 Diamond Heights Boulevard
San Francisco, CA 94131
Staff Contact: Sara Vellve – (415) 558 - 6263
sara.vellve@sfgov.org
Recommendation: **Approval with Conditions**

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

Reception:
415.558.6378

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415.558.6409

Planning
Information:
415.558.6377

PROJECT DESCRIPTION

The proposal is to establish a Formula Retail Use in a ground-floor commercial space formerly occupied by a locally owned and operated pharmacy (dba Burton's) on the subject property. T-Mobile wishes to occupy approximately 2,000 square feet on the ground floor of a mixed-use building and open a retail store providing a full range of T-Mobile products including phones, service plans and accessories in one location. The proposal includes interior modifications to accommodate the tenant improvement. Based on T-Mobile's web site, there are nine T-Mobile retail stores in San Francisco. The store closest to the subject site is located at the corner of Pine Street and Van Ness Avenue, over one mile from the project site.

SITE DESCRIPTION AND PRESENT USE

The 7,496 square foot site is located at the northwest corner of Fillmore and Chestnut Streets in the Marina neighborhood. The property, constructed in approximately 1927, contains a five-story mixed-use building with retail uses on the ground floor and 40 residential units on floors two to five. Residential buildings abut the property to the north along Fillmore Street and commercial/mixed-use buildings abut the property to the west fronting on Chestnut Street. The property does not contain open space or parking.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The project site is located on the north side of Chestnut Street between Fillmore Street to the east and Mallorca Street to the west, in the Marina neighborhood. Marina Middle School is located directly east of the property across Fillmore Street. The subject property is part of a NC-2 District that stretches from Fillmore Street in the east and Divisadero Street to the west. NC-2 Districts are intended to serve as the

City's Small-Scale Neighborhood Commercial Districts. These districts are linear shopping streets which provide convenience goods and services to the surrounding neighborhoods as well as limited comparison shopping goods for a wider market. The range of comparison goods and services offered is varied and often includes specialty retail stores, restaurants, and neighborhood-serving offices.

ENVIRONMENTAL REVIEW

The Department has determined that the proposed project is exempt/excluded from environmental review, pursuant to CEQA Guideline Section 15301 (Class One - Minor Alteration of Existing Facility, (e) Additions to existing structures provided that the addition will not result in an increase of more than 10,000 square feet).

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	October 29, 2010	October 29, 2010	20 days
Posted Notice	20 days	October 29, 2010	October 29, 2010	20 days
Mailed Notice	10 days	November 10, 2010	October 26, 2010	22 days

PUBLIC COMMENT

- Although the Department has not received any letters or phone calls in opposition to the proposal, some people involved with the request for Discretionary Review of the WTS antennas may also oppose the subject project.

ISSUES AND OTHER CONSIDERATIONS

- Based on information provided by T-Mobile to the Department, and confirmed by an Internet search and a survey, T-Mobile does not have a dedicated retail outlet on Chestnut Street in the Marina neighborhood, or within a ¼ mile radius of the proposed site. The nearest T-Mobile retail site is located at Pine Street and Van Ness Avenue, over one mile away.
- Based on information provided by T-Mobile to the Department, a limited number of T-Mobile products are available at a Walgreens within a ¼ mile radius of the site. Two additional retail outlets (Walgreens and Radio Shack) provide a limited number of T-Mobile products within approximately ½ mile of the site. Based on this information, the Department does not believe the proposed formula retail use would impact locally-owned businesses, or create an over - concentration of T-Mobile retail outlets.
- A survey conducted by the Department indicates that approximately 16 percent of the retail storefronts in the subject NC-2 District appear to contain formula retail uses offering a variety of products and of various sizes.
- T-Mobile submitted building permit application 2009.07.30.0759 to install two WTS omni-whip antennas at the subject site, for which a request for Discretionary Review was submitted. At a

Planning Commission hearing on July 15, 2010 the permit was upheld. Although the sponsor of the formula retail use and WTS antennas is the same, the two uses are independent of each other and have been separately processed.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant conditional use authorization to allow for a Formula Retail Use in an NC-2 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 would not result in an over-concentration of formula retail uses in the subject NC-2 district.
- T-Mobile does not have another dedicated store within approximately 1 mile of the subject property.
- The project is a neighborhood-serving use.
- The District is well served by public transit, therefore customers should not impact traffic.
- The proposed Project meets all applicable requirements of the Planning Code.

RECOMMENDATION: Approval with Conditions
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Attachments:

Zoning District Map
Height & Bulk Map
Parcel Map
Sanborn Map
Aerial Photo
Context/Site Photos
Reduced Plans

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SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|--|--|
| <input type="checkbox"/> Affordable Housing (Sec. 415) | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412) | <input type="checkbox"/> Other |

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Planning Commission Draft Motion

HEARING DATE: NOVEMBER 18, 2010

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ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303 AND 703.3 OF THE PLANNING CODE TO ALLOW THE ESTABLISHMENT OF A FORMULA RETAIL USE (DBA T-MOBILE) IN AN NC-2 (NEIGHBORHOOD COMMERCIAL, SMALL SCALE) DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On August 17, 2010, Tice Hamblet (Project Sponsor) filed an application with the San Francisco Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 303 and 703.3 to allow the establishment of a Formula Retail Use (dba T-Mobile) in an NC-2 (Neighborhood Commercial, Small Scale) District and a 40-X Height and Bulk District.

On November 18, 2010, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2010.0695C.

The Project was determined by the Department to be Categorically Exempt from the California Environmental Quality Act ("CEQA") as a Class 1 [State CEQA Guidelines Section 15301(a)] exemption under CEQA Guidelines as described in the determination contained in the Planning Department files for this project. The Commission has reviewed and concurs with said determination.

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

MOVED, that the Commission hereby approves the Conditional Use Authorization requested in Application No. 2010.0695C.

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 7,496 square foot site is located at the northwest corner of Fillmore and Chestnut Streets in the Marina neighborhood. The property, constructed in approximately 1927, contains a five-story mixed-use building with retail uses on the ground floor and 40 residential units on floors two to five. Residential buildings abut the property to the north along Fillmore Street and commercial/mixed-use buildings abut the property to the west fronting on Chestnut Street. The property does not contain open space or parking.
3. **Surrounding Properties and Neighborhood.** The project site is located on the north side of Chestnut Street between Fillmore Street to the east and Mallorca Street to the west, in the Marina neighborhood. Marina Middle School is located directly east of the property across Fillmore Street. The subject property is part of a NC-2 District that stretches from Fillmore Street in the east and Divisadero Street to the west. NC-2 Districts are intended to serve as the City's Small-Scale Neighborhood Commercial Districts. These districts are linear shopping streets which provide convenience goods and services to the surrounding neighborhoods as well as limited comparison shopping goods for a wider market. The range of comparison goods and services offered is varied and often includes specialty retail stores, restaurants, and neighborhood-serving offices.

Lombard Street is located one block to the south, and is zoned NC-3 (Moderate Scale, Neighborhood Commercial) between Van Ness Avenue to the east and Broderick Street to the west. The NC-3 districts are generally intended to offer a wide variety of comparison and specialty goods and services to a population greater than the immediate neighborhood, additionally providing convenience goods and services to the surrounding neighborhoods.

4. **Project Description.** The proposal is to establish a Formula Retail Use in a ground-floor commercial space formerly occupied by a locally owned and operated pharmacy (dba Burton's) on the subject property. T-Mobile wishes to occupy approximately 2,000 square feet on the ground floor of a mixed-use building and open a retail store providing a full range of T-Mobile products including phones, service plans and accessories in one location. The proposal includes interior modifications to accommodate the tenant improvement. Based on T-Mobile's web site,

there are nine T-Mobile retail stores in San Francisco. The store closest to the subject site is located at the corner of Pine Street and Van Ness Avenue, over one mile from the project site.

5. **Public Comment.** As of Tuesday, November 9, 2020 the Department has not received any letters or phone calls in opposition to the proposal; however, some people involved with the request for Discretionary Review of the WTS antennas may also oppose the subject 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. **Use.** Planning Code Section 711.40 permits Other Retail Sales and Services uses on the ground floor in NC-2 Districts.

The proposed use is considered an "Other Retail Sales and Service" use as defined by Planning Code Section 790.102. The proposed use would be located on the ground floor in an NC-2 district; it is principally permitted in this use district.

- B. **Hours of Operation.** Planning Code Section 711.27 states that permitted hours of operation for NC-2 districts are 6:00 a.m. to 2:00 a.m.

The proposed project's hours of operation will generally occur between 10:00 a.m. and 8:00 p.m., which is within the permitted hours of operation.

- C. **Parking.** Planning Section 151 of the Planning Code requires one off-street parking space for each 500 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.

The proposed use area does not exceed 5,000 square feet; therefore, off-street parking is not required.

- D. **Formula Retail.** Planning Code Section 703.3 defines a formula retail use as a type of retail sales activity or retail sales establishment which, along with eleven or more other retail sales establishments located in the United States, maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark. Businesses that are determined to be formula retail uses require Conditional Use Authorization to be established in NC-2 Zoning Districts.

The proposed use meets at least five of the above criteria in addition to having a large number of other locations in the United States. The proposed use is considered a formula retail use; as such, the project sponsor has applied for Conditional Use authorization to establish a formula retail use in a Neighborhood Commercial District.

- E. **Loading.** Planning Code Section 152 does not require on-site loading spaces where the gross floor area of the proposed retail use is less than 100,000 sq. ft.:

The proposal does not include an on-site loading space and none is required.

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 proposed use will provide a development that is necessary and desirable and compatible with the surrounding neighborhood. A windshield survey and internet search found no other T-Mobile retail outlet in the immediate vicinity. Staff observed only one other storefront in the neighborhood that specifically offered a range of products for a cellular carrier (AT&T), although the store did not appear to be operated by the carrier.

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 proposal is consistent with this criterion. The proposal includes moving into an existing building with only minor cosmetic and interior changes.

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

The proposed T-Mobile store would occupy a vacant space formerly occupied by a pharmacy. The pharmacy ceased operations a number of years ago. As both are retail uses with similar traffic patterns, there should be no change in impact to traffic patterns for persons or vehicles or the type and volume of traffic. The site is within a pedestrian-oriented commercial corridor surrounded by residential streets, and is well-served by transit. Given this and that the use is not substantially changing, it is reasonable to assume that the proposed use will not have a negative impact on current traffic patterns and that the amount of neighborhood parking will be adequate for the use.

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

The proposed use would not emit noxious or offensive emissions such as noise, glare, dust, or odor.

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 the existing building lighting. The site does not contain landscaping, screening, open space, parking, loading or service areas.

- 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 the Planning Code and will not adversely affect the General Plan for the reasons stated in Finding 8.

8. **Planning Code Section 303(i)** establishes criteria for the Planning Commission to consider when reviewing applications for Formula Retail Uses. On balance, the project complies with said criteria in that:

- a. The existing concentrations of formula retail uses within the Neighborhood Commercial District.

Within the subject NC-2 District, there are approximately 25 existing Formula Retail Uses offering beverages, food, clothing, banking, cosmetics, stationary, pharmacies and books. Information provided by the Project Sponsor indicates that there is not another T-Mobile retail outlet in the area and an internet and Department survey confirmed this information. A survey conducted by the Department indicates that approximately 16 percent of the retail storefronts in the subject NC-2 District appear to contain formula retail uses offering a variety of products and of various sizes. Based on the low number of Formula Retail Uses in the district, it appears as there is not an overconcentration of such uses.

- b. The availability of other similar retail uses within the Neighborhood Commercial District.

A windshield survey, an internet search and information from T-Mobile did not find any other T-Mobile retail stores within the Chestnut and Lombard Street commercial corridors, or within ¼ mile radius of the site. Other formula retail stores in the area (Walgreens and Radio Shack) offer limited T-Mobile products. T-Mobile wishes to offer a full range of their products to new customers and the approximately 10,000 existing customers in the area.

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

The proposal includes only minor cosmetic changes to the existing structure, which is in keeping with the architectural and aesthetic character of the Neighborhood Commercial District

- d. The existing retail vacancy rates within the Neighborhood Commercial District.

A Department survey found that there are approximately five retail vacancies along Chestnut Street in this NC-2 District. Of these five spaces, approximately two appear to be going through a tenant improvement.

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

This specific NC-2 District includes a very wide variety of neighborhood-serving uses, but virtually no retail stores of any specific cellular carrier. The NC-3 district along Lombard Street includes a mix of both neighborhood-serving and Citywide-serving uses including tourist hotels, which are not found on Chestnut Street.

9. **General Plan Compliance.** The Project, on balance, is consistent with the following Objectives and Policies of the General Plan:

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.

The proposed Formula Retail use would have a substantial net benefit since it would be filling a medium sized vacant retail space and providing a retail use that the area does not currently have.

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 proposed use will bring additional commercial activity to the City and provide a service that does not currently exist in the immediate vicinity.

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

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

The Project will not displace any neighborhood-serving retail uses; it will be located within a vacant store front that was previously occupied by an independently owned and operated commercial use.

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

The proposal will not have any impact on existing housing nor will it have an impact on the character of Chestnut Street.

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

The proposal will have no impact on the City's supply of affordable housing.

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

The Project is to convert a vacant space formerly occupied by a pharmacy to a T-Mobile retail store offering a wide variety of T-Mobile products and services. The use category will not change and the expected traffic to and from the site is expected to remain consistent between the two stores. Therefore, the proposal will not impede MUNI transit service or overburden our 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 Project is a retail establishment in a Neighborhood Commercial District. It will not impact industrial or service sector jobs.

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

The Project would comply with any building codes that are applicable to the project.

- G. That landmarks and historic buildings be preserved.

The subject building is not a designated landmark nor does it appear to be a potential historic resource. The proposed project will not have any impact on landmark or historic buildings.

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

The project will have no negative impact on existing parks and open spaces.

11. 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.
12. 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. 2010.0695C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans filed with the Application as received on August 8, 2010 and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. XXXXX. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on November 18, 2010.

Linda D. Avery
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: November 18, 2010

Exhibit A

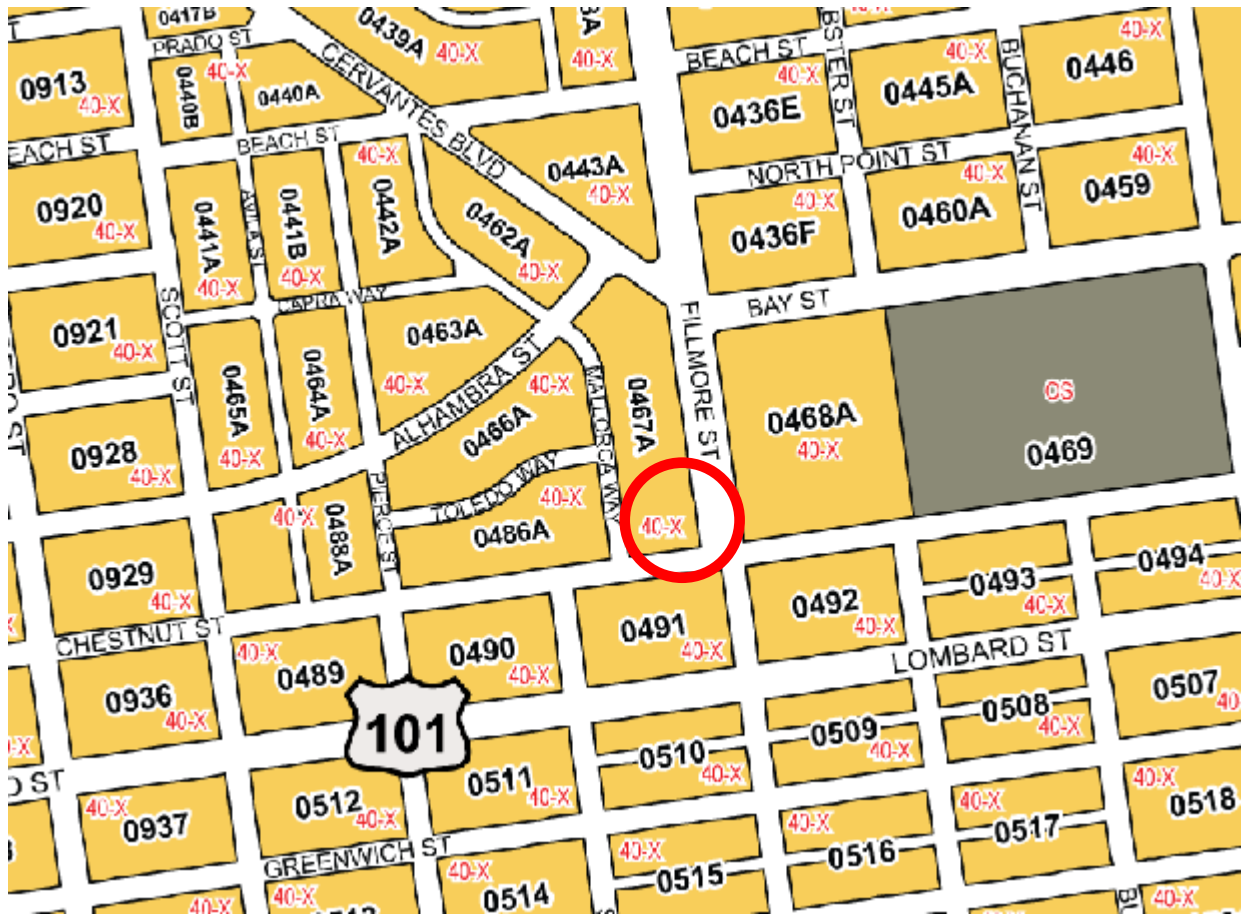
Conditions of Approval

1. This authorization is for a Conditional Use Authorization under Planning Code Section 303 and 703.3 of the Planning Code to allow a Formula Retail Use (T-Mobile retail outlet) at 2016 Chestnut Street within the NC-2 (Small-Scale Neighborhood Commercial) District and a 40-X Height and Bulk District, in general conformance with the Application as received on August 17, 2010 and plans stamped "EXHIBIT B" dated August 17, 2010 included in the docket for **Case No. 2010.0695C**, reviewed and approved by the Commission on November 18, 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 in the Official Records of the Recorder of the City and County of San Francisco for the premises (Assessor's 2083, Lot 001), which notice shall state that construction has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied.
3. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$250 a day in accordance with Planning Code Section 176.
4. Should monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(e)(1).
5. The property owner shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and regular washing or steam cleaning of the main entrance and abutting sidewalks.
6. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed.
7. The Project Sponsor shall maintain an attractive storefront providing visibility of the retail use interior through the storefront windows. In order to ensure visual connection between pedestrians and proposed use inside the building, there shall be no window treatment or security screening that would prevent full visual connection between the building and street.
8. 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.

9. An enclosed garbage area shall be provided within the establishment. All garbage containers shall be kept within the building until pick-up by the disposal company.
10. The hours of operation shall generally occur between 10:00 a.m. to 8:00 p.m.
11. The authorization and right vested by virtue of this action shall be deemed void and canceled if, within 3 years of the date of this Motion, a site permit or building permit for the Project has not been secured by Project Sponsor. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a city, state, or federal agency or by appeal of the issuance of such permit.

Height and Bulk Map



HEIGHT AND BULK DISTRICTS

OS ← "Open Space" District

"Numbers" are Height Limits in feet. See Planning Code Section 250 and following.

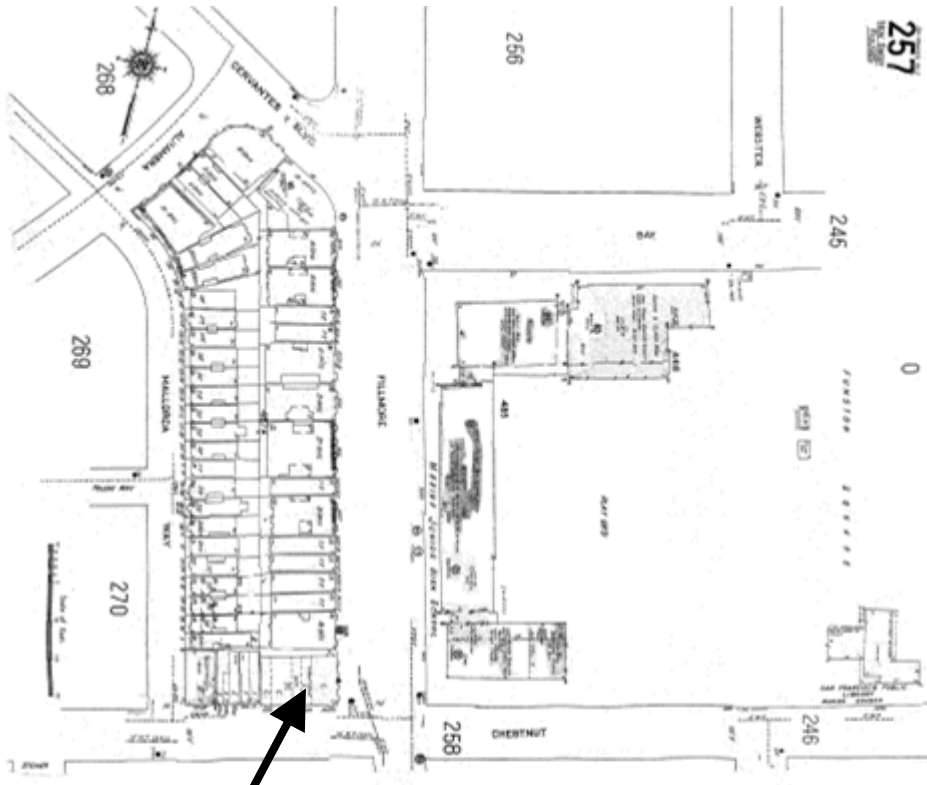
"Letters" refer to Bulk Limits. See Planning Code Section 270.

00-Z-1 ← "Suffix Numbers" identify districts in which special regulations apply. See Planning Code Sections 263 and following.



Conditional Use Hearing
Case Number 2010.0695C
2016 Chestnut Street

Sanborn Map*

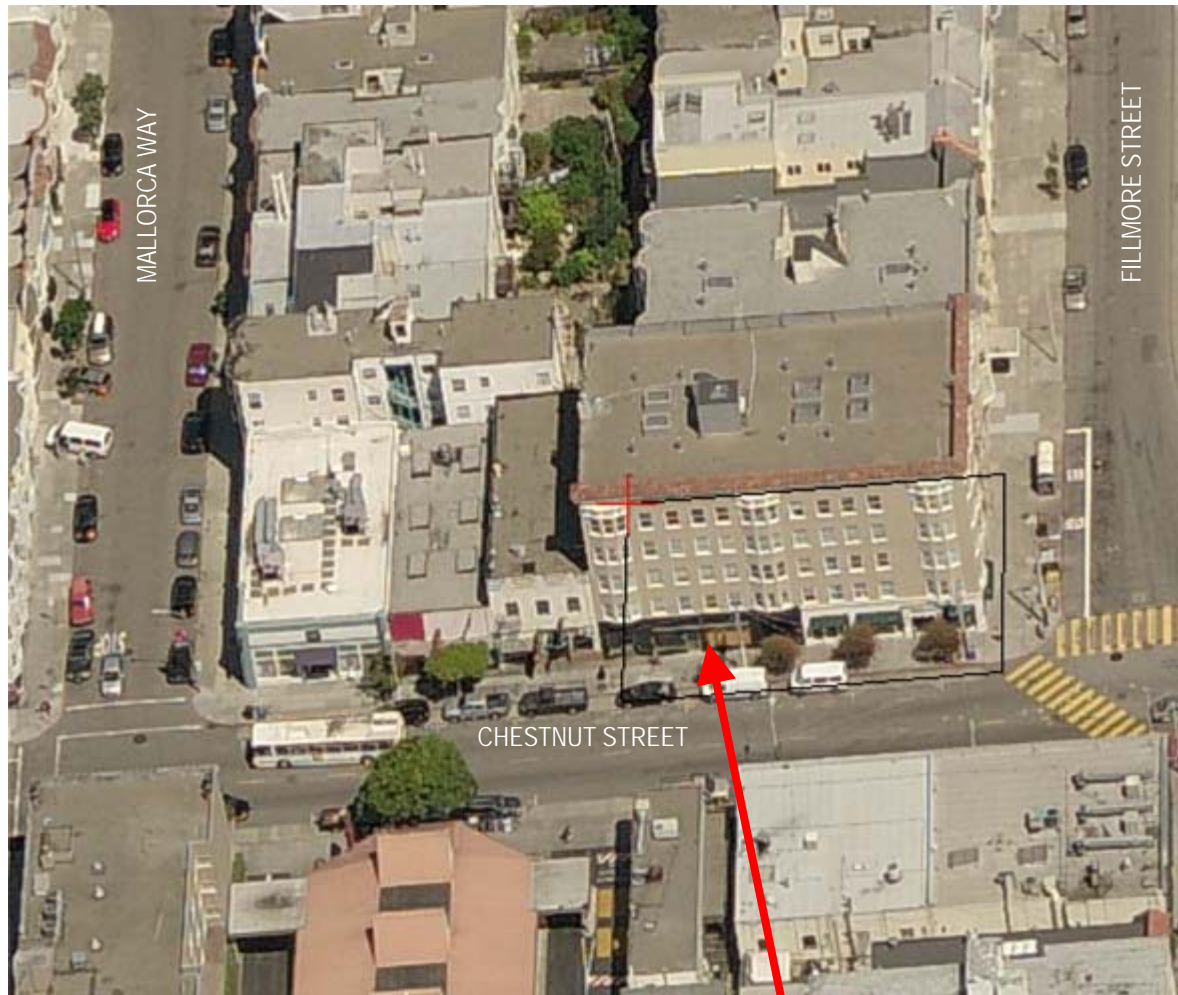


Subject Property

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



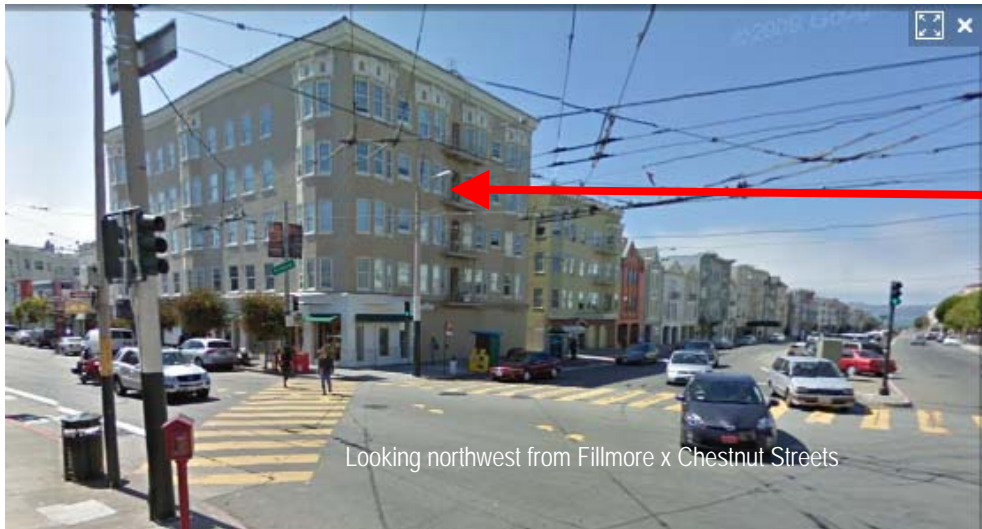
Aerial Photo



Location of proposed T-Mobile retail store.

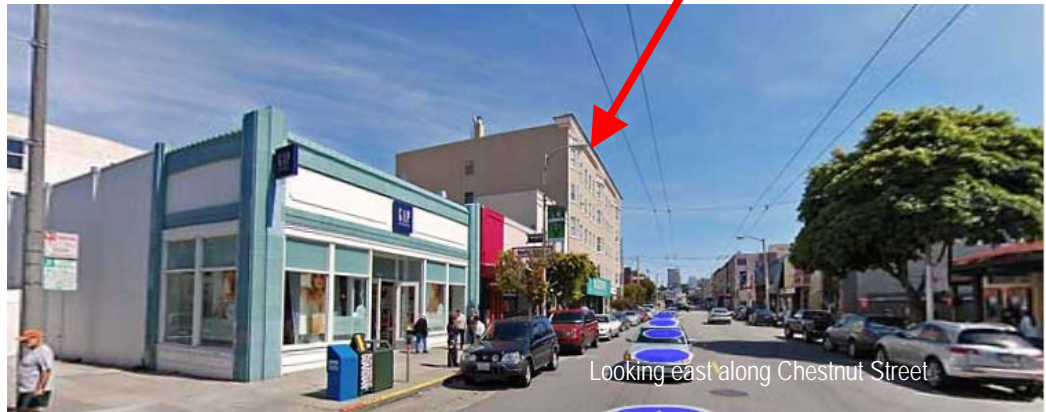


Context/Site Photos



Looking northwest from Fillmore x Chestnut Streets

SUBJECT PROPERTY



Looking east along Chestnut Street



Pacific Catch
Chestnut St

Looking west along Chestnut Street

SUBJECT PROPERTY

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