



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Conditional Use

HEARING DATE: DECEMBER 2, 2010

*Date:* November 22, 2010  
*Case No.:* **2010.0778 C**  
*Project Address:* **3876 NORIEGA STREET**  
*Zoning:* NC-1 (Neighborhood Commercial, Cluster)  
40-X Height and Bulk District  
*Block/Lot:* 2004/064  
*Project Sponsor:* Erich Mele  
520 Washington Street,  
San Francisco, CA 94111  
*Staff Contact:* Sharon Lai – (415) 575-9087  
[sharon.w.lai@sfgov.org](mailto:sharon.w.lai@sfgov.org)  
*Recommendation:* **Approval with Conditions**

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### PROJECT DESCRIPTION

The applicant proposes to change the use of the Sunshine Dog Grooming & Spa to a self-service specialty food use, d.b.a. "Devil's Teeth Baking Company." The commercial space is currently vacant. The current 4-story mixed-use building was constructed in 2004. The proposal includes minor interior tenant improvements but the existing commercial space would not be enlarged. The existing commercial space is approximately 655 square feet in size. The proposed commercial use is under 5,000 square feet in size, hence no on-site parking is required.

The proposed bakery will offer bakery items such as muffins, scones, cookies, pies, cakes, and pastries, operating from 7am to 2pm daily. The bakery will also provide breakfast sandwiches in the morning, and a few light lunch items such as quiche, lasagna, salad, and sandwiches. The proposed operation consists of 3 to 4 employees excluding the owner. The employees would be mainly responsible for counter service. The subject site is well served by public transit so that potential customers should not adversely affect the traffic flow.

The proposed use is not a formula retail use and is locally owned, which has been encouraged throughout San Francisco. The proposal requires a change of use and Section 312-neighborhood notification was conducted in conjunction with the Conditional Use Authorization process. The proposed use is a neighborhood-serving use.

## **SITE DESCRIPTION AND PRESENT USE**

The project is located on the northern side of Noriega Street, , Block 2004, Lot 064. The property is located within the NC-1 (Neighborhood Commercial, Cluster) District with 40-X height and bulk district. The property is developed with one commercial ground floor use within a 4-story building. The ground floor was previously occupied by a pet grooming establishment D.B.A. "Sunshine Dog Grooming," and is currently vacant. The subject property is a mid-block lot, with approximately 33 feet of frontage along Noriega Street and 93 feet of frontage on 46<sup>th</sup> Avenue.

## **SURROUNDING PROPERTIES AND NEIGHBORHOOD**

The project site is located on the northern side of Noriega Street, between 45<sup>th</sup> and 46<sup>th</sup> Avenues, in the Outer Sunset Neighborhood. To the west and east of the Subject Property are residential and mixed-use buildings, with ground floor businesses including Noriega Child Development Center, Toyose Restaurant, Lutheran Church of the Holy Spirit, and Rockwell Real Estate. On the South side of Noriega Street are predominantly one-story commercial structures, with businesses including: a 76 Gas Station, Liberty Fitness, Sunset Veterinary Hospital, Beach Wash Laundromat, J.M. Discount Liquors, Sunset Surf Shop, A. Louie's Dry Cleaners, Sea Biscuit Café, La Playa Taqueria, Noriega Produce, and The Pizza Place. To the north of the Subject Property are single-family dwellings. The Project site is located in an NC-1 District with a limited selection of neighborhood-serving uses. The surrounding residential properties on 45<sup>th</sup> and 46<sup>th</sup> Avenues are zoned RH-1 (Residential, House, One-Family).

The NC-1 District is characterized by its location in residential neighborhoods, often in outlying areas of the City. The commercial intensity of these districts varies. Many of these districts have the lowest intensity of commercial development in the City, generally consisting of small clusters with three or more commercial establishments, commonly grouped around a corner; and in some cases short linear commercial strips with low-scale, interspersed mixed-use (residential-commercial) development.

Building controls for the NC-1 District promote low-intensity development which is compatible with the existing scale and character of these neighborhood areas. Commercial development is limited to one story. Rear yard requirements at all levels preserve existing backyard space.

NC-1 commercial use provisions encourage the full range of neighborhood-serving convenience retail sales and services at the first story provided that the use size generally is limited to 3,000 square feet. However, commercial uses and features which could impact residential livability are prohibited, such as auto uses, financial services, general advertising signs, drive-up facilities, hotels, and late-night activity; eating and drinking establishments are restricted, depending upon the intensity of such uses in nearby commercial districts.

Housing development in new buildings is encouraged above the ground story in most districts. Existing residential units are protected by prohibitions of conversions above the ground story and limitations on demolitions

## ENVIRONMENTAL REVIEW

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 (Existing Facilities) categorical exemption. 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	November 12, 2010	November 12, 2010	20 days
Posted Notice	20 days	November 12, 2010	November 12, 2010	20 days
Mailed Notice	20 days	November 12, 2010	November 10, 2010	22 days

## PUBLIC COMMENT

- The Department is not aware of any opposition to this project. Copies of letters of support are attached in this packet.

## ISSUES AND OTHER CONSIDERATIONS

- The proposed operation will likely consist of 3 to 4 employees and will operate daily from 7am to 2pm and closed on Tuesdays. The subject site is well served by public transit so that potential customers should not adversely affect the traffic flow.
- The proposed bakery is a neighborhood serving use that does not currently exist within the subject Noriega Street NC-1 district, and will replace a vacant storefront. The proposed establishment will enhance the mix of goods and services and contribute to the economic vitality of the subject neighborhood.
- Planning staff has performed a site survey of the Noriega Street NC-1 District which contains the proposed building and the adjacent NC-1 District and has found the eating and drinking establishment concentration to be approximately 18%. The Commerce and Industry Element of the General Plan contains Guidelines for Specific Uses. For eating and drinking establishments, the Guidelines state, "the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage."
- Currently, there is not a proposed sign program for the proposed establishment d.b.a. "Devil's Teeth Baking Company," on file with the Planning Department. Any proposed signage will be subject to the review and approval of the Planning Department.
- The proposed use is an independent use and locally owned, which has been encouraged throughout San Francisco. This is not a Formula Retail use and would serve the immediate neighborhood. The proposal requires a Section 312-neighborhood notification, which was conducted in conjunction with the conditional use authorization process.

## **REQUIRED COMMISSION ACTION**

In order for the project to proceed, the Commission must grant conditional use authorization to allow for a self-service specialty food use in an NC-1 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 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 proposed Project meets all applicable requirements of the Planning Code.

<b>RECOMMENDATION:</b> <b>Approval with Conditions</b>
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### **Attachments:**

Block Book Map  
Sanborn Map  
Aerial Photographs  
CU Application  
Photographs  
Reduced Plans

Attachment 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 checked="" type="checkbox"/> Height & Bulk Map   | <input checked="" type="checkbox"/> Check for legibility      |
| <input checked="" type="checkbox"/> Parcel Map          | <input checked="" type="checkbox"/> Letter of Support         |
| <input checked="" type="checkbox"/> Sanborn Map         |   |
| <input checked="" type="checkbox"/> Aerial Photo        | <input type="checkbox"/> Community Meeting Notice             |
| <input checked="" type="checkbox"/> Context Photos      |   |
| <input checked="" type="checkbox"/> Site Photos         |   |

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

\_\_\_\_\_  
Planner's Initials

*SL: G:\DOCUMENTS\CU\3878 Noriega St\2010.0778\3878 Noriega St - Executive Summary.doc*



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
- Other

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## Planning Commission Draft Motion

HEARING DATE: DECEMBER 2, 2010

*Date:* November 22, 2010  
*Case No.:* **2010.0778C**  
*Project Address:* **3876-3878 NORIEGA STREET**  
*Zoning:* NC-1 (Neighborhood Commercial, Cluster)  
 40-X Height and Bulk District  
*Block/Lot:* 2004/064  
*Project Sponsor:* Erich Mele  
 520 Washington Street,  
 San Francisco, CA 94111  
*Staff Contact:* Sharon Lai – (415) 575-9087  
[sharon.w.lai@sfgov.org](mailto:sharon.w.lai@sfgov.org)

**ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 710.69A AND 303 OF THE PLANNING CODE TO ALLOW A SELF-SERVICE SPECIALTY FOOD ESTABLISHMENT (D.B.A. DEVIL’S TEETH BAKING COMPANY) WITHIN THE NC-1 (CLUSTER, NEIGHBORHOOD COMMERCIAL) DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On September 2, 2010 Erich Mele (Project Sponsor) filed an application with the Department for Conditional Use Authorization under Planning Code Section 710.69A and 303 of the Planning Code to allow a self-service specialty food establishment (d.b.a. Devil’s Teeth Baking Company) within the NC-1 (Cluster, Neighborhood Commercial) District and a 40-X Height and Bulk District.

On December 2, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2010.0778C.

The Project is exempt from the California Environmental Quality Act (“CEQA”) as a Class 1 (Existing Facilities) categorical exemption. The Commission has reviewed and concurs with said determination.

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

**MOVED**, that the Commission hereby authorizes the Conditional Use requested in Application No. 2010.0778C, 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 project is located on the northern side of Noriega Street, Block 2004, Lot 064. The property is located within the NC-1 (Neighborhood Commercial, Cluster) District with 40-X height and bulk district. The property is developed with one commercial ground floor use within a 4-story building. The ground floor was previously occupied by a pet grooming establishment D.B.A. "Sunshine Dog Grooming," and is currently vacant. The subject property is a mid-block lot, with approximately 33 feet of frontage along Noriega Street and 93 feet of frontage on 46<sup>th</sup> Avenue.
3. **Surrounding Properties and Neighborhood.** The project site is located on the northern side of Noriega Street, between 45<sup>th</sup> and 46<sup>th</sup> Avenues, in the Outer Sunset Neighborhood. To the west and east of the Subject Property are residential and mixed-use buildings, with ground floor businesses including Noriega Child Development Center, Toyose Restaurant, Lutheran Church of the Holy Spirit, and Rockwell Real Estate. On the South side of Noriega Street are predominantly one-story commercial structures, with businesses including: a 76 Gas Station, Liberty Fitness, Sunset Veterinary Hospital, Beach Wash Laundromat, J.M. Discount Liquors, Sunset Surf Shop, A. Louie's Dry Cleaners, Sea Biscuit Café, La Playa Taqueria, Noriega Produce, and The Pizza Place. To the north of the Subject Property are single-family dwellings. The Project site is located in an NC-1 District with a limited selection of neighborhood-serving uses. The surrounding residential properties on 45<sup>th</sup> and 46<sup>th</sup> Avenues are zoned RH-1 (Residential, House, One-Family).

The NC-1 District is characterized by its location in residential neighborhoods, often in outlying areas of the City. The commercial intensity of these districts varies. Many of these districts have the lowest intensity of commercial development in the City, generally consisting of small clusters with three or more commercial establishments, commonly grouped around a corner; and in some cases short linear commercial strips with low-scale, interspersed mixed-use (residential-commercial) development.

Building controls for the NC-1 District promote low-intensity development which is compatible with the existing scale and character of these neighborhood areas. Commercial development is limited to one story. Rear yard requirements at all levels preserve existing backyard space.

NC-1 commercial use provisions encourage the full range of neighborhood-serving convenience retail sales and services at the first story provided that the use size generally is limited to 3,000 square feet. However, commercial uses and features which could impact residential livability are prohibited, such as auto uses, financial services, general advertising signs, drive-up facilities, hotels, and late-night activity; eating and drinking establishments are restricted, depending upon the intensity of such uses in nearby commercial districts.

Housing development in new buildings is encouraged above the ground story in most districts. Existing residential units are protected by prohibitions of conversions above the ground story and limitations on demolitions.

4. **Project Description.** The applicant proposes to change the use of the Sunshine Dog Grooming & Spa to a self-service specialty food use, d.b.a. "Devil's Teeth Baking Company." The commercial space is currently vacant. The current 4-story mixed-use building was constructed in 2004. The proposal includes minor interior tenant improvements but the existing commercial space would not be enlarged. The existing commercial space is approximately 655 square feet in size. The proposed commercial use is under 5,000 square feet in size, hence no on-site parking is required.

The proposed bakery will offer bakery items such as muffins, scones, cookies, pies, cakes, and pastries, operating from 7am to 2pm daily. The bakery will also provide breakfast sandwiches in the morning, and a few light lunch items such as quiche, lasagna, salad, and sandwiches. The proposed operation consists of 3 to 4 employees excluding the owner. The employees would be mainly responsible for counter service. The subject site is well served by public transit so that potential customers should not adversely affect the traffic flow.

The proposed use is not a formula retail use and is locally owned, which has been encouraged throughout San Francisco. The proposal requires a change of use and Section 312-neighborhood notification was conducted in conjunction with the Conditional Use Authorization process. The proposed use is a neighborhood-serving use.

5. **Public Comment.** The Department is not aware of any opposition to this project as of November 22, 2010. The sponsors provided 13 letters and 7 signatures in support of the proposed 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. **Self-service Specialty Food.** Planning Code Section 710.69A states that a Conditional Use Authorization is required for change of use to a self-service specialty food establishment. As defined per Code Section 790.93:



(a) A retail use whose primary function is to prepare and provide ready-to-eat specialty foods to a high volume of customers who carry out the food for off-premises consumption. Such use exhibits each of the following characteristics: (1) Contains a service counter designed specifically for the sale and distribution of food that has been prepared on site; (2) Food is paid for prior to consumption; (3) Typically open for retail sales on weekdays during daytime hours; and (4) May contain no more than 10 seats including sidewalk seating. It often includes wholesaling, manufacturing, or processing of foods, goods, or commodities on the premises as an accessory use as set forth in Section 703.2(b)(1)(C)(v).

(b) It includes, but is not limited to, specialty foods provided by bakeries, delicatessens, and confectioneries meeting each of the above characteristics, but it is distinct from small a self-service restaurant use as defined in Section 790.91, a large fast-food restaurant use as defined in Section 790.90 or a retail coffee store as defined in 790.102(n). It does not include general or specialty grocery stores with accessory take-out food activity as described in Section 703.2(b)(1)(C) or retail uses which sell prepackaged or bulk ready-to-eat-foods with no on-site food preparation area.

(c) It shall not provide on-site beer and/or wine sales for consumption on the premises, but may provide beer and/or wine sales for consumption off the premises with a California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) within the accessory use limits as set forth in Section 703.2(b)(1)(C)(vi).

*The proposed baker meets the self-service specialty food use as defined by Planning Code section 790.93 in that it is a bakery operating during daytime hours with over the counter service only.*

- B. Hours of Operation.** Planning Code Section 710.27 states that a Conditional Use Authorization is required for maintaining hours of operation from 11p.m. to 2 a.m, as defined by Planning Code Section 790.48.

*The proposed hours of operation between 7am to 2pm are within the permitted hours of operation. The bakery is proposed to be closed on Tuesdays.*

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

*The Subject Property contains approximately 655 square-feet of occupied floor area and thus does not require any off-street parking.*

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

*The subject commercial space has approximately 23 feet of frontage on Noriega Street with approximately 17 feet devoted to either the food use entrance or window space. The windows are clear and unobstructed. There are no changes proposed to the commercial frontage.*

E. **Signage.** Currently, there is not a proposed sign program on file with the Planning Department. The proposed business does not have a name as of this writing. Any proposed signage will be subject to the review and approval of the Planning Department.

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 on the block face. The proposed self-service specialty food bakery will not impact traffic or parking in the District because it is not a destination bakery. This will compliment the mix of goods and services currently available in the district and contribute to the economic vitality of the neighborhood by removing a vacant storefront.*

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 height and bulk of the existing building will remain the same and will not alter the existing appearance or character of the project vicinity. The proposed work will not affect the building envelope, yet the inclusion of outside seating will alter the use of the 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;

*The Planning Code does not require parking or loading for a 655 square-foot self-service specialty food use. The proposed use is designed to meet the needs of the immediate neighborhood and should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide.*

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

*The proposed use is subject to the standard conditions of approval for eating establishments and outlined in Exhibit A. Conditions 9 and 10 specifically obligates the project sponsor to mitigate odor and noise generated by the food use.*

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

*The proposed self-service specialty bakery will make minor interior improvements and the Department shall review all lighting and signs proposed for the new business in accordance with Condition 6 of Exhibit A.*

- 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 proposed project is consistent with the stated purposes of NC-1 Districts in that the intended use is located at the ground floor, will provide a compatible convenience service for the immediately surrounding neighborhoods during daytime hours.*

- 8. **General Plan Compliance.** The Project is, on balance, 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.

#### **Policy 1.2:**

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

#### **Policy 1.3:**

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

*The proposed development will provide desirable goods and services to the neighborhood and will provide resident employment opportunities to those in the community. Further, the Project Site is located within a Neighborhood Commercial District and is thus consistent with activities in the commercial land use plan.*

**OBJECTIVE 2:**

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

**Policy 2.1:**

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

*The Project will retain an existing commercial activity and will enhance the diverse economic base of the City.*

**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 and the project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.*

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

**Eating and Drinking Establishments**

Eating and drinking establishments include bars, sit-down restaurants, fast food restaurants, 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.

*There is a concern with the potential over-concentration of food-service establishments. The Commerce and Industry Element of the General Plan contains Guidelines for Specific Uses. For eating and drinking establishments, the Guidelines state, "the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage." Planning staff has performed a site survey of the NC-1 District which contains the proposed building. With the proposed self-service specialty food use, approximately 18% of the frontage of this NC-1 District is attributed to eating and drinking establishments.*

**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.

*An independent entrepreneur is sponsoring the proposal. The proposed use is a neighborhood serving use. This is not a Formula Retail use.*

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 proposal would enhance the district by providing a self-service specialty food bakery in an area that is not over concentrated by eating and drinking establishments. The business would be locally owned and it creates 3-4 more employment opportunities for the community. The proposed alterations are within the existing building footprint.*

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

*The existing units in the surrounding neighborhood would not be adversely affected.*

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

*No housing is removed for this Project.*

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

*The site is on Noriega Street and is well served by transit. It is presumable that the employees would commute by transit thereby mitigating possible impacts on street parking. There are 4 MUNI bus routes within ¼ miles radius from the subject site, including: 16X, 18, 71, and 71L.*

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

*The Project will not displace any service or industry establishment. The project will not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses will not be affected by this project.*

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

*The Project is designed and will be constructed to conform to the structural and seismic safety requirements of the City Building Code. This proposal will not impact the property's ability to withstand an earthquake.*

- G. That landmarks and historic buildings be preserved.

*A landmark or historic building does not occupy the Project site.*

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

*The project will have no negative impact on existing parks and open spaces. The Project does not have an impact on open spaces.*

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. 2010.0778C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans filed with the Application as received on September 2, 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 December 2, 2010.

Linda D. Avery  
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: December 2, 2010

## Exhibit A

# Conditions of Approval

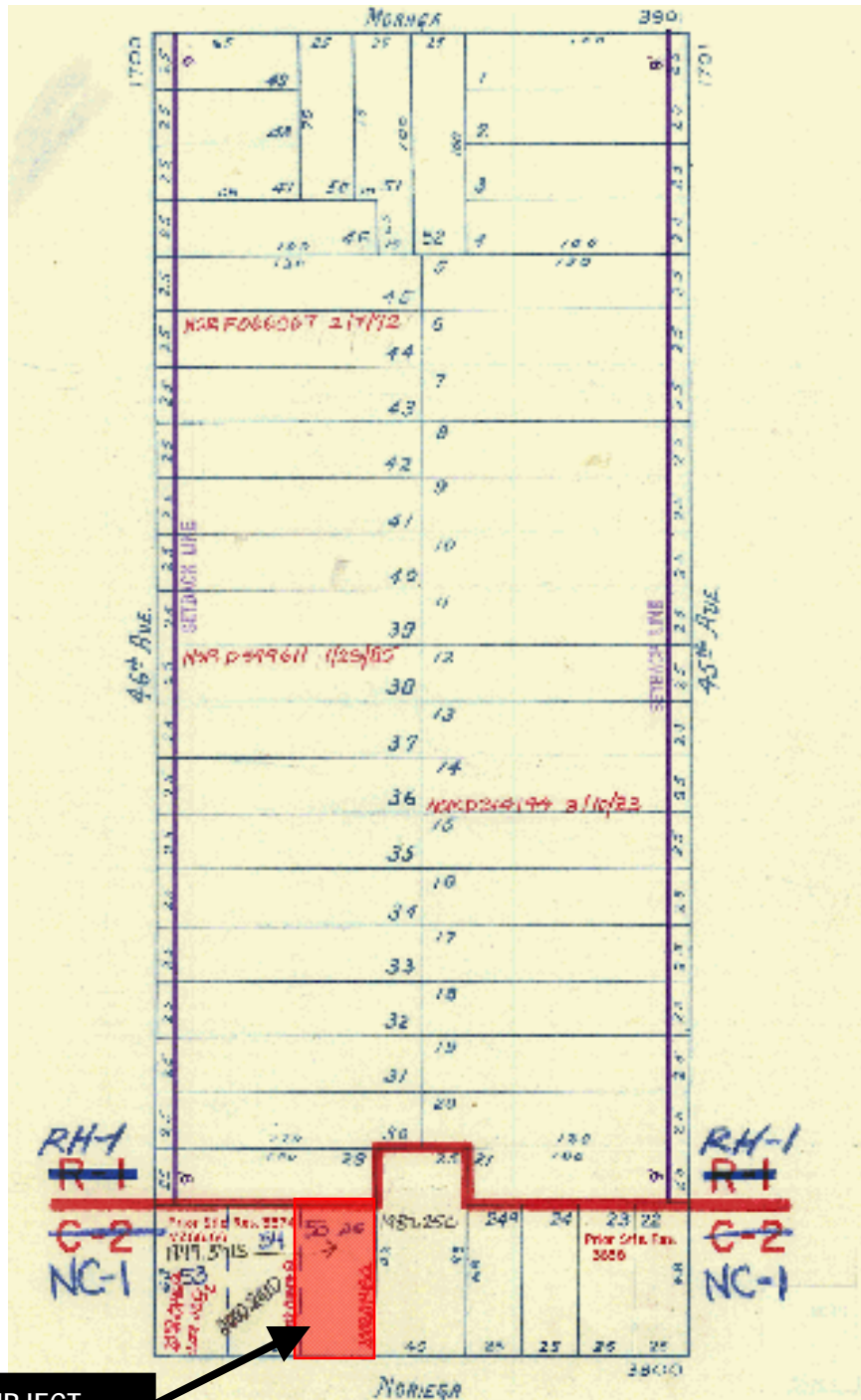
1. This authorization is for a Conditional Use Authorization under Planning Code Section 710.69A and 303 of the Planning Code to allow a self-service specialty food use (d.b.a. Devil's Teeth Baking Company) at 3876-3878 Noriega Street within the NC-1 (Cluster, Neighborhood Commercial) District and a 40-X Height and Bulk District, in general conformance with plans filed with the Application as received on April 18, 2007 and stamped "EXHIBIT B" included in the docket for **Case No. 2010.0778C**, reviewed and approved by the Commission on December 2, 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 2004, Lot 064), 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 washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.
6. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed.
7. The Project Sponsor shall maintain an attractive storefront providing visibility of the establishment interior through the storefront windows.
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. The project sponsor shall maintain appropriate odor control equipment to prevent any significant noxious or offensive kitchen odors from escaping the premises.
10. The project sponsor shall operate the proposed establishment such that noise is kept at reasonable levels so as not to unduly disturb neighboring businesses and residents.
11. Refuse containers shall be provided both inside and outside the establishment for use by patrons of the establishment. The operator of the use shall be responsible for maintaining the sidewalk within a one-block radius of the site free of paper or litter generated by the establishment.
12. 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.
13. 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.

**3876-3878 Noriega  
Street**

# Parcel Map

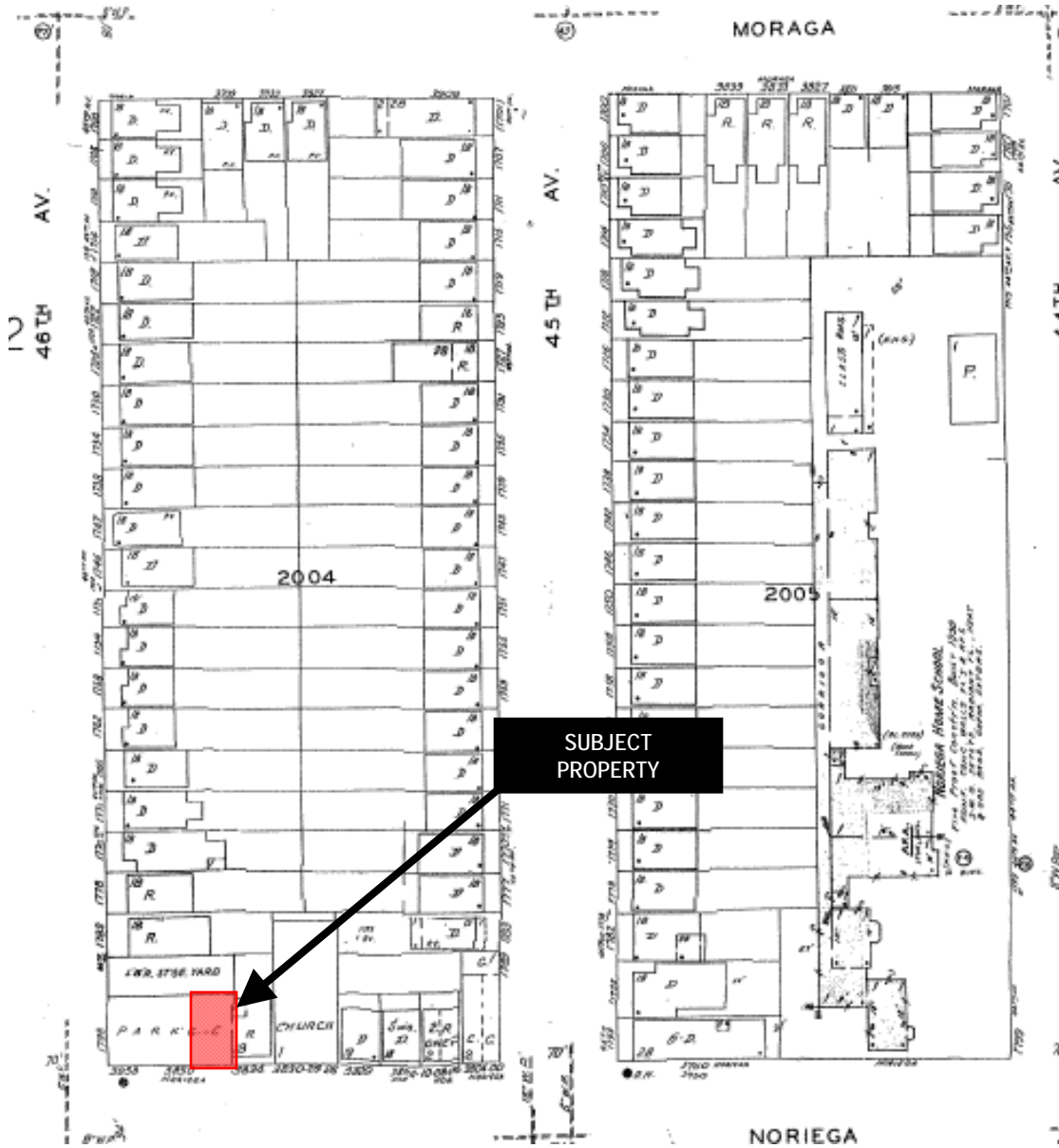


**SUBJECT PROPERTY**



Conditional Use Hearing  
 Case Number 20010.0778C  
 Self-Service Specialty Food,  
 Devil's Teeth Baking Company  
 3876-3878 Noriega Street

# Sanborn Map\*



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



Conditional Use Hearing  
Case Number 20010.0778C  
Self-Service Specialty Food,  
Devil's Teeth Baking Company  
3876-3878 Noriega Street

# Aerial Photo

## View from South



SUBJECT  
PROPERTY

Conditional Use Hearing  
Case Number 20010.0778C  
Self-Service Specialty Food,  
Devil's Teeth Baking Company  
3876-3878 Noriega Street



# Aerial Photo

## View from North



Conditional Use Hearing  
Case Number 20010.0778C  
Self-Service Specialty Food,  
Devil's Teeth Baking Company  
3876-3878 Noriega Street

# Site Photo

SUBJECT  
PROPERTY



Conditional Use Hearing  
Case Number 20010.0778C  
Self-Service Specialty Food,  
Devil's Teeth Baking Company  
3876-3878 Noriega Street





SOUTH ↓

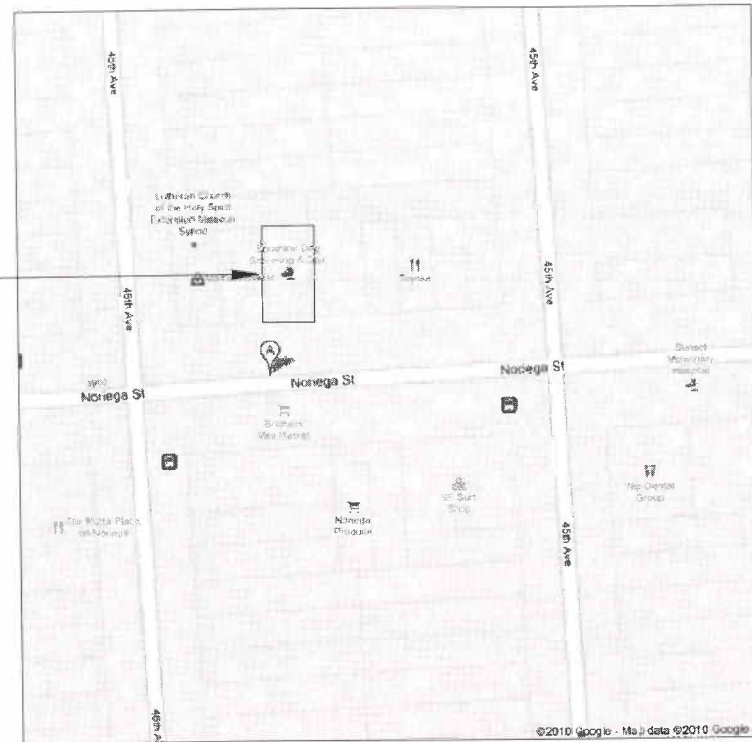


NOR





PROJECT ADDRESS:  
3876 NORIEGA STREET



ZONING INFORMATION:  
ZONING DISTRICT 05  
NC-1 GROUND FLOOR



**PROJECT OVERVIEW: DEVIL'S TEETH**

**PROJECT ADDRESS:**  
3876 NORIEGA STREET, GROUND FLOOR, SF CA 94122

**ASSESSOR'S INFO:**  
BLOCK# 2004 / LOT # 64  
**PLANNING ADMINISTRATION ZONE:**  
ZN 05

**ZONING DISTRICT INFORMATION:**  
NC-1 GROUND FLOOR

**PRESENT USE:**  
COMMERCIAL "B" - [ DOG GROOMING SALON ]  
**PROPOSED USE:** 790.93  
COMMERCIAL "B" - [SPECIALTY FOOD, SELF SERVICE ]

**PROJECT DESCRIPTION:**  
655 SQ. FT. EXISTING COMMERCIAL "B" SPACE TO BE CONVERTED TO SPECIALTY FOOD SELF-SERVICE BAKERY/CAFE RETAINING COMMERCIAL "B" USE.

**SCOPE OF WORK:**  
INTERIOR WORK TO INCLUDE NON-STRUCTURAL DEMOLITION AND MINOR CONSTRUCTION MODIFICATION FOR NEW SPECIALTY FOOD SELF-SERVICE BUSINESS. NEW AWNING AND SIGNAGE UNDER SEPARATE APPLICATION. NO OTHER EXTERIOR WORK.

IT IS THE INTENTION OF THIS PROJECT TO COMPLY WITH NEIGHBORHOOD COMMERCIAL CLUSTER DISTRICT PLANS (NC-1) BY PROVIDING A COMMUNITY BASED, DAYTIME SPECIALTY FOOD SELF-SERVICE / TAKE-OUT BAKERY/CAFE IN AN EXISTING GROUND FLOOR COMMERCIAL ZONED SPACE.

**DRAWING INDEX:**

- A1.0 PROJECT INFORMATION
- A1.1 PROJECT INFORMATION / SITE PLAN
- A2.0 EXISTING CONDITIONS PLAN
- A2.1 PROPOSED PLAN
- A3.0 EXISTING ELEVATION PHOTO

devil's teeth bakery

date	issue	by/check
08.20.10	Planning CUP	EPM/TJM
08.21.10	GC Budgeting	EPM/TJM
09.22.10	Permit	EPM/TJM

**TMDA**

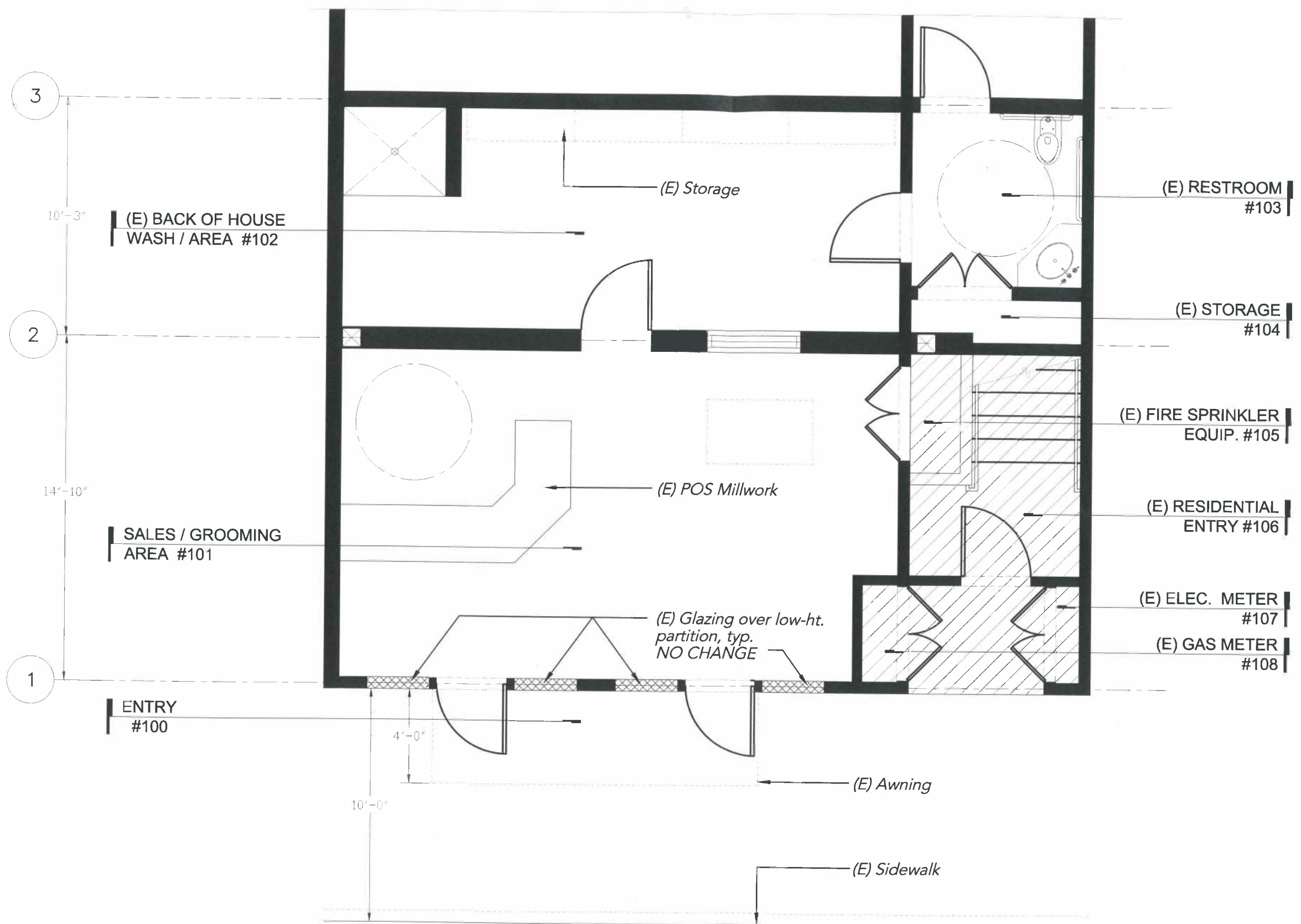
520 Washington Street  
San Francisco, CA 94111  
t: 415.986.1600  
f: 415.986.1665

3876 Noriega Street  
San Francisco, CA  
scale: AS NOTED

Project  
Information  
**A1.0**



devil's teeth bakery



Existing Conditions Plan

1/2"=1'-0"

date	issue	by/check
08.20.10	Planning CUP	EPM/TJM
08.21.10	GC Budgeting	EPM/TJM
09.22.10	Permit	EPM/TJM

**TMDA**  
 520 Washington Street  
 San Francisco, CA 94111  
 t: 415.986.1600  
 f: 415.986.1665

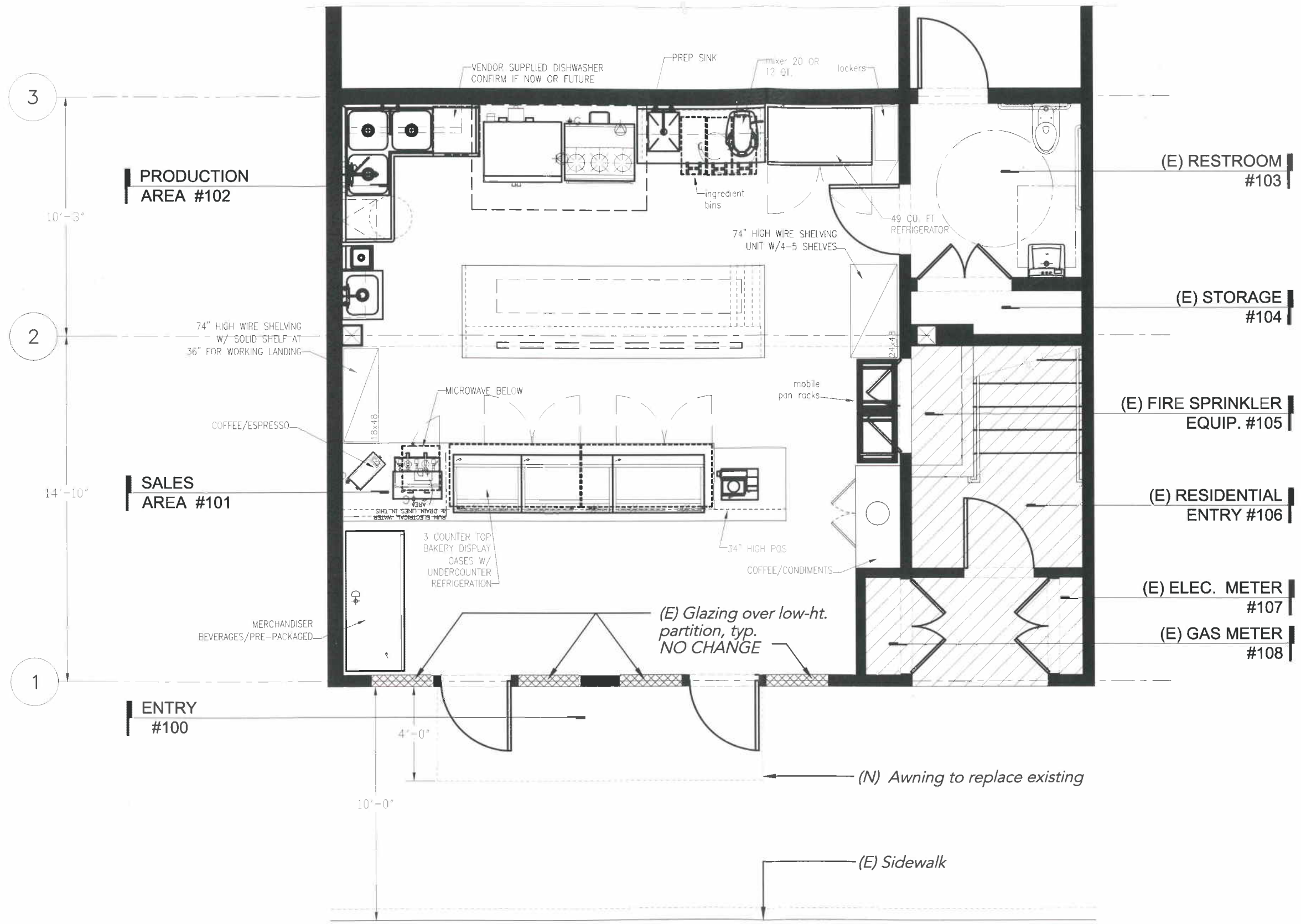
Project No. 08000  
 3876 Noriega Street  
 San Francisco, CA

Existing Plan

**A2.0**



devil's teeth bakery



date	issue	by/check
08.20.10	Planning CUP	EPM/TJM
08.21.10	GC Budgeting	EPM/TJM
09.22.10	Permit	EPM/TJM

**TMDA**  
 520 Washington Street  
 San Francisco, CA 94111  
 t: 415.986.1600  
 f: 415.986.1665

PROJECT NO. 2009.02  
 3876 Noriega Street  
 San Francisco, CA  
 SCALE:  
 AS NOTED

Proposed  
 Plan  
**A2.1**

2 Proposed Plan

1/2" = 1'-0"



(E) Awning cover to be replaced under separate application

(E) Entries to remain

(E) Storefront / Siding and Exterior finishes to remain

Extent (E) Storefront to Remain  
NO CHANGE

4 Existing Conditions Photo Elevation

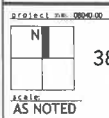
NTS

devil's teeth bakery

date	issue	by/check
08.20.10	Planning CUP	EPM/TJM
08.21.10	GC Budgeting	EPM/TJM
09.22.10	Permit	EPM/TJM

TMDA

520 Washington Street  
San Francisco, CA 94111  
t: 415.986.1600  
f: 415.986.1665



3876 Noriega Street  
San Francisco, CA

Existing  
Photo  
A3.0



To whom it may concern:

We have been notified of the new bakery in approval for Noriega Street. We feel that this business will give the residence of the outer sunset more of a reason to shop locally and keep the other businesses in the neighbor thriving as well. Neighborhood commerce is one of the many things that this city is built around and to see someone wanting to add to that legacy is something that I respect and appreciate. I know full-heartedly that this family will do what it takes to give this neighborhood another reason to make people proud of where they live. We fully approve of this project and hope with this projects success it'll inspire others to invest in this great Outer Sunset neighborhood. As a person who grew up in a family with a small neighborhood business in San Francisco I know what it means to me to be involved in the community on a day to day basis and the impact it has on our neighborhood today and also the impact it has on the future of our neighborhood.

Yours Truly,

Dimitri Vardakastanis

A handwritten signature in black ink, appearing to be 'Dimitri Vardakastanis', written in a cursive style.


General Manager  
Noriega Market  
3821 Noriega Street  
Between 45<sup>th</sup> & 46<sup>th</sup>  
(415)564-0370

To Whom it May Concern,

My name is Katherine Nicholson, I am the owner of Overland One Salon at 3811 Noriega Street. I am also a resident of the Sunset, living at 45<sup>th</sup> and Judah. I am writing to voice my support for Hilary Passman and her bakery! We could really use a place like this in the Sunset!

Thank you.

Sincerely,



11.14.2010

Katherine Nicholson

---

## San Francisco Planning Commission:

My neighbors + I would be very excited to have a bakery go into existence on Noriega. It would be a great addition to the neighborhood and I've had her baked goods + they are to die for!

All in favor pls. sign

- 1) Joan West - 1569 45<sup>th</sup> Ave
- 2) Rob West - same
- 3) John Gersten - 1779 45<sup>th</sup> Ave
- 4) Tracy Gersten - same
- 5) John Carbon - 1562 45<sup>th</sup> Ave S.F.
- 6) Alan Capfuld - 1562-45<sup>th</sup> Ave SF
- 7) Deborah Zehring 1561 45<sup>th</sup> Ave SF 94122
- 8)



John Lowry & Rita Kearns  
1371 45th Avenue  
San Francisco  
CA 94122  
415 504 9777

jlowry@alexium.com, rita.kearns@gmail.com

San Francisco Planning Commission  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, CA 94103-2414

Dear committee members,

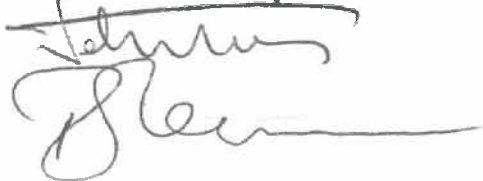
Support for Hilary Passman's application to open a bakery on Noriega

We are writing to support Hilary Passman's application to open a bakery on Noriega between 45th & 46th Avenue.

We are residents in this neighborhood. We strongly support this because it is a locally-owned business that will provide high-quality food both to residents and visitors. It will enhance the vibrancy of the shopping district at Noriega/45th and bring welcome additional foot traffic to the area. We believe that merchants and residents will all benefit from this.

We are confident that a bakery would be a great addition to this area, because there is no existing specialist bakery in the neighborhood. The nearest high quality bakery is Arizmendi on 9th Avenue at Judah.

Yours sincerely,

A handwritten signature in black ink, appearing to read "John Lowry & Rita Kearns", written over a horizontal line.

John Lowry & Rita Kearns

Barbara Lally  
1478 47<sup>th</sup> Ave  
San Francisco, CA 94122

November 8, 2010

San Francisco Planning Commission  
1650 Mission Street, Suite 400  
San Francisco, CA 94130

Re: Devil's Teeth Bakery

Dear Commissioners:

When I heard that Hilary Passman wanted to open a bakery in the outer Sunset I was delighted. So often I have found myself in search of a real bakery and have had to leave my neighborhood to find one. Devil's Teeth Bakery is going to fill a need on Noriega Street.

I fully support this small non-chain business venture, which I see as part of the Outer Sunset's new wave of local enterprise.

Sincerely,

  
Barbara Lally

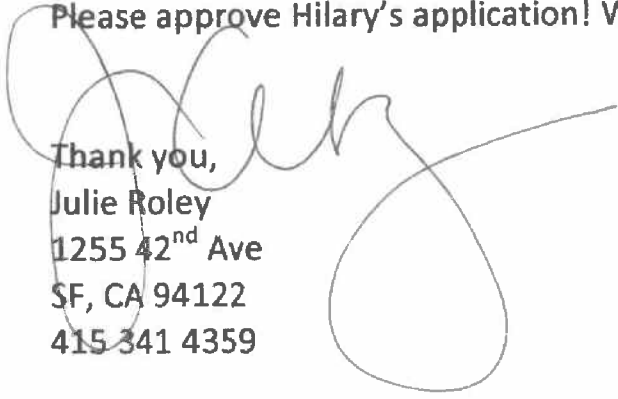
DATE: Nov 8, 2010  
TO: San Francisco Planning Department  
FROM: Julie Roley  
RE: Letter of support for Hilary Passman Cherniss

I am an outer Sunset resident and acquaintance of Hilary Cherniss. I am aware that Hilary is in the process of trying to open a bakery on Noriega Ave. We would absolutely welcome such a new business to our neighborhood.

In addition to the obvious benefit of fresh home baked goods, something the outer Sunset neighborhood currently lacks, we are very interested in improving our community via local small businesses who employ neighborhood residents, and providing shopping options within walking distance for those of us who reside out here.

Please approve Hilary's application! We are excited for her addition to our business community.

Thank you,  
Julie Roley  
1255 42<sup>nd</sup> Ave  
SF, CA 94122  
415 341 4359

A handwritten signature in black ink, appearing to read 'Julie Roley', is written over the typed name and address. The signature is fluid and cursive, with a large loop at the end.

**JENNIFER TEU**

4038 LAWTON STREET  
SAN FRANCISCO, CA 94122  
JENNIFER.TEU@GMAIL.COM  
☎ 650.722.2539

November 6, 2010

San Francisco Planning Commission  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, CA 94103-2414

**Re: Hilary Passman's Bakery**

Dear Commissioners:

My family and I whole-heartedly support the establishment of Hilary's Passman's bakery on Noriega Street between 45<sup>th</sup> and 46<sup>th</sup> Avenues. She makes amazing desserts and the Outer Sunset needs more family-friendly businesses.

If you have any questions about this letter of support, please call me at 650.722.2539 or email [jennifer.teu@gmail.com](mailto:jennifer.teu@gmail.com). Thank you!

Regards,



Jennifer Teu

November 10, 2010

To Whom it May Concern,

I am writing as a business owner and resident of the Outer Sunset in support of Hilary Cherniss' proposed bakery on Noriega St. We need more eateries in our neighborhood. If you compare the Outer Sunset to any other San Francisco neighborhood it is clear that we are underserved. Our employees and customers need an affordable quality place to quickly pick up breakfast or lunch.

I am proud of the growth of the retail sector in our neighborhood, but there is much work to be done to turn the Outer Sunset into the thriving center of urban beach culture that that it could be. This bakery would be a much needed asset. Please approve it.

Sincerely,

A handwritten signature in black ink, appearing to read 'Johanna St. Clair', with a long horizontal flourish extending to the right.

Johanna St.Clair

Owner, Mollusk Surf Shop  
4500 Irving Street  
San Francisco, CA  
94122

Heather Buren  
1590 La Playa St  
San Francisco, CA 94122

November 6, 2010

San Francisco Planning Commission  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, CA 94103-2414

Re: Hilary Passman's Bakery

Dear Commissioners:

My family and I live just 2 short blocks from the address where Hilary Passman has proposed to open a family bakery. We are excited and anxious for the doors to open to Hilary's bakery, and if you are lucky enough to eat her cakes or cookies, you would be too!

Warmly,

A handwritten signature in black ink that reads "Heather Buren". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Heather Buren

Chaska Berger  
2050 45<sup>th</sup> Avenue  
San Francisco, CA 94116

San Francisco Planning Commission  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, CA 94103-2414

**RE: Support for Proposed Bakery on Noriega between 45<sup>th</sup> and 46<sup>th</sup> Avenues**

To Whom It May Concern:

I am writing to you to urge your approval for the proposed bakery on Noriega Boulevard between 45<sup>th</sup> and 46<sup>th</sup> Avenues. I live on 45<sup>th</sup> Avenue, two blocks from Noriega and believe a new bakery is a highly desired use on such a commercial corridor.

There are a few commercial uses currently operating on Noriega between 44<sup>th</sup> and 47<sup>th</sup> Avenues, however, the commercially zoned street is not currently being used to its highest or best potential and is in great need of additional, pedestrian friendly uses. Noriega Boulevard is surrounded by residential uses, a few blocks from Ocean Beach, walking distance to Golden Gate Park and provides access to several public transportation opportunities. I assume there is a significant demand for additional eateries that encourage pedestrian activity.

Speaking for myself, I cherish the idea of a family-friendly bakery in my neighborhood that I can walk to. Approving the proposal for the bakery would provide a destination for the community to meet and interact, creating a true San Francisco neighborhood. Also, approving a bakery on an underused commercial corridor will hopefully encourage additional commercial uses to open their stores on Noriega.

Sincerely,



Chaska Berger

November 3, 2010

To Whom It May Concern,

As a merchant on the 3800 block of Noriega street, I believe the addition of a bakery would be a very welcome business. I have had only positive responses from customers when told of the prospect of the bakery opening on the street. Many people have voiced the need for a bakery in the neighborhood. I would hope the Planning Commission will grant the permits required for this bakery to be opened.

Thank you,

A handwritten signature in cursive script that reads "Jennifer Clark".

Jennifer Clark  
Independent Contractor  
Overland One Salon  
3811 Noriega  
San Francisco, CA  
94122  
(415) 786-3230



Olive Hackett-Shaughnessy  
*Storyteller*  
1376 La Playa Street San Francisco, CA 94122  
[OHStory@aol.com](mailto:OHStory@aol.com)

San Francisco Planning Commission  
1650 Mission Street, Suite 400  
San Francisco, CA 94103-2414

November 3, 2010

To Whom it May Concern;

Hillary Passman has a vision to open a bakery in my neighborhood. I think it will be called Devil's Teeth Bakery.

I am thrilled with this prospect for a few reasons.

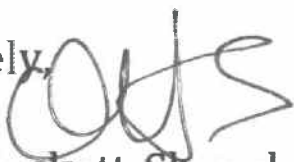
I have lived in the Outer Sunset since 1980 . As small businesses settle into the area the neighborhood feels both stronger and friendlier. Noriega Street joins Judah in becoming a corridor of fine shops with merchants who add a personal touch and influence that add to my sense of belonging to a community.

Hillary Passman is a fine baker and a hard worker too. I believe that her desire to create a successful business will contribute to my sense of being at home in the Outer Sunset.

What a delicious prospect.

If local support is needed to make her dream come true, please add mine.

Sincerely,



Olive Hackett-Shaughnessy

T 415-350-1026

FROM THE DESK OF  
**SANFORD JOHNSON**

---

F 415-661-9238

November 9, 2010  
City and County of San Francisco  
Planning Department

Dear Sirs,

This letter is to express my deep support for the Devils Teeth Bakery Company becoming a new member of the merchant community of the Outer Sunset. As a merchant with 2 retail pet stores on the city's west side, I am fully aware of the great need for more businesses in our community. This difficult economy has taken a toll on the west side and the idea that anyone would not be allowed at this time to become a responsible and contributing member to our small business community is beyond my understanding.

In speaking with my customers, I can honestly say most people are thrilled with the prospect of this business opening on Noriega street. There is a need for wholesome and healthy food in our neighborhood and people are ready to support this business from the first day they open their doors.

If you have any questions or would like to speak with me I can be reached at 415-350-1026.

Sincerely yours,

Sanford E. Johnson

A handwritten signature in black ink, appearing to be 'S E Johnson', with a long horizontal line extending to the right.

Sunset Pet Supply

3809 NORIEGA STREET SAN FRANCISCO, CA 94122  
SANFORD@SUNSETPETSUPPLY.COM

Hi Neighbor!

My name is Hilary, and I am the tenant in the commercial unit downstairs. As you may know, I am opening a bakery in the commercial space. I plan to start construction mid-December, and I will do everything I can to make sure that construction is completed as swiftly as possible, and make sure that construction is done during reasonable daytime hours.

Please call me any time if you have any questions or concerns, and please stop by and say hello if you see me, or my husband, Jason, and our kids downstairs.

And definitely come by for free coffee once we are open, hopefully in mid-January.

Thank you!

My email: [passmancherniss@yahoo.com](mailto:passmancherniss@yahoo.com)  
My cell: 415-637-3493

A handwritten signature in black ink that reads "HILARY". The signature is written in a cursive, slightly slanted style. Below the signature is a single horizontal line that tapers at both ends, serving as a decorative underline.