



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
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- Other

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Planning Commission Motion No. 19003 HEARING DATE: OCTOBER 10, 2013

Date: October 3, 2013
Case No.: **2013.0407 C**
Project Address: **2407 MISSION STREET**
Zoning: Mission Street NCT (Neighborhood Commercial Transit)
 55-X Height and Bulk District
Block/Lot: 3610 / 029
Project Sponsor: Javier Solorzano
 3288 21st Street, #49
 San Francisco, CA 94110
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303 AND 703.4(B) OF THE PLANNING CODE TO ESTABLISH A FORMULA RETAIL USE (D.B.A. T-MOBILE) LOCATED WITHIN AN EXISTING APPROXIMATELY 3,000 SQUARE FOOT TENANT SPACE WITHIN THE MISSION STREET NCT (NEIGHBORHOOD COMMERCIAL TRANSIT) ZONING DISTRICT AND A 55-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On April 4, 2013, Javier Solorzano (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization pursuant to Sections 303 and 703.4(b) of the Planning Code to legalize an existing formula retail use (d.b.a. T-Mobile) located within an approximately 3,000 square foot tenant space within the Mission Street NCT (Neighborhood Commercial Transit) Zoning District, and a 55-X Height and Bulk District.

On October 10, 2013, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0407C.

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

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. 2013.0407C, 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 lot is located on the southeast corner of Mission and 20th Streets with approximately 100 feet of frontage on Mission Street and 125 feet of frontage on 20th Street. The property is located on Lot 029 of Assessor's Block 3610. The property is located within the Mission Street NCT (Neighborhood Commercial Transit) District, and a 55-X height and bulk district. The approximately 11,650 square foot lot is developed with a 32,800 square foot mixed-use two-story building occupied by multiple retail tenants. The subject tenant space, located on the corner, has approximately 46.5 feet of frontage on Mission Street and 68.5 feet of frontage on 20th Street.
3. **Surrounding Properties and Neighborhood.** The project site is located at the southeast intersection of Mission and 20th Streets, in the Mission District Neighborhood. Located on the other 3 corners of Mission and 20th Streets are 2 to 3 story buildings with a restaurant (north), a market/pharmacy (west), and a travel agency (northwest) on the ground floor. The Project is located within the Mission Street NCT Zoning District but is surrounded by a RTO-M (Residential Transit Oriented) Zoning District. The uses within this Neighborhood Commercial District include a range of non-residential ground floor uses such as restaurants, personal and professional services, bars, grocery market, and other retail. Many buildings have residential units above. Additionally, this area is well-served by local and regional public transit. Connections to BART and MUNI bus routes are within a quarter mile of the project site.
4. **Project Description.** The Project is seeking a Conditional Use authorization to legalize an existing formula retail use (d.b.a. T-Mobile) located within an existing approximately 3,000 square foot tenant space. No changes to the building are proposed as part of the project.

5. **Public Comment.** The Department has received no public comment.
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. **Formula Retail Use.** Planning Code Section 703.3 states that a Conditional Use Authorization is required for formula retail uses within the Mission Street NCT (Neighborhood Commercial Transit) Zoning District. The proposed tenant, T-Mobile, is a national chain establishment with more than eleven stores. Section 303(i) requires that, with respect to an application for Conditional Use Authorization for a formula retail use, the Planning Commission shall consider the following criteria:

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

The subject property is located within the Mission Street NCT Zoning District, which runs 1.5 miles from 14th Street to Cesar Chavez. Staff conducted a survey of the district and found a total of 23 existing formula retail uses, 630 active commercial spaces, and 50 vacant commercial spaces within this district. Of the 23 existing formula retail uses, only 2 are cellular retail sales and service stores. In this district, the number of independently owned establishments far outnumbers formula retail uses.

- ii. Availability of other similar retail uses within the Neighborhood Commercial District.

There are 8 other similar cellular retail sales and services stores – none of which are T-Mobile - located within the Mission Street NCT Zoning District. The closest T-Mobile retail sales and service store is located on the corner of Valencia and 17th Streets within the Valencia Street NCT Zoning District.

- iii. Compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the Neighborhood Commercial District.

The existing façade and signage is compatible with adjacent properties. No physical changes are proposed as part of the project.

- iv. Existing retail vacancy rates within the Neighborhood Commercial District.

A survey of the Mission Street NCT Zoning District revealed 50 vacant or inactive commercial spaces, or almost 8% of the total commercial spaces of 630. These vacancies represent a minor portion of the available retail space in the district.

- v. Existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the Neighborhood Commercial District.

A wide variety of goods and services are found within the subject site's zoning district.

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 Project is necessary and desirable because it will continue to provide a T-Mobile retail sales and services store for Mission District residents. The store provides bilingual service to patrons.

- 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, which is already in compliance with the overall character of the neighborhood.

- 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 subject site has been occupied by this T-Mobile cellular retail sales and services store since 2009. The continuation of this use will not result in any changes to existing traffic patterns. Parking is not required in this Zoning District.

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

The proposed use, by the nature of the business, should not produce noxious or offensive emissions such as noise, glare, dust, and odor. The proposed use is subject to the standard conditions of approval for a Formula Retail Use as outlined in Exhibit A.

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

The subject building has no front setback and provides no landscaping, open spaces, or parking and loading areas. Existing service areas, lighting and signage complies with the existing context.

There are existing street trees in front of the subject building on Mission Street.

- 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 purpose of the Mission Street NCT (Neighborhood Commercial) Zoning District in that the intended commercial use is located at the ground floor, and will provide a compatible convenience service for a population that includes, and extends beyond, the immediate neighborhood.

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

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1:

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

Policy 1.3:

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 continue to serve a minority population. Additionally, the Project Site is an existing commercial space and is 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 proposed formula retail use, T-Mobile, is a well-known name that provides a valued service. The legalization of this store will bring the project into compliance with the Planning Code and contribute to the overall diversity of cellular sales and services store options within the City. Furthermore, by legalizing this use, the neighborhood retains a commercial use at this site and enables the project to enhance the economic base of the City and immediate area.

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

Policy 3.1:

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

Policy 3.2:

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

The proposed project will provides current employment opportunities that would be removed without the legalization of the use.

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.

Policy 6.4:

Encourage the location of neighborhood shopping areas throughout the city so that essential retail goods and personal services are accessible to all residents.

The project proposes to legalize an existing formula retail cellular sales and services store, thus retaining the existing level of commercial activity in that location. The project is necessary and desirable for the immediate area as it provides a use to residents of a minority population.

TRANSPORTATION ELEMENT

Objectives and Policies

OBJECTIVE 1:

MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE, CONVENIENT AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH QUALITY LIVING ENVIRONMENT OF THE BAY AREA.

Policy 1.3:

Give priority to public transit and other alternatives to the private automobile as the means of meeting San Francisco's transportation needs, particularly those of commuters.

Policy 1.6:

Ensure choices among modes of travel and accommodate each mode when and where it is most appropriate.

Policy 1.7:

Assure expanded mobility for the disadvantaged.

The proposal enables patrons to make use of a variety of transit options when visiting the site, which is readily accessible by BART or MUNI buses.

OBJECTIVE 2:

USE THE TRANSPORTATION SYSTEM AS A MEANS FOR GUIDING DEVELOPMENT AND IMPROVING THE ENVIRONMENT.

Policy 2.2:

Reduce pollution, noise and energy consumption.

Policy 2.4:

Organize the transportation system to reinforce community identity, improve linkages among interrelated activities and provide focus for community activities.

The proposed site is centrally located to serve both patrons and employees through various means of transportation.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1:

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND MEANS OF ORIENTATION.

Policy 1.6:

Make centers of activity more prominent through design of street features and by other means.

Policy 1.8:

Increase the visibility of major destination areas and other points for orientation.

The Project will legalize an existing commercial use.

OBJECTIVE 3:

MODERATION OF MAJOR NEW DEVELOPMENT TO COMPLEMENT THE CITY PATTERN, THE RESOURCES TO BE CONSERVED, AND THE NEIGHBORHOOD ENVIRONMENT.

Policy 3.1:

Promote harmony in the visual relationship and transitions between new and older buildings.

Policy 3.2:

Avoid extreme contrasts in color, shape and other characteristics which will cause new buildings to stand out in excess of their public importance.

Contrast amongst the colors on the existing facade are complimentary and do not create extreme visual contrasts in tones that will detract from the details and integrity of the neighboring older structures. No physical changes are proposed as part of the project.

OBJECTIVE 4:

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

Policy 4.4:

Design walkways and parking facilities to minimize danger to pedestrians.

Policy 4.13:

Improve pedestrian areas by providing human scale and interest.

The legalization of this existing cellular sales and services store will allow the continuation of an active commercial use.

MISSION AREA PLAN

Objectives and Policies

Land Use

OBJECTIVE 1.1:

STRENGTHEN THE MISSION'S EXISTING MIXED USE CHARACTER, WHILE MAINTAINING THE NEIGHBORHOOD AS A PLACE TO LIVE AND WORK.

Policy 1.1.6:

Permit and encourage small and moderate size retail establishments in neighborhood commercial areas of the Mission, while allowing larger retail in the formerly industrial areas when part of a mixed-use development.

OBJECTIVE 1.8:

MAINTAIN AND STRENGTHEN THE MISSION'S NEIGHBORHOOD COMMERCIAL AREAS.

Policy 1.8.2:

Ensure that the Mission's neighborhood commercial districts continue to serve the needs of residents, including immigrant and low-income households.

This project is to legalize an existing moderate sized retail establishment. A T-Mobile retail sales and service store at this location is necessary and desirable, especially given the minority population that utilizes the goods and services at that store location.

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 cellular sales and services store is an existing use. The legalization of this use will preserve and enhance existing neighborhood-serving retail uses.

- 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 have no direct effect on housing and will preserve the existing neighborhood character by legalizing an existing use.

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

The project will have no effect on housing, as the project proposes the legalization of an existing retail store.

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

The Project area is well served by BART and MUNI bus lines. The project is an existing use and will not create an increased burden on traffic and 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 proposed project will not include any commercial office development and will not displace any

industrial establishments. The proposal will legalize an existing retail use.

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

The proposed project will comply with the City Codes to achieve the proper preparedness in the event of an earthquake.

- G. That landmarks and historic buildings be preserved.

There are no designated landmarks or historic buildings on the Project site.

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

The proposed project will not have a negative effect on existing parks and open space.

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. 2013.0407C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated March 20, 2013, 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. 19003. 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 October 10, 2013.

Jonas P. Ionin
Acting Commission Secretary

AYES: Commissioners Hillis, Borden, Fong, Sugaya, and Antonini

NAYES:

ABSENT: Commissioners Moore, Wu

ADOPTED: October 10, 2013

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to legalize an existing Formula Retail use (d.b.a. **T-Mobile**) located at 2407 Mission Street, Lot 029, Block 3610 pursuant to Planning Code Section(s) **303, and 703.4(b)** within the **Mission Street NCT Zoning** District and a **55-X** Height and Bulk District; in general conformance with plans, dated **March 20, 2013**, and stamped "EXHIBIT B" included in the docket for Case No. **2013.0407C** and subject to conditions of approval reviewed and approved by the Commission on **October 10, 2013** under Motion No. **19003**. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use 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 subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on **October 10, 2013** under Motion No. **19003**.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **19003** shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
3. **Diligent pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

MONITORING - AFTER ENTITLEMENT

6. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
7. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

8. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.
For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>
9. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.
For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>
10. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

11. **Lighting.** All Project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org