Executive Summary Conditional Use

HEARING DATE: JANUARY 20, 2011

Suite 400 San Francisco, CA 94103-2479

1650 Mission St.

Reception:

415.558.6378

Fax: 415.558.6409

Planning Information: 415.558.6377

Date: January 13, 2011
Case No.: **2010.0969** C

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Project Address: 90 TURK STREET (AKA 116-118 TAYLOR STREET)

Zoning: RC-4 (Residential-Commercial Combined, High Density District),
North of Market Residential Special Use District and within the

80-120T Height and Bulk District

Block/Lot: 0340/012

Project Sponsor: Karim Rantsi

Tip Top Market 90 Turk Street

San Francisco, CA 94102

Staff Contact: Rick Crawford – (415) 558-6358

rick.crawford@sfgov.org

Recommendation: Disapproval

PROJECT DESCRIPTION

The applicant proposes to add off sale alcoholic beverages, limited to beer and wine, to an existing market. The store operates as a convenience store with a small area for produce, but would include a full line of groceries including meat, a deli counter, and fresh fruits and vegetables not otherwise available in the surrounding neighborhood were the requested conditional use to be authorized. The sponsor would limit the sales of alcoholic beverages to less than 10% of the store floor area and shelf space.

SITE DESCRIPTION AND PRESENT USE

The project site is located in a mixed use building on the north side of Turk Street between Taylor and Eddy Streets within the North of Market Residential Special Use District. The use would be accessory to the recently opened market that replaced an adult entertainment use that had been closed for some time. The ground floor of the subject building features commercial uses including a bar on the corner of Turk and Taylor Streets and a convenience store next door to the project site. The upper floors of the building are the Hotel Warfield, a tourist hotel.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The project site is located in the Tenderloin neighborhood near Market Street to the south and Halladie Plaza to the east. Most of the surrounding buildings feature ground floor commercial spaces and upper floor residential units including apartments and residential hotel rooms. A few tourist hotels are also located in the vicinity. The Warfield and Golden Gate theaters are located approximately one block west

and south from the project site respectively. There are many vacant storefronts in the area and a few others are occupied by non-profit social service providers serving the Tenderloin community. Another liquor store is located nearby at 62 Turk Street and a bar is located at 98 Turk. Fourteen businesses licensed for off-sales of alcoholic beverages, such as liquor stores, and 35 businesses licensed for on site sales of alcoholic beverages, such as restaurants and bars are located within a few blocks of the subject property.

ENVIRONMENTAL REVIEW

The project is categorically exempt as a Class 1a exemption under CEQA Guidelines.

HEARING NOTIFICATION

ТҮРЕ	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	December 31, 2010	December 29, 2010	23 days
Posted Notice	20 days	December 31, 2010	December 23, 2010	28 days
Mailed Notice	20 days	December 31, 2010	December 23, 2010	28 days

PUBLIC COMMENT

The Department has received four letters of support and two phone calls objecting to this project.
 The Police Department is opposed to the project. The Community Leadership Alliance supports the project.

ISSUES AND OTHER CONSIDERATIONS

- On September 10, 2009 the Planning Commission, in Motion 17948 disapproved a similar request to transfer a full liquor license that would have permitted sales of liquor in addition to the beer and wine requested in the current application. That request was disapproved because the request was found to be inconsistent with and failed to promote the general and specific purposes of the Planning Code, that, as designed, the project would not contribute to the character and stability of the neighborhood, was considered an undesirable use in the neighborhood, and that the use would not constitute a beneficial development.
- An over concentration of businesses selling alcoholic beverages exists in this area as is apparent from the review of current licenses for alcohol sales in this vicinity. The census tract that includes the subject property is less than 10 blocks in area but within this tract there are 14 businesses licensed for off sale of alcoholic beverages, such as liquor stores, and 35 businesses licensed for on site sales of alcoholic beverages, such as restaurants and bars. At least 10 of the 35 are bars. The present request to transfer a liquor license from 67 Turk Street to 90 Turk Street does not help to alleviate the over concentration.
- Statistics from the San Francisco Police Department reveal that between January 1, 2009 and June 11, 2009 there were 1,431 crime incidence reports filed for activities within 500 feet of the 67 Turk Street the most recent location for the applicant's liquor store. These included 122 assaults, 21

Executive Summary Hearing Date: January 20, 2011

weapons cases, 18 robberies, 5 kidnappings 10 drunkenness and 530 drug related incidents. In the roughly six month period between January 1, 2008 and June 14, 2009 the Police responded to 18 calls directly at the applicant's present location at 67 Turk Street alone for crimes ranging from malicious mischief (breaking windows) and disturbing the peace to drug or weapons possession, theft and aggravated assault with a deadly weapon.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant conditional use authorization to allow for the transfer of an off-sale license for the sale of alcoholic beverages from 67 Turk Street to the subject property.

BASIS FOR RECOMMENDATION

The Department believes that, due to the existing over concentration of uses selling alcoholic beverages within the NMRSUD, and due to the concerns about the high rate of crime in the immediate area, and due to the number of crime incident reports directly related to the applicant's current location at 67 Turk Street, this project, the transfer of a license for the off sale of alcoholic beverages, is unnecessary and undesirable under Section 303 of the Planning Code for the following reasons:

- The project contributes to the over concentration of businesses selling alcoholic beverages in the neighborhood.
- The high number of crime incidence reports related to the applicant's former location at 67 Turk Street suggests the use is and will continue to be a magnet for criminal activity.
- The proposed Project does not meet the requirements of the Planning Code and does not promote the objectives and policies of the General Plan.

RECOMMENDATION: Disapproval

Attachments:

Block Book Map Sanborn Map Aerial Photographs Photographs Reduced Plans Executive Summary

CASE NO. 2010.0969C

Hearing Date: January 20, 2011

90 Turk Street

Attachment Checklist

	Executive Summary		Project sponsor submittal
	Draft Motion		Drawings: Existing Conditions
	Environmental Determination		Check for legibility
	Zoning District Map		Drawings: <u>Proposed Project</u>
	Height & Bulk Map		Check for legibility
	Parcel Map		Health Dept. review of RF levels
	Sanborn Map		RF Report
	Aerial Photo		Community Meeting Notice
	Context Photos		Environmental Determination
	Site Photos		
]	Exhibits above marked with an " X " are ind	clude	d in this packet <u>RC</u>
			Planner's Initials

Enter Initials Here: C:\3901 Noriega Street - summary-kmc.doc



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)	
☐ Inclusionary Housing (Sec. 315)	☐ First Source Hiring (Admin. Code)
□ Jobs Housing Linkage Program (Sec. 313)	☐ Child Care Requirement (Sec. 314)
□ Downtown Park Fee (Sec. 139)	□ Other

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Planning Commission Draft Motion

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Case No.: **2010.0969 C**

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> Tip Top Market 90 Turk Street

San Francisco, CA 94102

Staff Contact: Rick Crawford – (415) 558-6358

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ADOPTING **FINDINGS RELATING** TO Α **REQUEST FOR CONDITIONAL** AUTHORIZATION UNDER PLANNING CODE SECTION 249(d) TO RELOCATE AN EXISTING OFF-SALE LIQUOR ESTABLISHMENT (LIQUOR STORE) AT 67 TURK STREET (DBA GRAND LIQUOR) TO 90 TURK STREET (DBA TIP-TOP MARKET). PLANNING CODE SECTION 249.5(d) REQUIRES CONDITIONAL USE AUTHORIZATION FOR SUCH A TRANSFER WITHIN THE NORTH OF MARKET RESIDENTIAL SPECIAL USE DISTRICT. THIS PROJECT LIES WITHIN AN RC-4 (RESIDENTIAL-COMMERCIAL COMBINED, HIGH DENSITY) DISTRICT, THE NORTH OF MARKET RESIDENTIAL SPECIAL USE DISTRICT AND WITHIN THE 80-120T HEIGHT AND **BULK DISTRICT.**

PREAMBLE

On October 27, 2010 Karim Rantisi (Project Sponsor) filed an application with the Department for Conditional Use Authorization under Planning Code Section 249.5(d) to allow a transfer of an off-sale liquor license for a liquor store to 90 Turk Street (d.b.a Tip-Top Market) within the RC-4 (Residential-Commercial Combined, High Density) District, the North of Market Residential Special Use District (NMRSUD) and within the 80-120T Height and Bulk District.

On January 20, 2011, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2010.0969C.

The Project was determined by the San Francisco Planning Department (hereinafter "Department") to be Categorically Exempt from the California Environmental Quality Act ("CEQA") as a Class 1a 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 disapproves the Conditional Use requested in Application No. 2010.0969C, 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 site is located in a mixed use building on the north side of Turk Street between Taylor and Eddy Streets within the North of Market Residential Special Use District. The use would be accessory to the recently opened market that replaced an adult entertainment use that had been closed for some time. The ground floor of the subject building features commercial uses including a bar on the corner of Turk and Taylor Streets and a convenience store next door to the project site. The upper floors of the building are the Hotel Warfield, a tourist hotel.
- 3. Surrounding Properties and Neighborhood. The project site is located in the Tenderloin neighborhood near Market Street to the south and Halladie Plaza to the east. Most of the surrounding buildings feature ground floor commercial spaces and upper floor residential units including apartments and residential hotel rooms. A few tourist hotels are also located in the vicinity. The Warfield and Golden Gate theaters are located approximately one block west and south from the project site respectively. There are many vacant store fronts in the area and a few others are occupied by non-profit social service providers serving the Tenderloin community. Another liquor store is located nearby at 62 Turk Street and a bar is located at 98 Turk. Within the 10 block census tract that includes the subject property there are 14 businesses licensed for off-sales of alcoholic beverages, such as liquor stores, and 35 businesses licensed for on-site sales of alcoholic beverages, such as restaurants and bars. At least 10 of the 35 are bars.
- 4. **Project Description.** The applicant proposes to add off sale alcoholic beverages, limited to beer and wine, to an existing market. The store operates as a convenience store with a small area for produce, but would include a full line of groceries including meat, a deli counter, and fresh fruits

and vegetables not otherwise available in the surrounding neighborhood were the requested conditional use to be authorized. The sponsor would limit the sales of alcoholic beverages to less than 10% of the store floor area and shelf space.

- 5. **Public Comment**. The Department has received four letters of support and two phone calls objecting to this project. The Police Department is opposed to the project. The Community Leadership Alliance supports the 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. **North of Market Residential Special Use District.** Planning Code Section 249.5(d) states that a Conditional Use Authorization is required for re-location of an existing off-sale liquor establishment in the North of Market Residential Special Use District to another location within the North of Market Residential Special Use District.

The purpose of the North of Market Residential Special Use District (NMRSUD) is to "protect and enhance important housing resources in an area near downtown, conserve and upgrade existing low and moderate income housing stock, preserve buildings of architectural and historic importance and preserve the existing scale of development, maintain sunlight in public spaces, encourage new infill housing at a compatible density, limit the development of tourist hotels and other commercial uses that could adversely impact the residential nature of the area, and limit the number of commercial establishments which are not intended primarily for customers who are residents of the area". The over concentration of businesses selling alcoholic beverages can adversely impact the residential nature of the area by promoting alcohol abuse and serving as a magnet for crime.

The proposed development combines a desirable grocery store with undesirable and unnecessary sales of alcoholic beverages. The NMRSUD is intended to preserve and improve the residential character in this portion of the Tenderloin neighborhood. One way the NMRSUD does this is by limiting the number of businesses that sell alcoholic beverages to avoid the social problems that occur where there is such an over concentration of uses. The over concentration of such uses in this area is obvious from the review of current licenses for alcohol sales in this vicinity. The census tract that includes the subject property is less than 10 blocks in area but within this tract there are 14 businesses licensed for off-sale of alcoholic beverages, such as liquor stores, and 35 businesses licensed for on-site sales of alcoholic beverages, such as restaurants and bars. At least 10 of the 35 are bars. The present request to transfer a liquor license from 67 Turk Street to 90 Turk Street does not help to alleviate the over concentration.

Another undesirable consequence of an over concentration of businesses selling alcoholic beverages is crime. Liquor stores and bars often act as a magnet for criminal activity. Statistics from the San Francisco Police Department reveal that between January 1, 2009 and June 11, 2009 there were 1,431 crime incidence reports filed for activities within 500 feet of the 67 Turk Street the most recent location for the applicant's liquor store. In the roughly six month period between January ,1 2008 and June 14, 2009 the Police responded to 18 calls directly at the applicant's present location at 67 Turk Street alone.

- 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 proposed development combines a desirable grocery store with undesirable and unnecessary sales of alcoholic beverages. The NMRSUD is intended to preserve and improve the residential character in this portion of the Tenderloin neighborhood. One way the NMRSUD does this is by limiting the number of businesses that sell alcoholic beverages to avoid the social problems that occur where there is such an over concentration of uses. The over concentration of such uses in this area is obvious from the review of current licenses for alcohol sales in this vicinity. The census tract that includes the subject property is less than 10 blocks in area but within this tract there are 14 businesses licensed for off-sale of alcoholic beverages, such as liquor stores, and 35 businesses licensed for on-site sales of alcoholic beverages, such as restaurants and bars. At least 10 of the 35 are bars. The present request to transfer a liquor license from 67 Turk Street to 90 Turk Street does not help to alleviate the over concentration.

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- 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.

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 this 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 not expected to generate unacceptable levels of dust, glare, odor or noise.

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

No landscaping is proposed for this use.

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 is contrary to the purpose of the NMRSUD and does not advance the goals 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 not located within a Neighborhood Commercial District.

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 WORKINIG 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 development combines a desirable grocery store with undesirable and unnecessary sales of alcoholic beverages. The NMRSUD is intended to preserve and improve the residential character in this portion of the Tenderloin neighborhood. One way the NMRSUD does this is by limiting the number of businesses that sell alcoholic beverages to avoid the social problems that occur where there is such an over concentration of uses. The over concentration of such uses in this area is obvious from the review of current licenses for alcohol sales in this vicinity. The census tract that includes the subject property is less than 10 blocks in area but within this tract there are 14 businesses licensed for off-sale of alcoholic beverages, such as liquor stores, and 35 businesses licensed for on-site sales of alcoholic beverages, such as restaurants and bars. At least 10 of the 35 are bars. The present request to transfer a liquor license from 67 Turk Street to 90 Turk Street does not help to alleviate the over concentration.

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OBJECTIVE 2:

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

Policy 2.2:

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

The proposed development combines a desirable grocery store with undesirable and unnecessary sales of alcoholic beverages. The sale of alcoholic beverages has been identified as fostering social problems in the surrounding neighborhood. The proposed development will not contribute to an improved social and cultural climate in the neighborhood but can be expected to continue the problems that have been associated with the use in general and directly with the project sponsor's current location at 67 Turk Street.

OBJECTIVE 6:

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

Policy 6.10:

Promote neighborhood commercial revitalization, including community-based and other economic development efforts where feasible.

An independent entrepreneur is sponsoring the proposal. The proposed use is a neighborhood serving use. This is not a Formula Retail use. The proposal would occupy a vacant store front but the proposed sale of

alcoholic beverages will be detrimental to the area. The sale of alcoholic beverages form the subject property will add to an over concentration of such uses and could serve as a magnet for crime at one of the highest crime locations in the City. The census tract that includes the subject property is less than 10 blocks in area but within this tract there are 14 businesses licensed for off- sale of alcoholic beverages, such as liquor stores, and 35 businesses licensed for on site- sales of alcoholic beverages, such as restaurants and bars. At least 10 of the 35 are bars.

Statistics from the San Francisco Police Department reveal that between January 1, 2009 and June 11, 2009 there were 1,431 crime incidence reports filed for activities within 500 feet of the 67 Turk Street the most recent location for the applicant's liquor store. These included 122 assaults, 21 weapons cases, 18 robberies, 5 kidnappings, 10 drunkenness, and 530 drug related incidents. In the roughly six month period between January 1 2008 and June 14, 2009 the Police responded to 18 calls directly at the applicant's present location at 67 Turk Street alone for crimes ranging from malicious mischief (breaking windows) and disturbing the peace, to drug or weapons possession, theft and aggravated assault with a deadly weapon.

- 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 occupy a vacant store front but the proposed sale of alcoholic beverages will be detrimental to the area. The sale of alcoholic beverages form the subject property will add to an over concentration of such uses and could serve as a magnet for crime at one of the highest crime locations in the City. In the roughly six month period between January 1 2008 and June 14, 2009 the Police responded to 18 calls at the applicants present location at 67 Turk Street for crimes ranging from malicious mischief (breaking windows) and disturbing the peace, to drug or weapons possession, theft and aggravated assault with a deadly weapon.

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 directly affected however the over concentration of alcohol sales uses including liquor stores and bars has a negative impact on the quality of life of the residents of the neighborhood. While a grocery store would be beneficial to this neighborhood where no full line grocery store exists, the sale of alcoholic beverages will continue the over concentration of such uses in the neighborhood and continue to attract the undesirable element to the area..

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

The majority of the housing in the area serves low income residents of the City and while the existing units in the surrounding neighborhood would not be directly affected by the proposed use, the over

concentration of alcohol sales uses including liquor stores and bars has a negative impact on the quality of life of the residents of the neighborhood. While a grocery store would be beneficial to this neighborhood where no full line grocery store exists, the sale of alcoholic beverages will continue the over concentration of such uses in the neighborhood and continue to attract the undesirable element to the area.

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

The proposed use would be neighborhood serving and would not be expected to generate many unique vehicle trips so would not overburden streets, neighborhood parking nor impede transit operations.

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 help mitigate the over concentration of the sale of alcoholic beverages in the area.

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.

The subject building is rated C by San Francisco Heritage and could be considered an historic resource. The project is an interior remodeling of the interior of an existing retail space and would not have any significant impact on any historic or architecturally significant aspects of the building.

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

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

- 10. The Project is inconsistent with and fails to promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would not contribute to the character and stability of the neighborhood, is an undesirable use in the neighborhood, and would not constitute a beneficial development.
- 11. The Commission hereby finds that disapproval 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 **DISAPPROVES Conditional Use Application No. 2010.0969C** with the Application as received on October 27, 2010, 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.

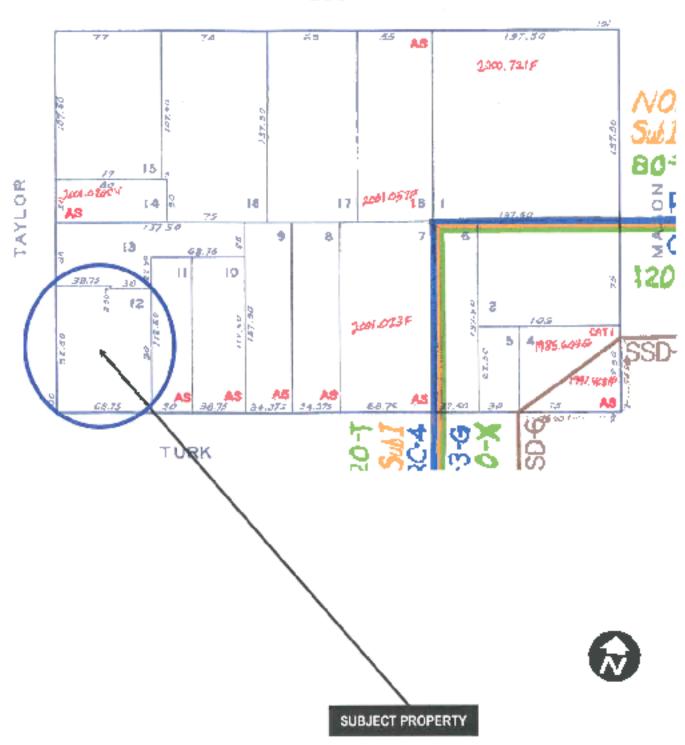
I hereby certify that the Planning Commission ADOPTED the foregoing Motion on January 20, 2011.

Linda D. Avery
Commission Secretary
AVEC
AYES:
NAYS:
14110.
ABSENT:

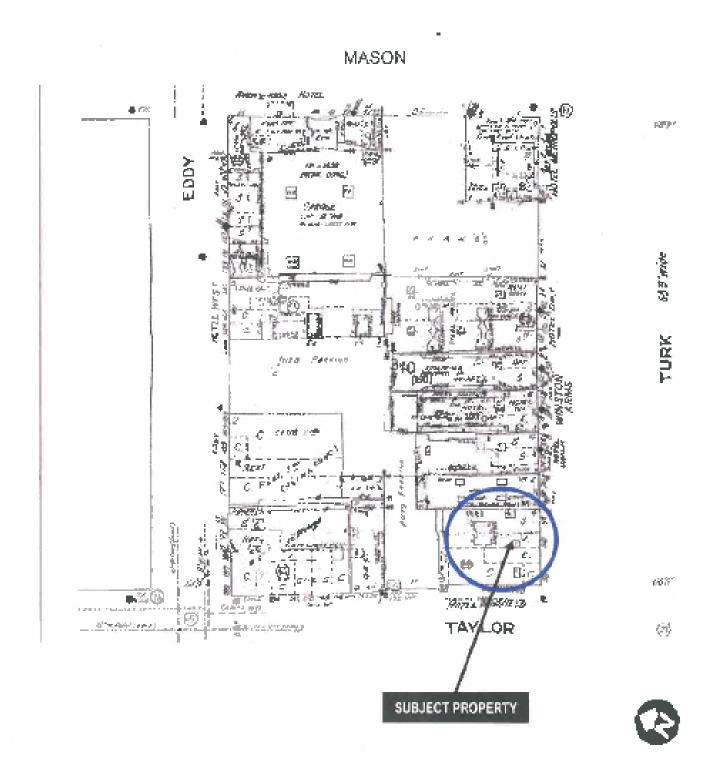
ADOPTED: January 20, 2011

Parcel Map

EDDY

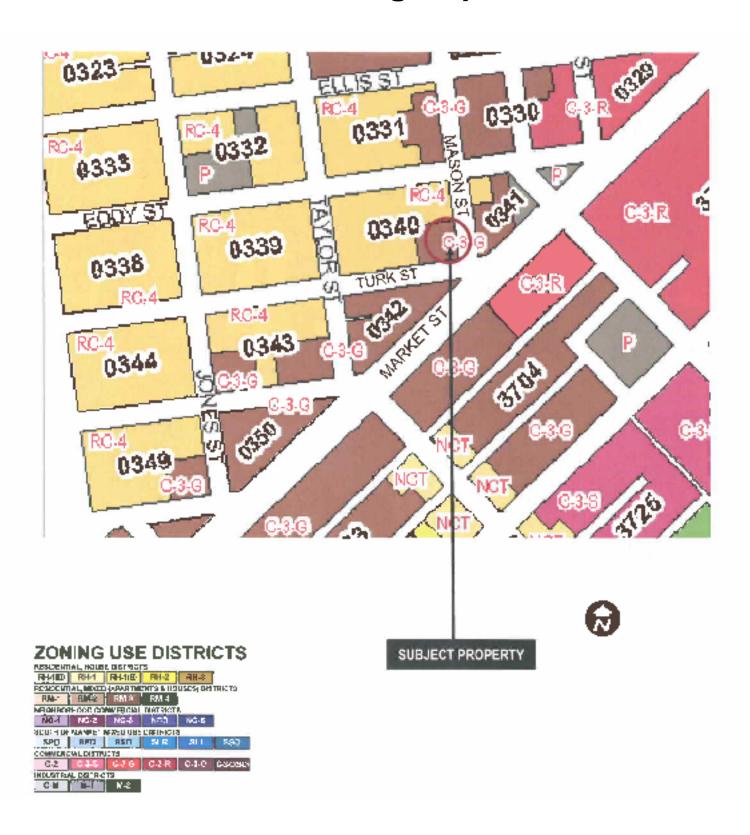


Sanborn Map*

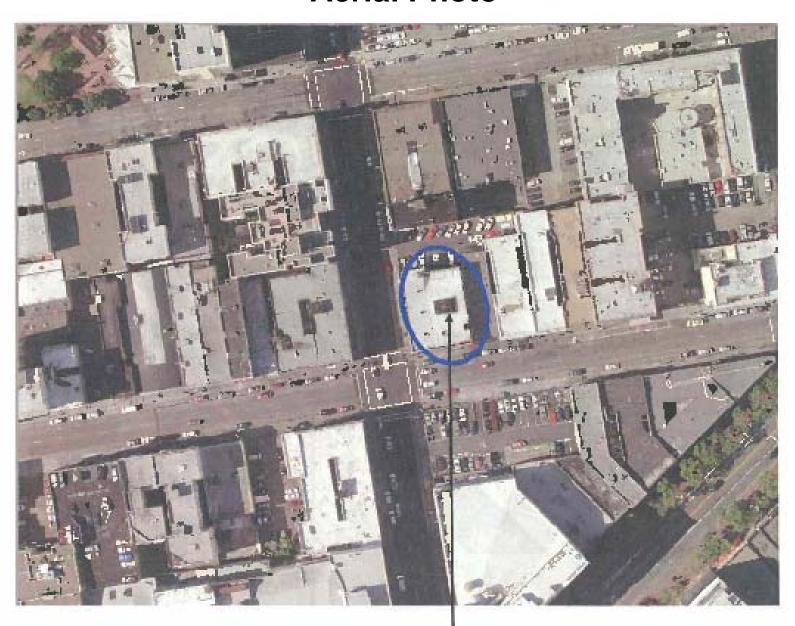


"The Sauburn Mads of San Francisco have not been updated since 1998, and this map may not accurately reflect existing encounces."

Zoning Map



Aerial Photo



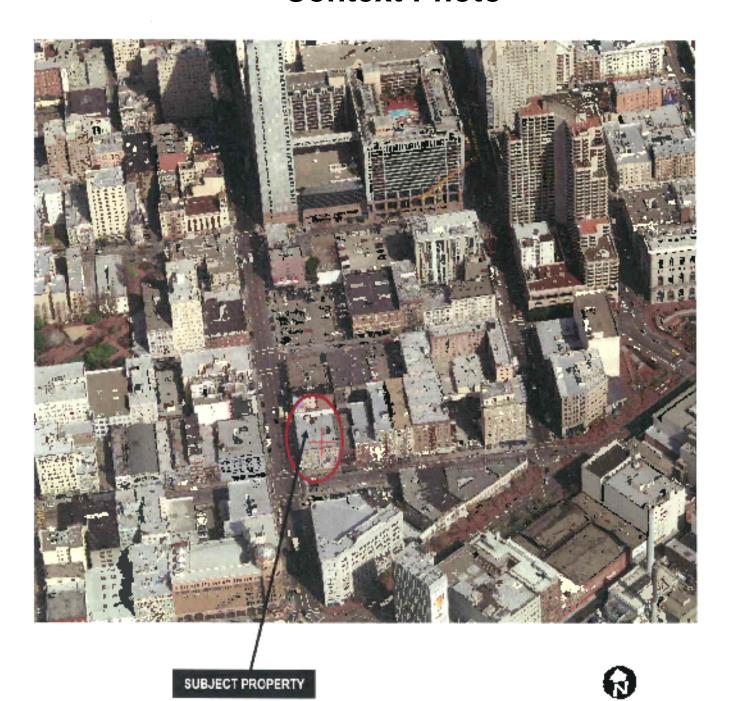


SUBJECT PROPERTY

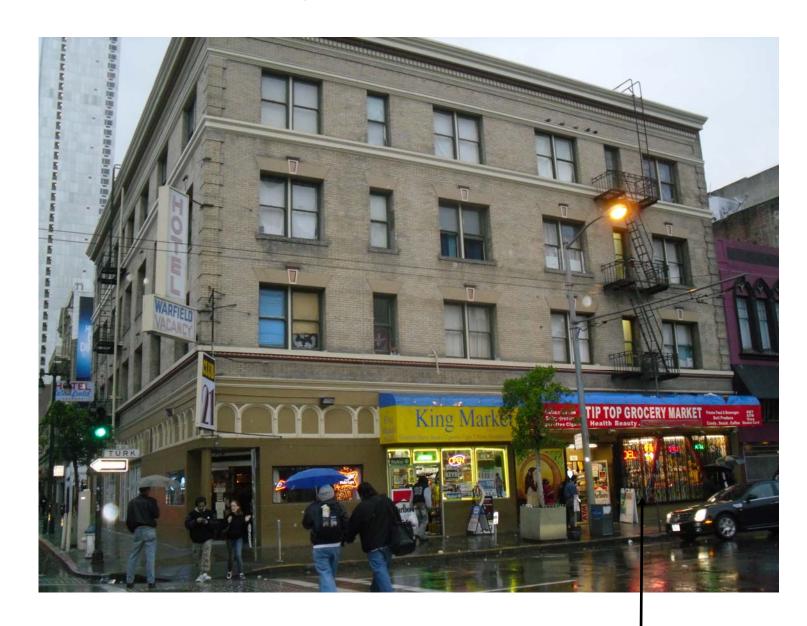
Site Photo



Context Photo



Context Photo



SUBJECT PROPERTY