



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use

HEARING DATE: SEPTEMBER 20, 2012

Date: September 13, 2012
Case No.: **2012.0206C**
Project Address: **2299 Market Street**
Zoning: Upper Market Street Neighborhood Commercial District
50-X Height and Bulk District
Block/Lot: 3564/091
Project Sponsor: Thomas Tunny
Reuben & Junius, LLP
One Bush Street, Suite 600
San Francisco, CA 94104
Staff Contact: Michael Smith – (415) 558-6322
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Recommendation: **Approval with Conditions**

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PROJECT DESCRIPTION

The project sponsor is requesting conditional use authorization pursuant to Planning Code Sections 703.4 for a formula retail use, 721.21 for a use size greater than 2,999 square-feet, 721.49 to establish a financial service use, and 303 to establish an approximately 3,300 square-foot, formula retail, financial service use (d.b.a. "Bank of the West") in the ground floor commercial space of a recently approved mixed-use building that is currently under construction.

This would be Bank of the West's first branch in the Upper Market neighborhood and would provide banking services and products to the public, including regular banking services such as deposits, withdrawals, ATMs, and an after-hours drop box. The Project would also facilitate new accounts for both consumer and business clients, offering home mortgages, commercial loans and lines of credit, as well as small business loans. The bank would employ up to eight employees and operate Monday – Thursday: 9:00 a.m. to 5:00 p.m.; Friday: 9:00 a.m. to 6:00 p.m.; and Saturday 9:00 a.m. to 1:00 p.m. The proposed use does not require off-street parking or loading spaces and none is proposed.

SITE DESCRIPTION AND PRESENT USE

2299 Market Street is a vacant corner lot located on the south side of the intersection of Market, Noe, and 16th Streets in the Upper Market neighborhood. The site was formerly occupied by the Trinity Methodist Episcopal Church that was destroyed by fire in 1981. The property is located in the Upper Market Neighborhood Commercial District just outside the boundaries of the Market/Octavia Plan Area. The property is also located within the area covered by the Upper Market Community Design Plan. The lot

has approximately 60'-9" of frontage on Noe Street, 85'-2" of frontage on 16th Street, and 19'-6" of frontage on Market Street along a gore corner. The approximately 7,250 square-foot project site is currently under construction for a five-story mixed-use building with 18 dwelling units, 18 below grade parking spaces, and approximately 4,500 square-foot ground floor commercial space.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The Upper Market Street Neighborhood Commercial District, on Market Street from Church to Castro, and on side streets off Market, is situated at the border of the Eureka Valley, Buena Vista, and Duboce Triangle neighborhoods. Upper Market Street is a multi-purpose commercial district that provides limited convenience goods to adjacent neighborhoods, but also serves as a shopping street for a broader trade area. A large number of offices are located on Market Street within easy transit access to downtown. The width of Market Street and its use as a major arterial diminish the perception of the Upper Market Street District as a single commercial district. The street appears as a collection of dispersed centers of commercial activity, concentrated at the intersections of Market Street with secondary streets.

Some areas of the District are noticeably low-rise, automobile oriented lots, with gas stations and single-story commercial establishments with surface parking lots. Just off Market Street there are small-scale residential streets that support the district. In general, the district is a full-service shopping area providing a variety of uses within easy walking distance.

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

There are currently seven banks located within Upper Market Street NCD/NCT and adjacent Castro NCD combined. These banks include Bank of America, Citi Bank, US Bank and Wells Fargo all on Castro Street, Sterling Bank and Wells Fargo on Market Street, Chase Bank at 15th and Market Streets. Only three of the seven banks listed above are located within the Upper Market Street NCD/NCT.

There are currently nine ground floor vacancies within the Upper Market Street NCD/NCT.

The adjacent property to the east of the subject property is occupied by a single-story commercial building with a restaurant tenant. The property has a rear yard that serves as an outdoor dining area for patrons. The adjacent property to the south is a four-story mixed-use building with a rear yard and ground floor commercial and two dwelling units on the floors above.

ENVIRONMENTAL REVIEW

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

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	August 31, 2012	August 29, 2012	22 days
Posted Notice	20 days	August 31, 2012	August 31, 2012	20 days
Mailed Notice	20 days	August 31, 2012	August 30, 2012	21 days

The proposal requires a Section 312-neighborhood notification, which was combined with the conditional use authorization notice.

PUBLIC COMMENT

- The Duboce Triangle Neighborhood Association (DTNA) submitted a letter opposing the project. DTNA's concerns are that a bank is not an appropriate use for such a prominent retail space and that if approved, the use should not exceed the use-size limitation for the District and should be capped at 2,500 square-feet. Attached to the DTNA letter are schematic plans that illustrate their desire to see the commercial space subdivided into smaller spaces. The Eureka Valley Neighborhood Association also submitted a letter opposing the project and supporting the concerns raised by DTNA. It should be noted that these neighborhood organizations also participated in the negotiations with the Sponsor and that their comments may not necessarily reflect their opinions on the latest revised plans that are before the Commission now. See attached letters.
- A letter of opposition was also received from a neighbor on 16th Street (see attached).
- MUMC (Merchant's of Upper Market and Castro) submitted a letter in support of the project (see attached).

ISSUES AND OTHER CONSIDERATIONS

- Among other authorizations, the project requires conditional use authorization pursuant to Section 721.21 of the Planning Code for a use that is greater than 2,999 square-feet. The proposed bank would be approximately 3,300 square-feet and the Department finds that the larger use is neither necessary nor desirable for the neighborhood as detailed in the attached motion. Therefore, the Department is recommending that the Commission disapprove the sponsor's request for conditional use authorization pursuant to Section 721.21 of the Planning Code. The sponsor would then need to revise the project such that the square-footage of the bank complies with the 2,999 square-footage limitation in the District.
- The building was originally approved with two commercial spaces that were each below the maximum use size limit. The primary commercial space was located on the corner and the secondary

commercial space was located on Noe Street and was very deep with undesirable space at the rear. The Sponsor has negotiated with the neighborhood group in conjunction with the District Supervisor and revised the project to create three small commercial spaces on Noe Street and connect the undesirable space at the rear to the proposed bank space. The change created more variety at the Noe Street frontage and created three small commercial spaces with high street visibility. Presumably, the smaller spaces will also be less expensive to lease making it easier for smaller businesses to locate within the district.

- There are 14 existing formula retail establishments within the Upper Market Street NCD/NCT.
- There are seven existing financial service uses within the Upper Market Street NCD/NCT and adjacent Castro NCD combined. Only three of the seven banks listed above are located within the Upper Market Street NCD/NCT.
- There are nine ground floor vacancies within the Upper Market Street NCD/NCT.
- This project was originally scheduled for hearing June 14, 2012 but continued was continued to allow the sponsor to continue negotiations with the neighborhood.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant conditional use authorization pursuant to Sections 703.4 for a formula retail use, 721.49 to establish a financial service use, 721.21 and 303 for a use size greater than 2,999 square-feet. The Department is recommending that the Commission not support the sponsor's request to exceed the use size limitation.

BASIS FOR RECOMMENDATION

- The project would not dislocate an existing commercial establishment.
- The Project is a neighborhood serving use and complements the mix of goods and services currently available in this district and will contribute to the economic strength and vitality of the District.
- The Project would create three small commercial spaces that could provide opportunities for locally owned businesses to locate within the neighborhood and increase the overall retail diversity of the District.
- The Project Site is well served by public transit and the Project should cause no significant impact to traffic or street parking in this neighborhood.

RECOMMENDATION: Approval with Conditions
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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 type="checkbox"/> Height & Bulk Map | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Block Book Map | <input checked="" type="checkbox"/> Neighborhood Correspondence |
| <input checked="" type="checkbox"/> Sanborn Map | <input checked="" type="checkbox"/> Formula Retail Map |
| <input checked="" type="checkbox"/> Aerial Photo | <input type="checkbox"/> Community Meeting Notice |
| <input checked="" type="checkbox"/> Context Photos | <input type="checkbox"/> Inclusionary Affordable Housing Program:
Affidavit for Compliance |
| <input checked="" type="checkbox"/> Site Photos | |

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

MES
Planner's Initials



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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

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Planning Commission Draft Motion

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Project Address: **2299 MARKET STREET**
Zoning: Upper Market Street Neighborhood Commercial District
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 703.4, 721.21, 721.49, AND 303 OF THE PLANNING CODE TO ALLOW A FORMULA RETAIL, FINANCIAL SERVICE USE (D.B.A. BANK OF THE WEST) WITHIN A GROUND FLOOR COMMERCIAL SPACE LOCATED IN THE UPPER MARKET NEIGHBORHOOD COMMERCIAL DISTRICT AND A 50-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On July 14, 2011, Thomas Tunny of Reuben & Junius, LLP, on behalf of Bank of the West (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 703.4, 721.21, 721.49, and 303 to allow a formula retail, financial service use (d.b.a. Bank of the West) within the ground floor commercial space of a mixed-use building that is currently under construction, located within the Upper Market Neighborhood Commercial and a 50-X Height and Bulk District.

On June 14, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2012.0206C.

The Department determined the Project to be 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. 2012.0206C, 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.** 2299 Market Street is a vacant corner lot located on the south side of the intersection of Market, Noe, and 16th Streets in the Upper Market neighborhood. The site was formerly occupied by the Trinity Methodist Episcopal Church that was destroyed by fire in 1981. The property is located in the Upper Market Neighborhood Commercial District just outside the boundaries of the Market/Octavia Plan Area. The property is also located within the area covered by the Upper Market Community Design Plan. The lot has approximately 60'-9" of frontage on Noe Street, 85'-2" of frontage on 16th Street, and 19'-6" of frontage on Market Street along a gore corner. The approximately 7,250 square-foot project site is currently under construction for a five-story mixed-use building with 18 dwelling units, 18 below grade parking spaces, and approximately 4,500 square-foot ground floor commercial space.
3. **Surrounding Properties and Neighborhood.** The Upper Market Street Neighborhood Commercial District, on Market Street from Church to Castro, and on side streets off Market, is situated at the border of the Eureka Valley, Buena Vista, and Duboce Triangle neighborhoods. Upper Market Street is a multi-purpose commercial district that provides limited convenience goods to adjacent neighborhoods, but also serves as a shopping street for a broader trade area. A large number of offices are located on Market Street within easy transit access to downtown. The width of Market Street and its use as a major arterial diminish the perception of the Upper Market Street District as a single commercial district. The street appears as a collection of dispersed centers of commercial activity, concentrated at the intersections of Market Street with secondary streets.

Some areas of the District are noticeably low-rise, automobile oriented lots, with gas stations and single-story commercial establishments with surface parking lots. Just off Market Street there are small-scale residential streets that support the district. In general, the district is a full-service shopping area providing a variety of uses within easy walking distance.

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

There are currently seven banks located within Upper Market Street NCD/NCT and adjacent Castro NCD combined. These banks include Bank of America, Citi Bank, US Bank and Wells Fargo all on Castro Street, Sterling Bank and Wells Fargo on Market Street, Chase Bank at 15th and Market Streets. Only three of the seven banks listed above are located within the Upper Market Street NCD/NCT.

There are currently nine ground floor vacancies within the Upper Market Street NCD/NCT.

The adjacent property to the east of the subject property is occupied by a single-story commercial building with a restaurant tenant. The property has a rear yard that serves as an outdoor dining area for patrons. The adjacent property to the south is a four-story mixed-use building with a rear yard and ground floor commercial and two dwelling units on the floors above.

4. **Project Description.** The project sponsor is requesting conditional use authorization pursuant to Planning Code Sections 703.4 for a formula retail use, 721.21 for a use size greater than 2,999 square-feet, 721.49 to establish a financial service use, and 303 to establish an approximately 3,300 square-foot, formula retail, financial service use (d.b.a. "Bank of the West") in the ground floor commercial space of a recently approved mixed-use building that is currently under construction.

This would be Bank of the West's first branch in the Upper Market neighborhood and would provide banking services and products to the public, including regular banking services such as deposits, withdrawals, ATMs, and an after-hours drop box. The Project would also facilitate new accounts for both consumer and business clients, offering home mortgages, commercial loans and lines of credit, as well as small business loans. The bank would employ up to eight employees and operate Monday – Thursday: 9:00 a.m. to 5:00 p.m.; Friday: 9:00 a.m. to 6:00 p.m.; and Saturday 9:00 a.m. to 1:00 p.m. The proposed use does not require off-street parking or loading spaces and none is proposed.

5. **Public Comment.** The Duboce Triangle Neighborhood Association (DTNA) submitted a letter opposing the project. DTNA's concerns are that a bank is not an appropriate use for such a prominent retail space and that if approved, the use should not exceed the use-size limitation for the District and should be capped at 2,500 square-feet. Attached to the DTNA letter are schematic plans that illustrate their desire to see the commercial space subdivided into smaller

spaces. The Eureka Valley Neighborhood Association also submitted a letter opposing the project and supporting the concerns raised by DTNA. It should be noted that these neighborhood organizations also participated in the negotiations with the Sponsor and that their comments may not necessarily reflect their opinions on the latest revised plans that are before the Commission now. See attached letters.

A letter of opposition was also received from a neighbor on 16th Street (see attached).

MUMC (Merchant's of Upper Market and Castro) submitted a letter in support of the project (see attached).

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. **Off-Street Parking.** Section 151 of the Planning Code requires one off-street parking for every 500 square feet of occupied floor area up to 20,000 where the occupied floor area exceeds 5,000 square feet, plus one for each 250 square feet of occupied floor area in excess of 20,000.

The proposed use would occupy approximately 3,314 square-feet and is thus not required to provide any off-street parking spaces.

- B. **Off-Street Freight Loading.** Section 152 of the Planning Code requires no off-street loading space for retail uses that are 0 – 10,000 square-feet.

The proposed use would occupy approximately 3,314 square-feet and is thus not required to provide any off-street freight loading space.

- C. **Non-Residential Use Size.** Planning Code Sections 721.21 state that a Conditional Use authorization is required for non-residential use size exceeding 2,999 square feet in the Upper Market Street NCD.

The Project Sponsor intends to occupy approximately 3,314 square feet of ground floor commercial space therefore conditional use authorization is required.

- D. **Financial Service Use.** Planning Code Section 721.49 states that a Conditional Use authorization is required for banks under the use category for "Financial Service" as defined by Planning Code Section 790.110 at the ground and second floors within the Upper Market Street NCD.

The sponsor is seeking conditional use authorization to establish a bank (d.b.a. Bank of the West) within a ground floor commercial space located within the Upper Market Street NCD.

- E. **Signage.** Any proposed signage will be subject to the review and approval of the Planning Department and must comply with Article 6 of the Planning Code.

- F. **Formula Retail Use.** Sections 703.3 and 703.4 places notification requirements and other restrictions on formula retail uses.

The Project is considered to be a formula retail use as defined by Section 703.3(b) of the Planning Code. Conditional Use authorization must be authorized for a formula retail use at the subject site as per Section 703.4.

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 will occupy a ground floor commercial space within a newly constructed mixed-use building. The proposed Project will establish a new Bank of the West branch containing approximately 3,300 square feet. There are currently seven banks located within a half mile of the proposed bank. These banks include Bank of America, Citi Bank, US Bank and Wells Fargo all on Castro Street, Sterling Bank and Wells Fargo on Market Street, Chase Bank at 15th and Market Streets. It should be noted that those banks listed above on Castro Street are within the Castro Street NCD which is a different though adjacent district to the subject Upper Market Street NCD. Only three of the seven banks listed above are located within the Upper Market Street NCD/NCT.

The nearest Bank of the West branch is located on 24th Street within the Mission neighborhood. According to the sponsor, the proposed branch would potentially serve customers residing in the Castro, Duboce Triangle, Mission Dolores, Hayes Valley, and Corona Heights neighborhoods.

The bank would employ up to eight employees and operate Monday – Thursday: 9:00 a.m. to 5:00 p.m.; Friday: 9:00 a.m. to 6:00 p.m.; and Saturday 9:00 a.m. to 1:00 p.m.

The sponsor is also seeking conditional use authorization for a use size greater than 2,999 square-feet. The Department finds that creating another large commercial space within the District is not desirable because it creates large retail spaces that limit the diversity of goods and services provided in the neighborhood, they are generally more difficult to lease, and they price smaller businesses out of the neighborhood. For these reasons the Department feels that there must be exceptional circumstances involved that warrant creating a larger retain space and the sponsor has not proven there to be exceptional circumstances present to justify the request for a larger commercial space. In fact, most of the nearby banks listed above operate in spaces that conform to the use size limitations for the District.

1. In Neighborhood Commercial Districts, if the proposed use is to be located at a location in which the square footage exceeds the limitations found in Planning Code Section 121.2(a) or 121.2(b), the following shall be considered:

- (i) The intensity of activity in the district is not such that allowing the larger use will be likely to foreclose the location of other needed neighborhood -serving uses in the area; and

According to the Project Sponsor, given the estimated population growth for the neighborhood, there are limited banking opportunities in the neighborhood when compared to the City as a whole. As proposed, the bank would exceed the use size limitations by approximately 300 square-feet. The sponsor has not demonstrated why the additional square-footage is needed or why it is desirable to the neighborhood. There are several large commercial spaces within the District that have been difficult to lease and as a result they sit vacant for long periods of time causing blight in the neighborhood. Those larger spaces that do attract tenants the uses tend to be formula retail uses making it more difficult for smaller businesses to locate within the district by driving up rents.

- (ii) The proposed use will serve the neighborhood, in whole or in significant part, and the nature of the use requires a larger size in order to function; and

The sponsor has not proven that a bank must have a minimum of 3,000+ square-feet to successfully operate. In the neighborhood there are examples of many banks that operate within tenant spaces that comply with use size limitations for the district. It appears that four of the seven nearby banks operate in spaces that are less than 3,000 square-feet which demonstrates that the larger size is not needed in order to function.

- (iii) The building in which the use is to be located is designed in discrete elements which respect the scale of development in the district; and

The additional square-footage that the sponsor is requesting would be gained by taking additional space from the interior of the building and therefore would not affect the scale of the building at the street.

- 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 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 Project would occupy a ground floor commercial space within a new mixed-use building that has 4,484 square-feet of retail space. The retail space was intended to be divided into two or more spaces each less than 3,000 square-feet. The proposal involves reconfiguring the interior to gain the additional square-footage. The Project would maintain the existing building envelope and site arrangement.

- 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 off-street parking or loading for a 3,314 square-foot bank. 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. The Project Site is well-served by public transit. MUNI lines "F Market" and the "K,L, and M metro lines" run near the Project Site, providing transit access from various neighborhoods.

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

The project would not emit noxious or offensive emissions such noise, glare, dust or odor.

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

No additional landscaping is proposed for the site. The Department shall review all lighting and signs proposed for the property in accordance with the Conditions of Approval contained in 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 purpose of the Upper Market Street Neighborhood Commercial District in that the intended use is located at the ground floor, and will provide a compatible convenience service for the immediately surrounding neighborhoods. However, the larger use size is not required to provide the necessary banking-related services for its customers.

- 8. **Planning Code Section 303(i).** With regard to a conditional use authorization application for a formula retail use, the Planning Commission shall also consider, in addition to the criteria set forth in Subsection 303(c) above, the criteria set forth in subsection 303(i) below.

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

A survey of the Upper Market NCD/NCT revealed that 14 formula retail uses are currently found in the district. These businesses include Subway, Walgreens, Max Muscle, Streetlight Records, Check

Cashing Store, Crossroads Trading Co., Verizon Wireless, Peet's Coffee, Wells Fargo, Radio Shack, Metro PCS, Sterling Bank, Books Inc., and Sunglass Hut.

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

There are seven existing financial service uses within the Upper Market Street NCD/NCT and adjacent Castro NCD combined. These banks include Bank of America, Citi Bank, US Bank and Wells Fargo all on Castro Street, Sterling Bank and Wells Fargo on Market Street, Chase Bank at 15th and Market Streets. It should be noted that those banks listed above on Castro Street are within the Castro Street NCD which is a different though adjacent district to the subject Upper Market Street NCD/NCT. Only three of the seven banks listed above are located within the Upper Market Street NCD/NCT.

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

From an urban design perspective, a corner storefront is not the most desirable location for a financial use since they lack activity after 5pm. The project has been designed to address this concern by embedding much of the bank at the rear of commercial space and creating smaller commercial spaces at the street frontage.

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

There are nine ground floor vacancies within the Ocean Avenue NCT.

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

The Upper Market NCD/NCT contains eating and drinking establishments, retail, services and institutions that generally serve the immediate neighborhood. These aforementioned uses are primarily locally-owned, independent uses. Formula retail uses can be found scattered across the district. The proposed use is intended to be primarily neighborhood-serving since there are other Bank of the West locations throughout the City. Also, the creation of three small storefronts offsets the proposed formula retail use.

9. **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 1.3:

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

The Project Site is located within a NCD and is consistent with activities in the commercial land use plan because it would provide a neighborhood serving use within a ground floor commercial space.

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 Project, a new Bank of the West branch, is designed to serve the needs of nearby residents. The Project will provide easy access for these customers by locating a bank branch within walking distance of their homes. It will also provide resident employment opportunities to those in the community.

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.

The subject commercial space is new and has never been tenant occupied so no commercial tenant would be displaced by the Project. The Project could make it more difficult for smaller businesses to locate within the District by creating a larger, less affordable tenant space.

Policy 6.9:

Regulate uses so that traffic impacts and parking problems are minimized.

The following guidelines, in addition to others in this objective for neighborhood commercial districts, should be employed in the development of overall district zoning controls as well as in the review of individual permit applications, which require case-by-case review and Planning Commission approval. Pertinent guidelines may be applied as conditions of approval of

individual permit applications. In general, uses should be encouraged which meet the guidelines; conversely, uses should be discouraged which do not.

Financial Services

Guidelines for financial services are as follows:

- Financial offices should not be located near other financial service uses or add to an overconcentration of financial services in a single district. In most districts, it is preferable that financial services be at least 500 feet apart. In certain locations, clustering may be appropriate, depending on potential traffic circulation and parking impacts, but in no case should the number exceed the maximum number that would be allowed if all financial services in the district were at least 500 feet from each other. For example, a configuration of clustered financial services where off-street parking is shared might be a more efficient use of land than an even distribution of such financial services. Another example where clustering may be appropriate is in a non-linear area district where a cluster of financial service may provide greater choice and more convenient service to nearby merchants who need such services than an even distribution of financial services throughout the district. In addition to overconcentration within a single district, proximity to financial services in other nearby districts should be considered in evaluating the need and impacts of a new financial service use or a new location for an existing financial service establishment;

There are currently three banks located in the Upper Market Street NCD, Chase, the nearest bank, located at 2112 15th Street at Market Street, is located more than 500 feet from the proposed bank. However, there are limited financial services in the form of ATMs that are located within 500 feet of the proposed bank. The Castro Street NCD is the nearest district and it has four banks within two blocks. There are no Bank of the West branches currently located in the District. The nearest Bank of the West branch is located on 24th Street in the Mission.

- New, expanding or relocating financial service establishments should provide a detailed analysis of the potential impacts on existing transportation systems which serve the location. If significant adverse impacts on traffic and transit volumes and circulation and parking congestion are anticipated, especially on transit-preferential streets, the proposed use should be redesigned to mitigate such impacts (e.g. reducing the project size) or providing off-street parking or the use should be prohibited. The location of limited financial services should be carefully evaluated, as to the potential for double-parking or illegal parking by users of the facilities and the interference with traffic circulation by such vehicles (see Policy 9 for additional guidelines). If the proposed use includes automated teller machines, this evaluation is especially critical in determining the appropriateness of the use and its location;

The Planning Code does not require off-street parking or loading for a 3,314 square-foot bank. 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. The Project Site is well-served by public transit. MUNI Metro lines "F,K,L,M" run near the Project Site, linking various neighborhoods along the Market Street corridor. The site is also well served by several local bus routes

that run nearby and the neighborhood is served by on-street metered and non-metered parking spaces near the Site.

The bank would have one ATM that would be recessed from the sidewalk and located near the entry to the bank. The location of the ATM provides queuing for patrons in manner that would not obstruct the flow of sidewalk traffic. It would not be feasible for patrons using the ATM to double park in front of the bank because doing so would block the intersection.

- Financial services should provide retail banking services to serve the business community as well as the residential community;

The proposed Project will provide local businesses with retail banking services in addition to banking services to the residential community.

- The location of new, expanding, or relocating financial services should avoid, if feasible, the demolition of sound buildings which are compatible in scale and character with other buildings in the district;

The proposal does not include demolition of the existing structure.

- If new construction is necessary, inclusion of other commercial uses and/or residential units may be desirable. New structures should have continuous retail frontage along the shopping street or mall except where access to upper-level uses, accessory parking, loading or public open space is necessary. New development should be compatible in scale, design and use with the rest of the district;

There is no new construction proposed at the Site.

- In neighborhood commercial districts where drive-up facilities are not permitted, financial offices should be pedestrian oriented. In cases where drive-up facilities are permitted or parking is required, interruptions of the continuous retail frontage should be kept to a minimum, and

There are no drive-up facilities associated with the Project.

- Automated teller machines should be recessed from the sidewalk, when possible, or should be incorporated into limited financial service facilities inside the facility with adequate waiting space for patrons.

One automated teller machines (ATMs) would be provided in a recessed area near the bank entry. The area can be accessed after regular bank hours. Besides the ATMs, a night-drop box will also be provided in the vestibule for after-hour deposits.

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

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

The proposal would not affect existing neighborhood-serving retail uses because it would occupy a newly created commercial space. It will provide employment for up to eight people. It will also provide greater choice and more convenient service to nearby residents and merchants.

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

The proposed use will not affect the cultural and economic diversity of the neighborhood because it would not displace an existing use and it would not lead to an overconcentration of financial uses in the District.

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

The Project would not affect the City's existing supply of affordable housing.

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

The proposed use is well served by public transit and is not expected to be a destination use that attracts patrons from outside the immediate neighborhoods. If driving patrons double-park adjacent to the site it could interrupt the flow of traffic through the adjacent intersection.

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

The Project would occupy the ground floor commercial space within a new mixed-use building. The proposed use would be constructed in compliance with all Building Code requirements to protect against injury and loss of life in an earthquake.

- G. That landmarks and historic buildings be preserved.

The subject property is newly constructed and is not historic or a landmark.

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

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

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

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2012.0206C pursuant to Sections 703.4, 721.21, 721.49, and 303 of the Planning Code** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, received **XXXX, XXXX**, 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 September 20, 2012

Linda D. Avery
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: September 20, 2012

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to establish a financial service use (d.b.a Bank of the West) within the ground floor commercial space of the mixed-use building being constructed at 2299 Market Street, Block 3564, Lot 091 pursuant to Planning Code Section 721.49 within the Upper Market Street Neighborhood Commercial District and a 50-X Height and Bulk District; in general conformance with plans, dated **August 20, 2012**, and stamped "EXHIBIT B" included in the docket for Case No. **2012.0206C** and subject to conditions of approval reviewed and approved by the Commission on **September 20, 2012** under Motion No **XXXXXX**. This authorization is not for use size pursuant to Section 721.21 of the Planning Code. 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 **September 20, 2012** under Motion No **XXXXXX**.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **XXXXXX** 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

PERFORMANCE

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Conditional Use authorization is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. 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. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

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

DESIGN

2. **Signage Program.** Any proposed signage shall be subject to the review and approval of the Planning Department and must comply with Article 6 of the Planning Code. The plans for signage that have been presented to the Commission are for informational purposes only and have not been reviewed for Code compliance.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org.

3. **Use Size.** The Commission hereby disapproves the Sponsor's conditional use request to exceed the 2,999 square-foot use size limitation pursuant to Section 721.21 of the Planning Code. Therefore, the Sponsor will continue to work with staff to reduce the size of the proposed use below 2,999 square-feet.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org.

MONITORING

4. **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.

OPERATION

5. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the architectural addenda. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org.

6. **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/>

7. **Noise Control.** The premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.

For information about compliance with the fixed mechanical objects such as rooftop air conditioning, restaurant ventilation systems, and motors and compressors with acceptable noise levels, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, www.sfdph.org.

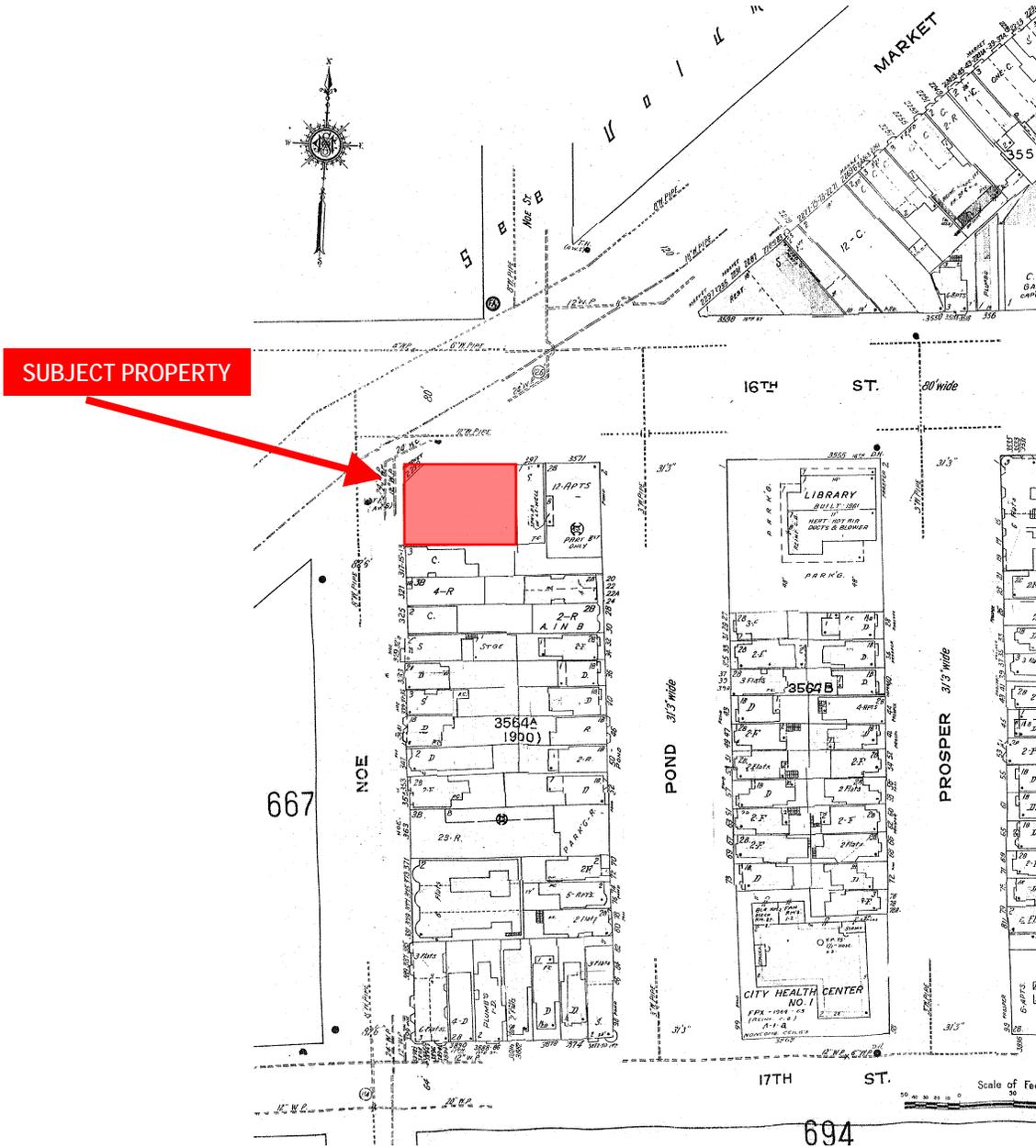
For information about compliance with the construction noise, contact the Department of Building Inspection, 415-558-6570, www.sfdbi.org.

For information about compliance with the amplified sound including music and television contact the Police Department at 415-553-1012 or 415-5530123, www.sf-police.org

8. **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

Sanborn Map*

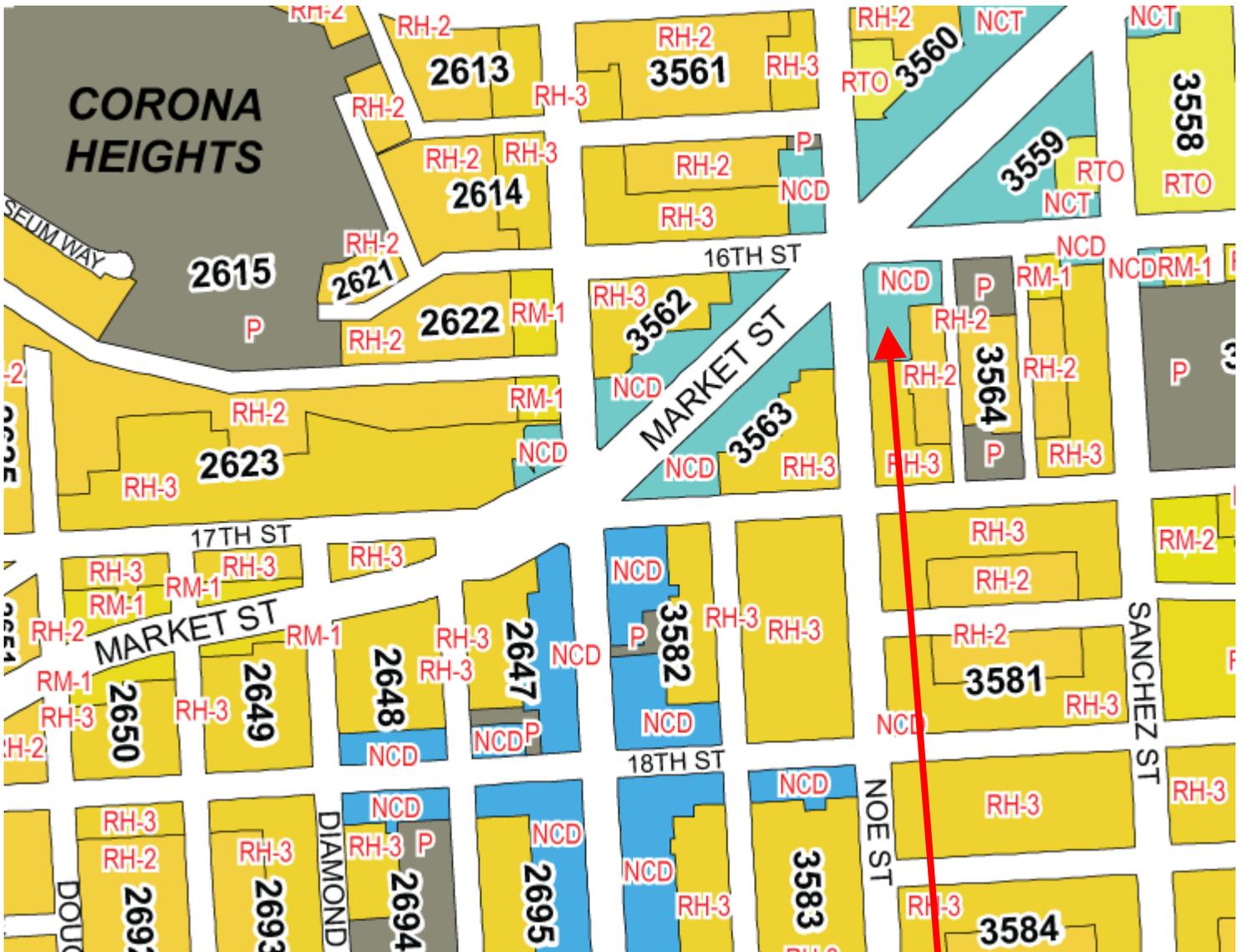


*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.



Conditional Use Hearing
Case No. 2012.0206C
2299 Market Street

Zoning Map



SUBJECT PROPERTY



Conditional Use Hearing
Case No. 2012.0206C
2299 Market Street

Aerial Photo

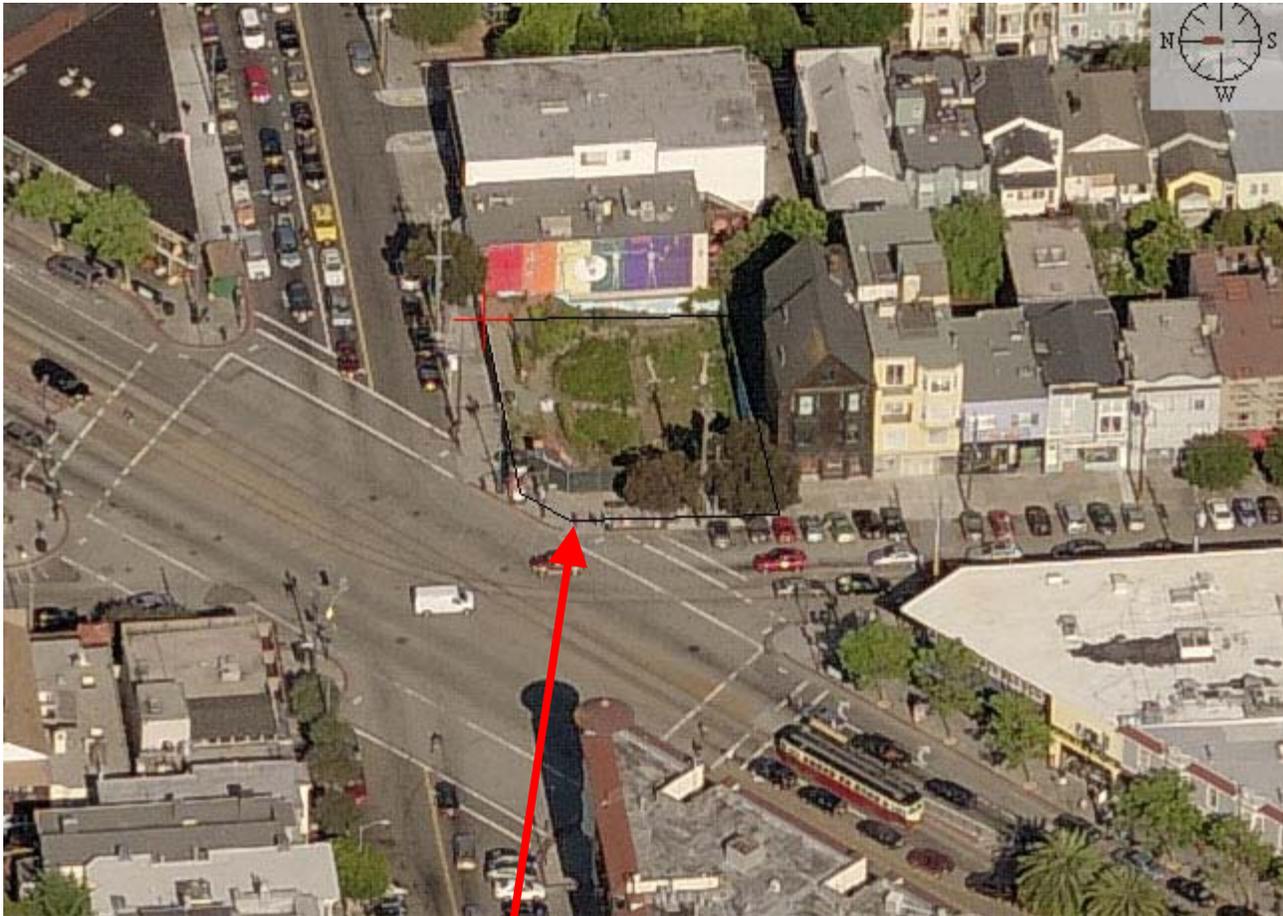


SUBJECT PROPERTY



Conditional Use Hearing
Case No. 2012.0206C
2299 Market Street

Aerial Photo

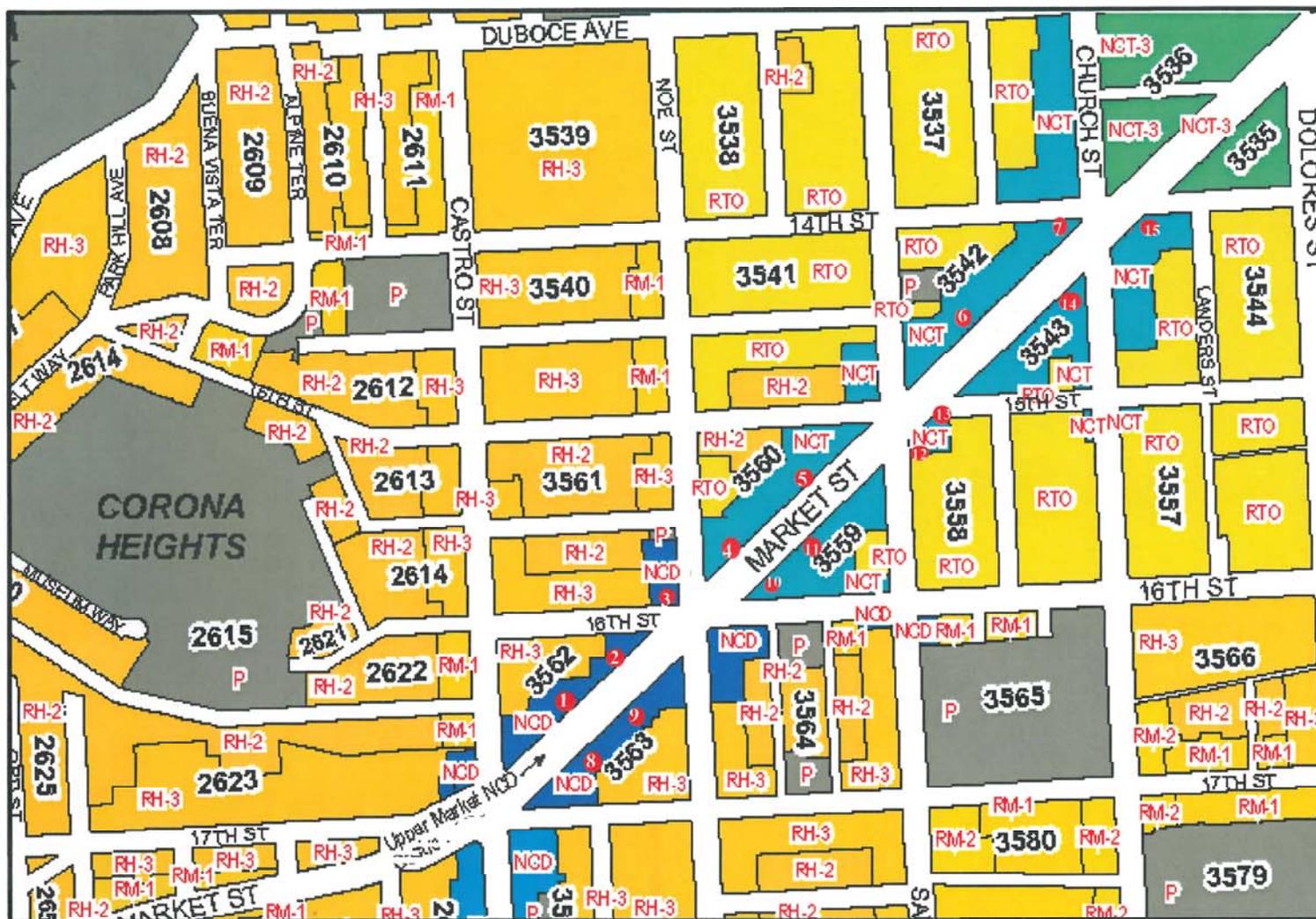


SUBJECT PROPERTY



Conditional Use Hearing
Case No. 2012.0206C
2299 Market Street

Formula Retail Uses in the Upper Market NCD/NCT



1. Streetlight Recording
2350 Market St.
2. Check Cashing Store
2300 Market St.
3. Max Muscle
3600 16th St.
4. Radio Shack
2288 Market St.
5. Wells Fargo
2288 Market St.
6. Chase Bank
2122 15th St.
7. Sterling Bank&Trust
2122 Market St.
8. Subway
2375 Market St.
9. Sunglass Hut
2327 Market St.
10. Books, Inc.
2275 Market St.
11. Peet's Coffee
2257 Market St.
12. Verizon Wireless
2199 Market St.
13. Walgreens 24hr
2145 Market St.
14. Crossroads Trading
2123 Market St.
15. Metro PCS
2103 Market St.



Duboce Triangle Neighborhood Association

PMB # 301, 2261 Market Street, San Francisco, CA 94114

(415) 267-1821 / www.dtna.org

June 7, 2012

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

RE: 2299 Market Street—Bank of the West conditional use application (2012.0206C)

Dear Commissioners:

Duboce Triangle Neighborhood Association does not support the proposed conditional use application for a 3,314 square foot Bank of the West branch at the 2299 Market Street site.

This is a new building under construction for which DTNA and other neighborhood organizations worked very hard to ensure its outcome would be favorable for the community. There will be approximately 5,000 square feet of commercial space on the ground floor, and during the planning and entitlement process we made very clear the preference for dividing that into at least two if not three spaces small enough to allow for local neighborhood-serving businesses, which is the predominant pattern in the Upper Market area. We also made it clear the preference for independent retail businesses rather than chain businesses. This site is at one of the most prominent and visible corners in the Upper Market/Castro, thus having a major impact on the character of the community.

When earlier this year the 2299 Market Street developer told us that a Bank of the West is the only viable tenant for the new commercial space, our board was to say the least not pleased. Nevertheless, rather than fighting an all-or-nothing battle, DTNA took a compromise position to accept a 2,500 square foot bank, which would be not greater than half of the total ground floor commercial space in the new building and also below the maximum threshold of 2,999 square feet allowed in the Upper Market NCD without requiring a conditional use authorization.

We are disappointed that the project sponsor has rejected that compromise position. Moreover, it is our understanding that Bank of the West has negotiated a master lease for the entire 5,000 square foot ground floor, which we feel further, undermines the spirit of the neighborhood commercial district controls. Thus we are forced to oppose the proposed conditional use for Bank of the West. DTNA remains committed to accept a bank at the 2299 Market site that respects the standard use size limits. Please see the attached marked up drawings demonstrating two alternatives space plans which would provide an increased street presence for the secondary commercial space. The drawings depict the proposed space allocation according to the CU however as stated we do not support a 3,314 square foot space for Bank of the West. Thank you for your consideration.

Sincerely,

Pat Tura
Vice-President, Duboce Triangle Neighborhood Association



CASTRO/EUREKA VALLEY NEIGHBORHOOD ASSOCIATION

The neighborhood association for the Castro, Upper Market and all of Eureka Valley since 1878

EVNA (formerly EVPA)
PO Box 14137
San Francisco, CA 94114
www.evna.org
Board@EVNA.org

June 5, 2012

Michael Smith, Planner
SF Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103-2479

RE: 2012.0206C - 2299 Market Street -- "Bank of the West"

EXECUTIVE COMMITTEE

Alan Beach-Nelson
President
Castro Street
Rob Cox
Secretary
Hartford Street
Gary Weiss
Treasurer
IXIA

DIRECTORS:

Patrick Crogan
Market Street
Tim Eicher
Q Bar
Mary Edna Harrell
Castro Street
Judith Hoyem
17th Street
Dan Risman Jones
22nd Street
Aaron Seivertson
Hartford Street
Josh Bleacher Snyder
Hancock Street
Diane Termini
Hartford Street

EX OFFICIO DIRECTORS:

Steve Clark Hall
19th Street
Dennis Richards
Beaver Street

Dear Mr. Smith:

The Castro/Eureka Valley Neighborhood Association opposes the establishment of a 3,314 square-foot bank (d.b.a. "Bank of the West") in the ground floor commercial space of a mixed use building that is currently under construction.

We agree with DTNA that the proposed project is much too big. Moreover, we believe that another bank in the neighborhood is unnecessary and undesirable.

In addition, in view of pending legislation to amend the definition of Formula Retail to include financial institutions, we find this application to be inappropriate,

We request that the Planning Commission deny this project.

Sincerely yours,

Alan Beach-Nelson
President
Castro/Eureka Valley Neighborhood Association



584 Castro Street, # 333
San Francisco CA 94114-2512
415/431-2359
Email MUMC-SF@earthlink.net
www.CastroMerchants.com

Terry Asten Bennett, President
415/431-5365 Ext. 4
TerryAsten@cs.com

June 7, 2012

Via email and USPS hardcopy

Linda Avery, Commission Secretary
San Francisco Planning Commission

and

Michael Smith, Staff Planner
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco CA 94103-2479

Re: File No. 2012.0206C – 2299 Market Street
Request for Conditional Use Authorization - *Bank of the West*, Project Sponsor

Dear Ms. Avery and Mr. Smith,

I am pleased to confirm that the Members of the **Merchants of Upper Market & Castro (MUMC)** voted at their Meeting today (June 7, 2012), to **SUPPORT** the request of *Bank of the West* to establish a new branch bank at 2299 Market Street in San Francisco.

We have asked *Bank of the West* to inform **MUMC** with respect to our continued support for this Project, in the unexpected event that there are subsequent significant and substantial changes from the Proposal presented to us on June 7, 2012. Should **MUMC**'s support be withdrawn (which we do not currently anticipate), we would notify your Commission and Department.

MUMC is the merchants' organization serving San Francisco's Castro-Upper Market area, generally along Upper Market Street from Octavia Blvd. to Castro Street; Castro from Market to 19th Street, and cross streets throughout that area. **MUMC** has over 200 paid Members for the current year. The location of the Project described herein is within **MUMC**'s service area.

.... continued

Merchants of Upper Market & Castro – MUMC

San Francisco Planning Commission and Department

June 7, 2012
Page 2

Please let us know if you have any questions regarding **MUMC**'s support for this Project. Please include this letter in the Project's permanent file, and assure that it is provided to all Planning Staff and Commissioners and any other hearing panels at the time that this Project is considered by them. Thank you for considering our comments.

Respectfully,

A handwritten signature in black ink, appearing to read "T. Bennett", with a long horizontal flourish extending to the right.

Terry Asten Bennett, President

cc: C. Edward Martinez, *Bank of the West*; Angus McCarthy, *2299 Market Street Developer*
email cc: District 8 Supervisor Scott Wiener
Capt. Robert Moser, *SFPD Mission Station*

MumcLtrPlanningBotW060712

June 5, 2012
3571 16th Street No 2
San Francisco, CA 94114
415 552-7946

Mr. Michael Smith
Planning Department
1650 Mission St, Suite 400
San Francisco, CA 94103

To Mr. Michael Smith and Planning Commission Staff,

I would like to submit these written comments, as described in the Notice of Hearing mailed to me about this case.

- Case 2012.0206C – 2299 Market St
- Date of Notice – May 24, 2012

I live on the same block and same side of the street near this permit address about 50 feet away. I was notified by letter since I live within a 300 foot radius of the subject site. My residence unit is one of four facing 16th St, out of 12 units in this building. Though the building for this permit notice has a Market St address, one of the building's sides is along 16th St, and there is one other building between 2299 Market St and my address.

I am opposed to this bank branch opening in this building, since it a formula retail outlet in a neighborhood district.

- I voted several years ago for the proposition requiring Conditional Use Authorizations or permits for formula retail, to prevent multiple chains and national branches opening more outlets in SF.
- I read in the June 6 SF Examiner that the SF Supervisors approved legislation to extend chain store restrictions to financial institutions, such as this bank branch in a commercial corridor in this neighborhood.
- This bank branch adds nothing to this neighborhood. Within four to five blocks are many bank and savings and loan branches and even more private ATMs.
- This formula retain bank branch will hurt this neighborhood by paying higher rents than local, neighborhood-oriented, and independent merchants.
- This bank branch with no free street level parking will lead to more congestion and intensification of parking and people using free parking, while adding little to the community.
- This bank branch will do little to serve the local residents since it has many branches elsewhere in San Francisco and the Bay Area.
- As a long-term resident of over 15 years at this address, I do not want to see this business type, of a formula retail Bank of the West branch, use on my block, or nearby in my neighborhood, crowding out local and independent merchants.
- There is already a high percentage of formula retail in the nearby commercial areas, and this belongs more at major intersections such as Market and Castro Sts., or Market and Church Sts.
- I hope the Planning Department will take the views of residents and voters seriously in mind when making decisions about permitting more and too much formula retail uses such as this bank branch, which many of us oppose, and which changes the character of our neighborhood.

I am strongly opposed to the bank offering ATM service recessed from the sidewalk, and not within locked or secured doors of the building.

- This will have a high negative impact on traffic and parking in this smaller scale block that is not a major intersection such as Market and Castro Sts.
- These ATMs will clog traffic, block driveways, and annoy garage holders and residents of my building. At other bank branches it is a common sight to see people to park illegally, turn on their flashers and run to the ATM.

- As residents we have the right to the quiet enjoyment of our residences and these ATMs will diminish that.
- ATM users will constantly stop in front of our garages or double-park near by in violation of the law.
- There are no short-term parking meters or loading zones at the subject site, or nearby, to handle legal parking.
- My building has garages on two sides, four on 16th St, and about seven along the other side of my building on Pond St.
- This is a busy area and all street parking is taken with no meters and two hour restricted parking with neighborhood stickers required for longer periods.
- This bank will have no free street level parking, and only a parking garage under the building probably mainly for residents of the units in the building above it.
- We already suffer from people constantly parking, loading, waiting, making deliveries, and double-parking illegally in front of the four garages on 16th St.
- My buildings' four garages are the only areas of the block on 16th St that is not always occupied by parked vehicles, so we constantly face problems with the bad behavior of people parking and blocking our garages illegally.
- I call DPT three to four times a week to ticket cars illegally parked on 16th St in front of my building.
- This new bank branch will simply encourage more people to stop 'for just a minute' blocking our garage access while running into the branch or using ATMs on the street.
- This is a nuisance but also a hazard. When our garages are blocked by people illegally parked or sitting in cars in front of our driveways there is nowhere else for us to park so we tie up traffic in the only lane eastbound on 16th St until they leave.
- 16th St is a one lane of traffic east bound street, with constant heavy traffic. It is a main traffic artery from Market St all the way to the new UC Mission Bay campus at the bay.
- 16th St has delivery trucks already constantly blocking our four garages on 16th St multiple times per day, since the building between the subject site and my residence is a high volume restaurant, Starbelly's at 3583 16th St, with no delivery area, no loading zone, and no alley. Therefore all deliveries involve illegal double-parking on 16th St or illegal loading in front of my building's driveways.
- In the last few years 17th St eastbound has been closed to traffic at Market St for a pocket park, at the MUNI F train terminus and turnaround, which has led to a great increase in traffic turning from Market St eastbound onto 16th St, which goes in front of my building.
- 16th St eastbound now also has a large number of truck traffic and commute shuttle vans are on scheduled routes, such as between the UC campuses including to UC Mission Bay.
- This will increase the problem at my building from people who do not care to follow parking laws and that do not follow good neighborly practices.

I would like this letter to be part of the official record, as described in the Notice of Hearing mailed to me about this case.

Thank you for your consideration.

Sincerely yours,



Daniel Sinnett

REUBEN & JUNIUS^{LLP}

September 10, 2012

Delivered by Hand

Mr. Rodney Fong, President
San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103

**Re: 2299 Market Street, Bank of the West Branch
Conditional Use Authorization: 2012.0206C
Hearing Date: September 20, 2012
Our File No.: 7112.01**

Dear President Fong and Commissioners:

This office represents Bank of the West in connection with its application to operate a full-service retail-banking branch (the "Project") at 2299 Market Street (the "Project Site"). Located at the corner of Noe, Market and 16th Streets, the Project Site was a vacant hole in the ground for many years. The Project would occupy a portion of the ground-floor commercial space in a mixed-use building that will provide 18 residential units and is now under construction. This Project is a key factor in the revitalization of a long-neglected, prominent site. The Project is reasonably-sized, well-designed, and will provide needed local banking services in a very active district. Bank of the West has established several other successful branches in San Francisco, and those branches have very good community relationships; the Bank is committed to the same with this Project.

During the past several months, Bank of the West has been working with the Merchants of Upper Market and Castro ("MUMC"), the Castro/Eureka Valley Neighborhood Association ("EVNA"), the Duboce Triangle Neighborhood Association ("DTNA"), and the Castro/Upper Market Community Benefit District ("Castro CBD"). In response to these groups' concerns, Bank of the West has agreed to substantial modifications. Bank of the West has agreed to reduce its portion of the commercial space considerably and to sublease the remainder of the space to three subtenants along the Noe Street frontage. Floor plans showing the four spaces are attached as **EXHIBIT A**. In reviewing the floor plans, please keep in mind that the Project Site is a unique corner lot with a gore corner. These unusual lot dimensions require the building's structural supports to be placed in locations that, together with the three subtenant spaces, constrain the Bank's flexibility in programming the space. Bank of the West also has moved the ATM vestibule and designed its signage program to address the groups' concerns. The signage program renderings are attached as **EXHIBIT B**.

The three requested approvals before the Planning Commission are:

- (1) Conditional Use authorization for a financial service in the Upper Market Neighborhood Commercial District pursuant to Planning Code Section¹ 721.49;
- (2) Conditional Use authorization for a formula retail use in a Neighborhood Commercial District pursuant to Section 703.4 and newly amended Section 303; and
- (3) Conditional Use authorization for a commercial use size of 3,000 square feet or greater pursuant to Sections 721.21 and 121.2. The Bank would occupy approximately 3,279 square feet. The Bank is willing to sublease the remainder of the space to three small subtenants occupying between 295 square feet and 445 square feet each. (See EXHIBIT A.)

Project renderings and site photos are attached as EXHIBIT C.

A. BENEFITS OF THE PROJECT

Benefits of the Project will include:

- Providing a greater selection of retail banking services in a very dense residential and commercial district that has several new residential projects under construction or recently approved;
- Providing a convenient banking location an appropriate distance away from existing retail banking services in the neighborhood.
- Activating a prominent corner at the intersection of Market, Noe and 16th Streets that has long been vacant and underutilized;
- Filling a geographic need for existing Bank of the West customers, including local merchants, with the nearest Bank of the West branch located on 24th Street in the Mission district;
- Contributing to the economic viability of a mixed-use project previously approved by the Planning Commission and widely supported by the community; and
- The creation of eight new job opportunities for local residents, enhancing the general economic activity of the neighborhood, and generating additional business tax revenues for the City.

¹ All references to code Sections are to the San Francisco Planning Code unless otherwise stated.

**B. THE PROJECT MEETS THE CONDITIONAL USE CRITERIA
FOR FORMULA RETAIL, FINANCIAL SERVICES AND USE SIZE**

The proposed Project meets the criteria necessary to approve a conditional use authorization for formula retail, financial services and a use size greater than 2,999 square feet.

The Project consists of a traditional full-service bank branch that will conduct core banking activities. Those activities include accepting deposits, making loans, check cashing, investment, insurance and mortgage services. The branch will also have recessed ATM's and a night depository. The branch will have up to eight employees and will seek to employ local residents, a practice it has been successful with in the past. No changes to the approved mixed-use building are proposed, except for minor possible changes in the floor plan of the commercial space that would not affect the Project's compliance with applicable street frontage guidelines. The Bank will be open Monday – Thursday 9:00 a.m. to 5:00 p.m., Friday 9:00 a.m. to 6:00 p.m., and Saturday 9:00 a.m. to 1:00 p.m.

1. The Formula Retail Criteria Are Met

The Project would be strategically located in an underserved area equidistant from three other formula retail bank branches located to the northeast along Market Street, and four formula retail branches located to the southwest along Castro Street, in the Castro. All of these banks are located in either the Upper Market Neighborhood Commercial Transit District to the east or the Castro Neighborhood Commercial District to the west. Bank of the West would be the only formula retail bank in the Upper Market Neighborhood Commercial District. Moreover, proximity to other bank branches is not as significant in this neighborhood as it might be in other neighborhoods because of the neighborhood's density and pedestrian and transit orientation.

The Project is unique among formula retail uses in that it will not impose its own formulaic architectural and aesthetic design on the space, but rather will incorporate the existing approved design. The building's architecture and design were vetted with the neighborhood and widely supported when the building was approved in 2010. The façade of the commercial space is primarily glass, and the interior of the space is a "café" style banking design, where tellers have individual, open stations rather than a bank of tellers along a wall. This will present a much more open and visually interesting interior space to the public, which better activates the street frontage. The signage and window displays also have been designed to integrate with the street without being obtrusive, and provide greater visual interest than the typical formulaic presentation. Subject to Public Works approval, traffic calming "bulb-outs" have been included in the sidewalk design, which will increase the sidewalk width, provide a public gathering place, and reduce crossing distances at this wide intersection.

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The building and the commercial space comply with the façade and massing design guidelines in both the Market Octavia Area Plan (although the Property is located outside the Plan Area) and the Upper Market Development Design Guidelines (which are applicable). The building's contemporary design and use of varying colors and materials provide visual interest, and integrate the building with the architectural and aesthetic character of the neighborhood.

2. The Financial Services Criteria Are Met

The number of bank deposits for existing bank branches in this neighborhood has steadily increased in recent years, due to the neighborhood's increasingly high residential density and large number of small businesses. This trend should continue due to the Project Site's proximity to the Market Octavia Area Plan and a number of new residential projects in the neighborhood. In addition to the 18 residential units at the Project Site, the City recently has approved 37 units at 35 Dolores Street, 82 units at 2001 Market Street, and 115 units at 1998 Market Street.

This location also fills a geographic need for Bank of the West branches in San Francisco because the closest other Bank of the West branch in San Francisco is located on 24th Street in the Mission neighborhood. This branch would potentially serve customers residing in the Castro, Duboce Triangle, Mission Dolores, Hayes Valley, and Corona Heights neighborhoods.

In addition to the Mission branch, Bank of the West has a proven track record of success with other bank branches in the Richmond, Portola, Chinatown/North Beach, and Balboa Terrace/Merced Manor. Bank of the West has chosen the Project Site as a branch location because it is confident it will have the same success it has had in other neighborhoods.

3. The Commercial Use Size Criteria Are Met

Over the past several months, Bank of the West has modified the Project significantly at the request of neighborhood representatives by providing three subtenant spaces along the Noe Street frontage and moving the ATM vestibule. The programming of the space also is constrained by the Project Site's unusual corner lot dimensions. The use size limitation is one that typically applies to commercial uses with conventional street frontages and interior spaces. Yet, at a proposed 3,279 square feet, Bank of the West exceeds the allowed threshold by only a nominal amount. As compared to other Bank of the West branches in San Francisco, this one is smaller in size, with others as big as 8,000 square feet. This proposed branch is very similar to the Mission district branch, which is 3,360 square feet. Bank of the West's willingness to reduce its floor area to 3,279 square feet and to sublease the remainder of the space to three small subtenants mitigates any impacts caused by its proposed size.

For all of these reasons, the Project meets the conditional use criteria for formula retail, financial services and use size.

C. NEIGHBORHOOD OUTREACH AND COMMUNITY CONTRIBUTIONS

As stated above, Bank of the West has made significant revisions to the Project at the request of the district's neighborhood groups, including MUMC, EVNA, DTNA, and the Castro CBD. Bank of the West has reduced its portion of the commercial space significantly to accommodate three subtenants, and the Bank has produced a signage and window treatment program to address neighborhood concerns.

In addition, Bank of the West has a proven track record as a good neighbor and contributor to its local community. Over the last two years, Bank of the West has contributed over \$30,000 to support LGBT causes in San Francisco. In the Mission district, Bank of the West has contributed \$350,000 to the Mission Economic Development Agency.

D. CONCLUSION

The proposed Project requires conditional use authorization for formula retail, financial services and use size. It provides substantial benefits to the Upper Market neighborhood by providing needed retail banking services and helping activate a long-neglected site in a prominent location. Bank of the West has been a positive community contributor in other San Francisco neighborhoods, and already has proven its willingness to do the same here. For all of these reasons, we urge your support of this Project.

Very truly yours,

REUBEN & JUNIUS, LLP



James A. Reuben

Enclosures

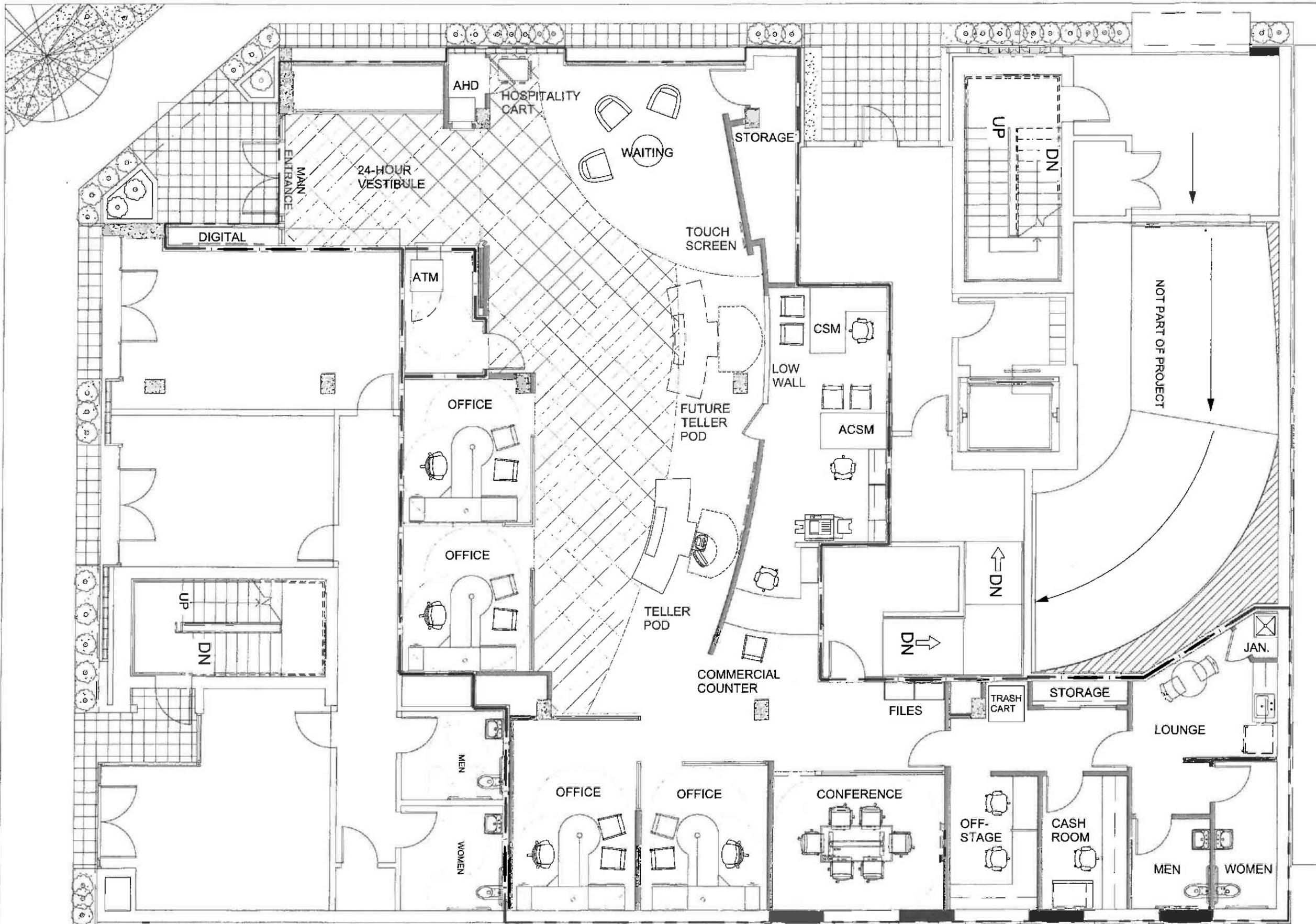
cc: Commission Vice-President, Cindy Wu
Commissioner Michael Antonini
Commissioner Gwyneth Borden
Commissioner Rich Hillis
Commissioner Kathrin Moore
Commissioner Hisashi Sugaya
Linda Avery, Commission Secretary
John Rahaim, Planning Director
Michael Smith, Planner
Bank of the West
Angus McCarthy

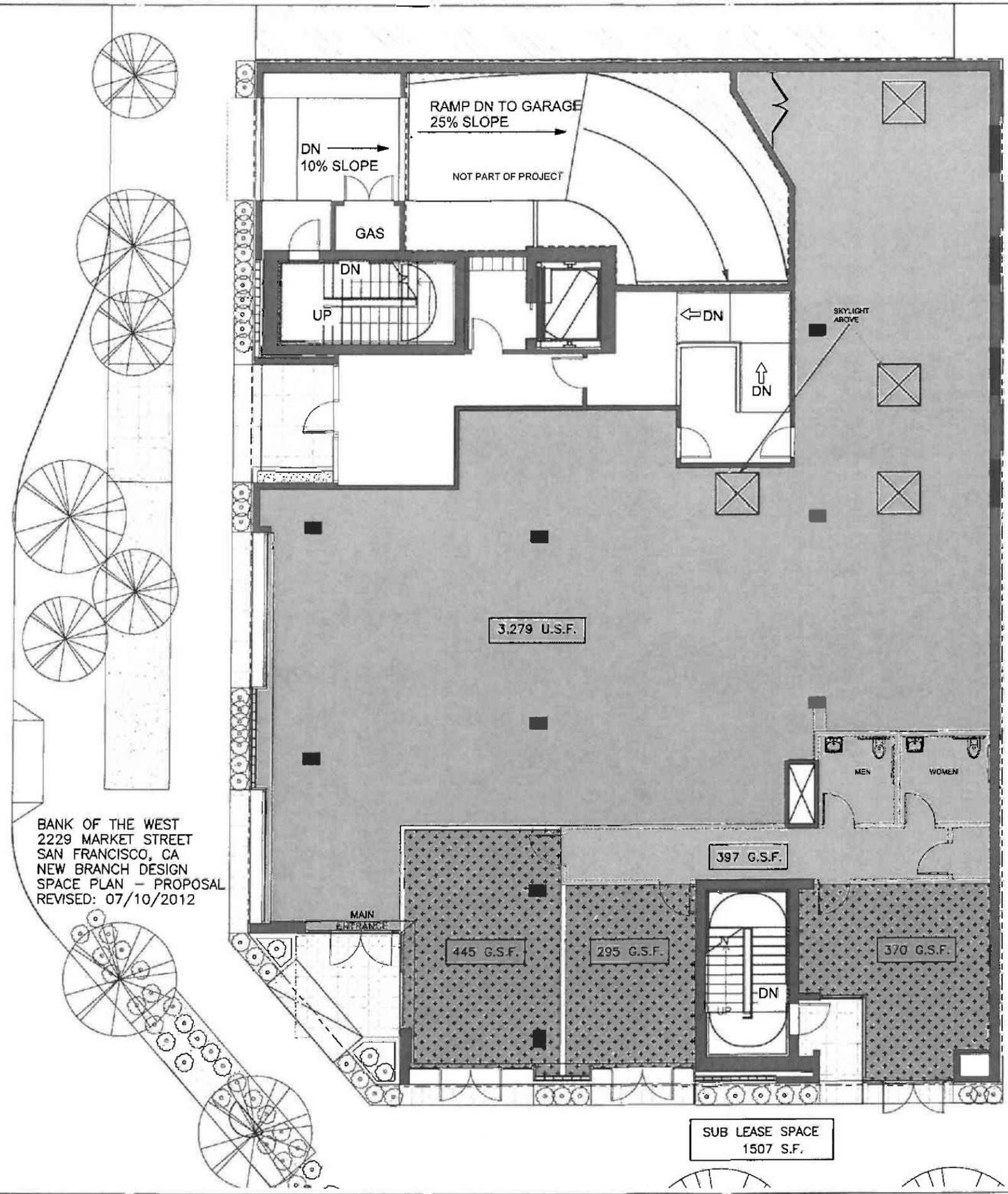
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BANK OF THE WEST
 2229 MARKET STREET
 SAN FRANCISCO, CA
 NEW BRANCH DESIGN
 SPACE PLAN - PROPOSAL
 REVISED: 07/10/2012

(E) 3-STORY
 ADDITION

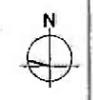
(E) 3-STORY WITH
 GABLE ROOF ABOVE
 GRADE

BANK OF THE WEST #XXX
CASTRO DISTRICT
SAN FRANCISCO, CA

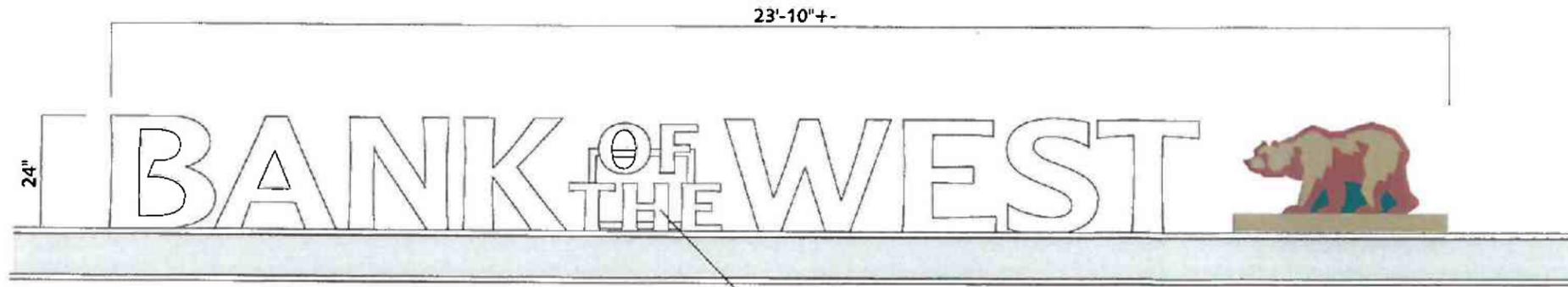
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Project No.	47-578
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Drawing Title	DEMISING PLAN
Revision No.	

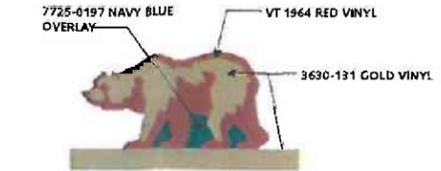
Project No. 47-578
 Scale 1/4" = 1' - 0"
 Drawing Title DEMISING PLAN



A2.0



"OF THE " MOUNTED TO ALUMINUM TUBE FRAME (COLOR T.B.D.)



LOGO DETAIL NOT TO SCALE
2447 WHITE ACRYLIC FACE

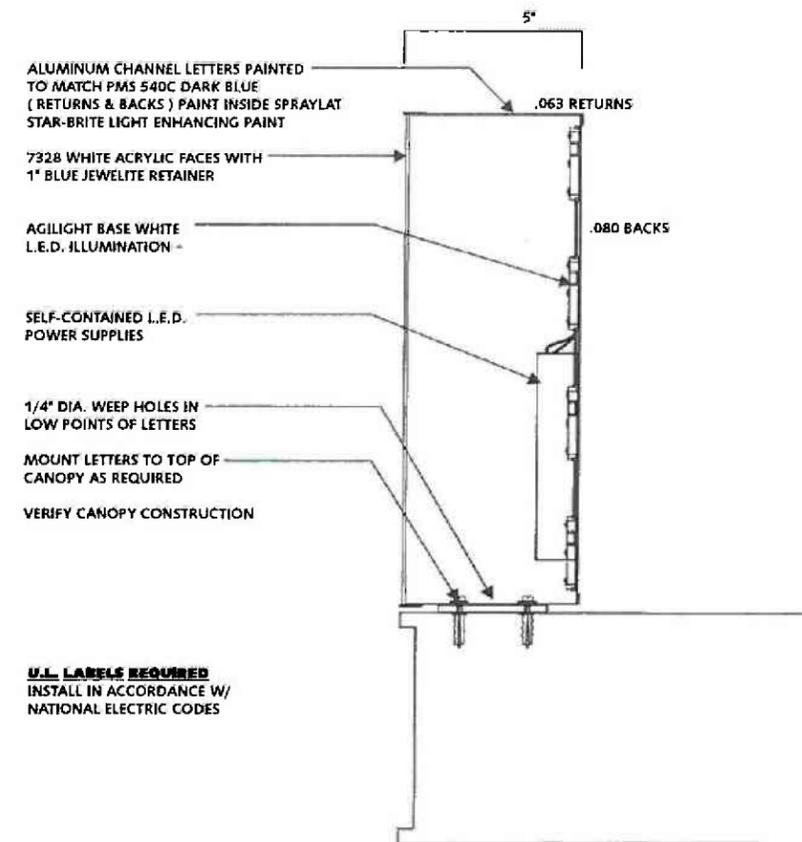
AB CHANNEL LETTERS & LOGO LAYOUT

SCALE: 1/4" = 1'-0"

MFR. AND INSTALL (2) SETS

NOTE:
SIGN "A" LETTERS AND LOGO TO BE MOUNTED TO TOP OF A STRAIGHT CANOPY -
VERIFY EXACT CONSTRUCTION AND SIZES OF CANOPY

NOTE:
SIGN "B" LETTERS AND LOGO TO BE MOUNTED TO TOP OF A CURVED CANOPY, TO FOLLOW RADIUS -
VERIFY EXACT CONSTRUCTION, SIZES AND RADIUS OF CANOPY



U.L. LABELS REQUIRED
INSTALL IN ACCORDANCE W/
NATIONAL ELECTRIC CODES

LETTER SECTION 1/2" = 1'-0"



Designer	12-1970
Sheet	1 of 6
Client	BANK OF THE WEST
Address	2299 MARKET ST. SAN FRANCISCO, CA
Account Rep.	MIKE DRURY
Designer	SDM
Date	8/20/12

Approval / Date	
Client	
Sales	
Estimating	
Art	
Engineering	
Landlord	

Revision / Date
R1: 8/16/12-SDM



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Vista, CA 92084
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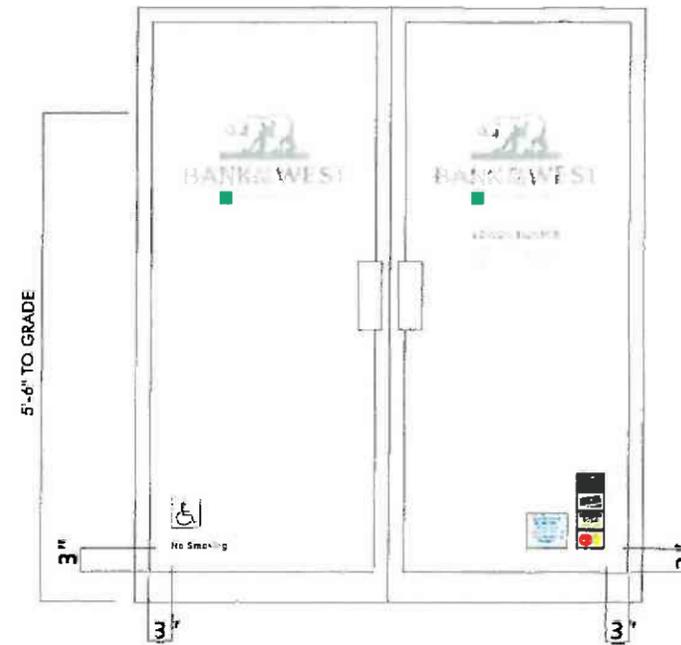
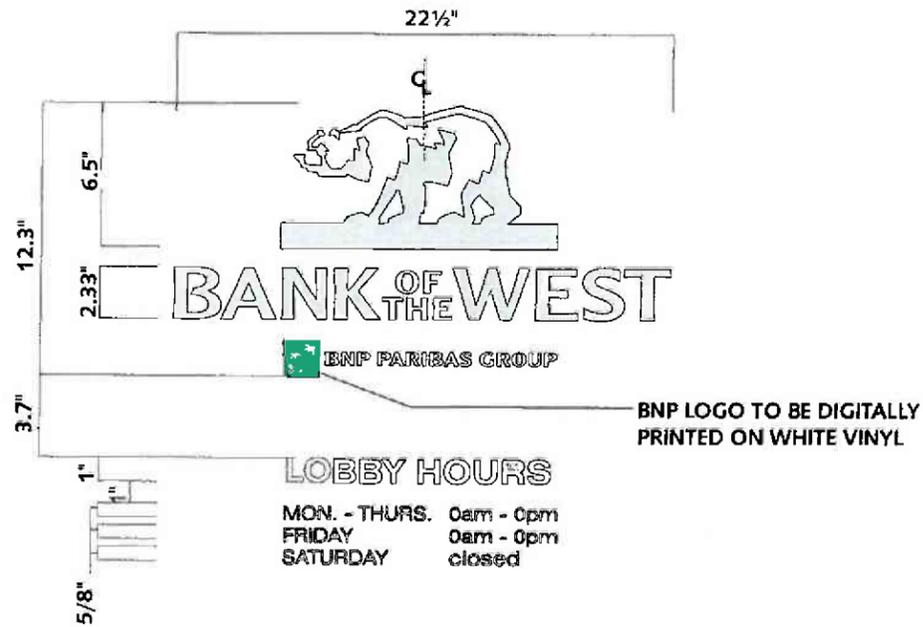
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FINAL ELECTRICAL CONNECTION BY CUSTOMER





VERIFY EXACT DOOR LAYOUT

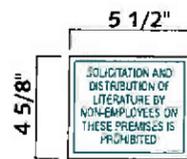
Ⓢ VINYL DETAIL - LAYOUT 1

(1) SET REQUIRED Scale = 1 1/2" = 1'-0"

7725-11 PEARL GRAY
VINYL GRAPHICS FOR DOUBLE-DOOR LAYOUT /
1ST SURFACE APPLIED -

LEFT DOOR - LOGO
RIGHT DOOR - LOGO & HOURS

ALL HOURS ARE DETERMINED PER LOCATION



VINYL DECAL
SCALE: 1 1/2" = 1'-0"

DIGITALLY PRINTED VINYL
DECAL - BLUE COPY AND
BORDER ON A WHITE
BACKGROUND -

FIRST SURFACE APPLIED



VINYL DECAL
SCALE: 1 1/2" = 1'-0"

7725-11 PEARL GRAY VINYL
GRAPHICS

FIRST SURFACE APPLIED



VINYL DECAL
SCALE: 1 1/2" = 1'-0"

DIGITALLY PRINTED VINYL DECAL
MULTI-COLOR -FIRST SURFACE APPLIED



Design #
12-1970
Sheet **5** of **6**

Client
BANK OF THE WEST
Address
**2299 MARKET ST.
SAN FRANCISCO, CA**

Account Rep. **MIKE DRURY**
Designer **SDM**
Date **8/20/12**

Approval / Date

Client	
Sales	
Estimating	
Art	
Engineering	
Landlord	

Revision / Date
R1-8/16/12-SDM



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FINAL ELECTRICAL CONNECTION BY CUSTOMER





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architecture

Project Site Photos

